

SUPREME COURT OF SOUTH CAROLINA

In re Extension of Video Hearings Pilot Program for Commitment Hearings

415 S.C. 334 (2016) · Decided February 5, 2016

SUMMARY

The South Carolina Supreme Court extended the Richland County Probate Court pilot program permitting videoconference appearances in specified commitment, review, and supplemental hearings. The order approves procedures concerning consent to remote appearance, electronic signatures, courtroom equipment, private attorney-client communication, document transmission, and recording of hearings.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Costa M. Pleicones, Chief Justice; Costa M. Pleicones
JURISDICTION	South Carolina
DECIDED	February 5, 2016
DISPOSITION	other
PROCEDURAL POSTURE	Administrative order extending the Richland County Probate Court's pilot program for conducting commitment hearings by videoconference.
PRECEDENTIAL VALUE	Published administrative order governing a pilot program

TOPICS

probate procedure guardian ad litem health law civil procedure

PRACTICE AREAS

probate mental health law civil procedure

QUESTIONS PRESENTED

1. Whether the Richland County Probate Court's pilot program for video hearings in commitment proceedings should be extended.

2. What procedures and safeguards must govern the use of videoconferencing in commitment, review, and supplemental hearings during the pilot program.

HOLDINGS

1. The pilot program for the use of video hearings in commitment hearings in Richland County Probate Court is extended, effective immediately, and remains in effect unless amended or rescinded by the Chief Justice.
2. During the pilot program, a court-appointed attorney or guardian ad litem may consent in writing and orally on the record to the person's appearance by videoconference rather than in person; suitable videoconferencing, display, communication, document-transmission, and recording equipment must be provided; private communication between the person and counsel or the guardian ad litem must be available; and the hearing must be recorded and preserved as the official record.

KEY QUOTATIONS

“IT IS ORDERED that the pilot program in Richland County Probate Court for the use of video hearings for commitment hearings is extended.” (415 S.C. at 334)

“A recording of the hearing must be made and preserved as the official records of the hearing.” (415 S.C. at 336)

FACTUAL BACKGROUND

The Richland County Probate Court conducted a pilot program permitting video hearings for certain mental-health commitment and review hearings. After reviewing the probate court's report, the Supreme Court extended the program and prescribed operational safeguards governing representation, equipment, confidential attorney-client communication, document transmission, and preservation of the hearing record.

PROCEDURAL HISTORY

The Richland County Probate Court submitted a report on a pilot program established by an October 7, 2015 order and requested an extension. The Supreme Court of South Carolina extended the pilot program and approved procedures for its continued operation.

DISPOSITION

other

OPINION

PLEICONES, J.

ORDER Pursuant to the provisions of S.C. Const. Art. V, § 4, and upon review of the Richland County Probate Court's report on the Pilot Program, established by Order dated October 7, 2015, which requested an extension of the Richland County Probate Court's Pilot Program, IT IS

ORDERED that the pilot program in Richland County Probate Court for the use of video hearings for commitment hearings is extended.

The Richland County Probate Court shall provide a report to the Chief Justice by August 1, 2016, evaluating the pilot program's effectiveness. The following procedures are approved on a pilot basis to be used in commitment hearings held pursuant to S.C.Code Ann. §§ 44-17-420, 44-17-540, 44-24-100, 44-31-105, 44-31-110, and 44-52-80 and review or supplemental hearings pursuant to S.C.Code Ann. §§ 44-17-580, 44-17-630, 44-24-170, 44-24-180, 44-31-130, 44-52-160: *3351.

The required court appointed attorney/Guardian ad Litem (GAL) pursuant to SC Code Ann. §§ 44-17-410(3), 44-24-60(F), 44-24-90(D), 44-52-60(E), and 44-52-70 may consent in writing and orally on the record for the person to appear at the hearing by videoconference, rather than in person.

The attorney/Guardian ad Litem may be present in the courtroom or with the person in the institutional setting. 2. Equipment used to generate electronic transmission of signatures or other comparable equipment shall be available for transmission of documents between the judge, the GAL and the person, and signatures generated and transmitted pursuant to such equipment shall have the full force and effect of an actual signature, be acceptable for purposes of binding all parties to the contents of the documents, and releasing the person from an inpatient facility and other treatment orders as needed.

3. Equipment and facilities: a. Locations provided for the person, the GAL, and the judge must be properly situated and furnished to be suitable for and conducive to judicial hearings. The locations must be sufficiently quiet and lighted for use of the video equipment and must also be furnished so as to apprise the person of the seriousness of the hearing. b. At least two (2) video cameras must be provided, one to videoconference the person/GAL, and one to video-conference the judge.

The cameras must also be capable of videoconferencing the examiners and other witnesses as necessary. i. At least two (2) display monitors must be provided so that the person/GAL and judge can observe the proceedings at the other's location simultaneously and converse with each other. ii.

The room in which the judge is presiding should be accessible to any other interested parties determined appropriate by the presiding judge. Therefore, the monitor should be positioned so that interested parties can view the person/GAL. If necessary, additional monitors may be used. *336c. A telephone line, cellular telephone, or video terminal must be provided, so that person and attorney/GAL can communicate in private when in different locations. d. Two (2) printers, equipment used to generate the electronic transmission of signatures, or other comparable

equipment, must be available so that court documents, witness statements, and other papers can be sent back and forth between the two locations and printed at both locations, if necessary.

The person must also be allowed to confidentially exchange papers back and forth to attorney/GAL. 4. A recording of the hearing must be made and preserved as the official records of the hearing. The provisions of this Order are effective immediately and shall remain in effect unless amended or rescinded by the Chief Justice. s/ Costa M. Pleicones Costa M. Pleicones Chief Justice of South Carolina