

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC16-1852
CONSOLIDATED
L.T. Case No. 2D16-1328, etc.

JOHN DOE, et al.,
Petitioners,

vs.

STATE OF FLORIDA,
Respondent.

_____ /

NOTICE OF SUPPLEMENTAL AUTHORITY

The Honorable Jeffrey Colbath, Chief Judge of the Fifteenth Judicial Circuit ("Chief Judge"), by and through his undersigned counsel, submits as supplemental authority the Fourth Judicial Circuit's Administrative Order 98-7 (as amended August 31, 2016). This Administrative Order pertains to the use of video technology in Baker Act Hearings.

/s/ Amy Singer Borman

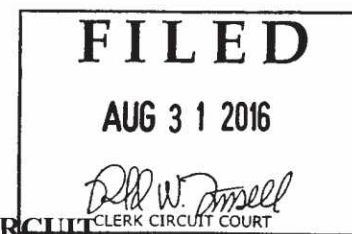
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Notice of Supplemental Authority has been furnished to the following counsel by service through the e-portal on February 1, 2017: Caroline Elizabeth Johnson Levine, Assistant Attorney General, 501 E. Kennedy Boulevard, Tampa, Florida 33602, Caroline.JohnsonLevine@myfloridalegal.com; Robert A. Young, Assistant Public Defender, Post Office Box 9000 - PD, Bartow, Florida, 33830, RYoung@PD10.org, TLocke@PD10.org; and Peter P. Sleasman, 4723 NW 53rd Avenue, Suite B, Gainesville, Florida 32653, PeterS@DisabilityRightsFlorida.org, KristenL@DisabilityRightsFlorida.org

/s/ Amy Singer Borman
Amy Singer Borman, Esq.



**IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL AND NASSAU COUNTIES, FLORIDA**

SECOND AMENDED ADMINISTRATIVE ORDER NO. 98-7

IN RE: COMPREHENSIVE BAKER ACT PROCEDURES

WHEREAS, pursuant to section 394.45, et seq., Florida Statutes, a person is subject to involuntary inpatient placement (“Baker Act”) for treatment based on the person having a mental illness; and

WHEREAS, the Baker Act case load has increased over recent years, challenging competing judicial resources and changes in technology; and

WHEREAS, the implementation of standardized procedures in Duval County will facilitate the timely scheduling, hearing, and disposition of Petitions for Involuntary Inpatient Placement and Petitions for Writ of Habeas Corpus, pursuant to chapter 394, Florida Statutes; and

WHEREAS, it is the intent of the Fourth Judicial Circuit, in and for Duval County, Florida to comply with the requirements of chapters 394 and 119, Florida Statutes, and with the Rules of Judicial Administration;

NOW THEREFORE, by the authority vested in me as Chief Judge of the Fourth Judicial Circuit and pursuant to the Florida Rules of Judicial Administration,

It is **ORDERED**:

1. Petition Filings

(a) All petitions for involuntary inpatient placement and related documents filed by receiving facility administrators or their designees shall be filed with the Clerk of Circuit Court, Duval County, Florida electronically, unless a facility can demonstrate undue hardship. If a facility does not have electronic filing capabilities and the Court has determined undue hardship, then paper filing is permissible.

(b) All Baker Act petitions and related documents shall be typewritten or if a hand written document, then it shall be legible, except that a Petition for Writ of Habeas Corpus submitted by or on behalf of the patient in his/her own handwriting is permitted and shall be accepted by the Clerk of Court.

(c) The Clerk of Court will provide immediate electronic or telephonic notification to all parties if a document is questioned by the Clerk as to the filing status.

2. Appointment of Counsel

(a) Upon the filing of a Petition for Involuntary Placement of a person or upon the filing of a Petition for Writ of Habeas Corpus under Chapter 394, Florida Statutes (2016), the Office of the Public Defender, Fourth Judicial Circuit, shall be immediately appointed to represent the person.

(b) The Clerk of Court will electronically notify the Office of the Public Defender and the Office of the State Attorney that a petition has been filed and provide each with a copy of the petition and accompanying documents.

(c) The Baker Act receiving facilities shall allow the Office of the Public Defender immediate access to the patient, to any witnesses, and to the patient's complete clinical record; such receiving facilities shall also allow the scanning, copying or photographing of the clinical records as requested by the Office of the Public Defender for the representation of the patient, or the Office of the Public Defender may request copies of any or all of the clinical records.

3. Notice of Hearings

Notice of hearings will be provided by the Clerk of Court to all parties, the patient and his or her representative, and guardian or guardian advocate either electronically, or by U.S. Mail or hand delivery, if electronic transmission is unavailable.

4. Scheduling and Venue

(a) The Clerk of Court will set, and the Court shall hold the hearing regarding the involuntary inpatient placement of a patient within five (5) court working days, unless a continuance is granted. Section 394.467(6)(a)1, Fla. Stat. (2016).

(b) If appointment of a guardian advocate is requested for a patient who lacks an alternative substitute decision maker, the receiving facility shall notify all parties and the guardian advocate hearing shall be heard as soon as possible.

(c) Hearings will be conducted at the receiving facility where the patient is being treated unless either party requests a courtroom for this purpose, provided there is reasonable notice and the patient's right to be present has been waived in accordance with Florida Statutes.

(i) Judicial personnel may appear, and the Court may preside, over placement and Habeas hearings by electronic video communication, if such equipment is available, subject to any right of the patient to object and consistent with the patient's best interest.

