

Mental Health Diversion

A Hypothetical Case Study

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Overview

- History
- Case Law
- Misdemeanor Case Study
- Felony Case Study
- Q&A

Old Law

New Law

Case Law

People v. O'Hearn
57 Cal.App.5th 280 (2020)

People v. Moine
62 Cal. App. 5th 440 (2021)

People v. Whitmill
86 Cal. App. 5th 1138 (2022)

Misdemeanors

Case Study #1

Kenzi is a 21-year old woman with schizoaffective disorder. She was arrested for the first time in her life after going to a country music festival, where she got blackout drunk with several friends. A local bakery called the police after she refused to leave. When they arrived, she became irate and began verbally and physically abusing officers. Eventually multiple officers had to restrain her and many received scratches and bruises. She did not remember a thing. Now she is being charged with resisting the police in their duties, a misdemeanor. Does Kenzi qualify for mental health diversion? If so, what are the next steps?

Overview

- What are the referral questions?
- What assessments might you use?

8
9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

10
11 PEOPLE OF THE STATE OF
12 CALIFORNIA

13 Plaintiff,

14 vs.

15
16
17 Defendant

Case No.:

Department No. 3

APPLICATION FOR MENTAL HEALTH
DIVERSION PURSUANT TO PENAL
CODE SECTION 1001.36

18
19 Defendant [REDACTED] applies for Mental Health Diversion pursuant
20 to Penal Code section 1001.36. Defendant is charged with a qualifying crime, this matter
21 is timely filed, and defendant is prima facie eligible for diversion.

22
23 Defendant suffers from qualifying mental disorder:

- 24 Attached is a mental health diagnosis made within the last five years; or
- 25
- 26 Defendant will provide a recent mental health diagnosis; or
- 27
- 28 Defendant requests appointment of a qualified mental health expert pursuant to
Evidence Code section 730 to secure the necessary recent diagnosis.

MHD CASE MANAGEMENT REFERRAL

Attorney	Kishwer Vikaas
Client First and Last Name	John Doe
Xref	
Custody Status	<input type="checkbox"/> In Custody <input checked="" type="checkbox"/> Out of Custody Phone #
Date of MH Diversion Application	
Case#(s)	
Case Type	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Next Court Date/ Department	02/14/2023 at 1:30PM, Dept. 4
Charge(s)	PC 148(a)

Does Client have a Current DSM V Diagnosis?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
DSM V Diagnosis if <u>known</u>	PTSD
Is Client currently linked to a provider?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
List Current or Previous Providers	
If Client is in Custody, is an Assessment Needed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Client's Medical Insurance	<input checked="" type="checkbox"/> Medi-Cal <input type="checkbox"/> Private <input type="checkbox"/> None
Is Client Homeless?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Release of Information Signed by Client	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
County Behavioral Health Authorization Signed by Client	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

Felonies

Case Study #2

Matty is a 30-year old man who is charged with felony vehicle theft. He was staying with a friend and borrowed his friend's parents' car without permission. They reported the car as stolen and he was picked up by the police. When you interview him, he tells you he has been addicted to meth for several years. Prior to that, he was in the Marines, before being honorably discharged. Does Matty qualify for mental health diversion? If so, what are the next steps?

Overview

- What are the referral questions?
- What assessments might you use?

Risk Assessment

Felony MHD

1. Mental Health DX (within 5 years)
2. “Social History” — summary of some of your client’s social/mental/medical journey (not nexus)
3. Treatment Plan & Linkage to Provider
4. Motion

MHD

Misdos

Felonies

Testimony

Q&A

Reach out.

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