(ii) Judicial personnel may appear, and the Court may preside, over guardian advocate hearings by electronic or telephonic transmission, if such communication equipment is available, subject to any right of the patient to object and consistent with the patient's best interest.

(d) The receiving facility shall provide a safe and secure area, of sufficient size to conduct a dignified circuit court proceeding without unnecessary noise or other distractions.

(e) Magistrates shall conduct such hearings pursuant to Amended Administrative Order No. 2001-10 unless a party files a written objection or application to the Circuit Court. The patient or his/her attorney may request a courtroom for this purpose. Transportation of the patient to the

Courtroom shall be provided by the facility, unless the patient's right to be present has been waived.

5. Confidentiality of Information

(a) The Court finds that it is necessary and appropriate to maintain the confidentiality of records with regard to the person and related family information of persons subject to involuntary inpatient placement under section 394.467, *et seq.* Florida Statutes (2016).

(b) All Baker Act court records, as defined by the Rules of Judicial Administration, including the patient's name, and docket entries, may not be disclosed by the Clerk of Court to the public, and are exempt and confidential under the Rules of Judicial Administration and Chapter 119, Florida Statutes, unless deemed otherwise by Court order.

6. Habeas Corpus Proceedings

(a) When a Petition for a Writ of Habeas Corpus is filed pursuant to section 394.459(8), Florida Statutes (2016), it will be consolidated with, and filed under the same case number as any other Petition for Involuntary Placement regarding the same person and facility to ensure that the same Magistrate or Judge is reviewing both petitions.

(b) In addition to the statutory provisions with regard to a petition for habeas corpus as set forth in section 394.459(8), Florida Statutes (2016), the following procedures will apply:

(i) When a Petition for Writ of Habeas Corpus has been filed and the hearing with regard to the Petition for Involuntary Inpatient Placement has not been previously conducted, the two proceedings may be scheduled on the same day and time, unless the patient needs additional time to call additional witnesses or to obtain an expert witness to testify at the placement hearing, in which case the Petition for Writ of Habeas Corpus shall be heard or reviewed forthwith or by the next available court working day.

(ii) Habeas hearings may be conducted by a Magistrate. If the Magistrate grants a habeas for release, then the ruling will be effective immediately, upon confirmation of a Circuit Court Judge. If a habeas is denied by the Magistrate, then the Respondent may submit the habeas to the domestic violence Circuit Judge on duty for immediate review. Parties may file a written objection to the Magistrate presiding over the habeas hearing and request that the Circuit Judge on rotation duty hear the matter.

(iii) Petitions for a Writ of Habeas Corpus may not require a hearing, and may be ruled on based upon the law if no additional testimony is required.

7. Amended Administrative Order No. 98-7 and Amended Administrative Order No. 85-06 (filed on February 7, 1985), are hereby rescinded and superseded by this Administrative Order.

8. All other Administrative Orders not identified above that have been previously entered addressing Petitions for Involuntary Placement and Petitions for a Writ of Habeas Corpus, shall remain in full force and effect unless any terms or conditions appear to be contradictory, in which case, this Administrative Order shall supersede such Order(s).

9. This Administrative Order shall be recorded by the Clerk of the Court, in the Official Records of Duval County, in the State of Florida, and shall take effect immediately. All terms and conditions set forth herein shall remain in full force and effect unless and until otherwise ordered by the Court.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, on the 31 day of AUGUST, 2016.



MARK H. MAHON
CHIEF JUDGE

cc:

All Judges in the Fourth Judicial Circuit
Senior Judges in the Fourth Judicial Circuit
The Honorable Robert M. Foster, Administrative Judge, Nassau County
The Honorable John H. Skinner, Administrative Judge, Clay County
All Magistrates in the Fourth Judicial Circuit
The Honorable Matthew A. Shirk, Esq., Public Defender
The Honorable Angela B. Corey, Esq., State Attorney
The Honorable Ronnie Fussell, Clerk of the Circuit Court, Duval County
The Honorable Tara S. Green, Clerk of the Circuit Court, Clay County
The Honorable John A. Crawford, Clerk of the Circuit Court, Nassau County
The Honorable Jason R. Gabriel, Esq., General Counsel
The Honorable Mike Williams, Sheriff, Jacksonville Sheriff's Office
The Honorable Rick Beseler, Sheriff, Clay County
Lt. Mark Cowan, Clay County Sheriff's Office Courthouse Security
Major Steve Weintraub, Duval County Courthouse Security
Sgt. Kenneth Davis, Supervisor of Courthouse Security, Nassau County Sheriff's Office
Margaret Jones, Office of the Clerk of Court, Clay County
Carla Colson, Office of Clerk of Court, Nassau County
Jim Kowalski, Esq., Executive Director JALA
Stephen Mosca, Esq., President, Florida Ass'n of Crim. Defense Lawyers (Local Chapter)
Charles Bishop, Family Court Manager, Fourth Circuit
James Gardner, Director, Alternative Dispute Resolutions (ADR)
Joseph G. Stelma, Jr., Fourth Judicial Circuit Administrator
Eve Janocko, Chief Deputy Trial Court Administrator
Caroline Emery, Esq., Court Counsel
Jacksonville Bar Association
Nassau County Bar Association
Clay County Bar Association
Fourth Circuit Court Law Library, Duval County
Judicial Staff Attorneys, Fourth Judicial Circuit