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Opinion No. 01-041

Jurisdiction of General Sessions Court Under Tenn. Code Ann. § 33-7-303

QUESTION

After a finding of "not guilty by reason of insanity" in a trial in general sessions court, does the court have jurisdiction to order the 60 to 90 day evaluation required pursuant to Tenn. Code Ann. § 33-7-303?

OPINION

Yes. The general sessions court does have jurisdiction to order the 60 to 90 day evaluation required pursuant to Tenn. Code Ann. § 33-7-303, but only in misdemeanor cases where the defendant waives in writing an indictment, presentment, grand jury investigation, and jury trial and the district attorney general does not object.

ANALYSIS

Tenn. Code Ann. § 33-7-303 provides that when a person charged with a criminal offense is acquitted of the charge on a verdict of not guilty by reason of insanity at the time of the commission of the offense, the criminal court shall order the person detained for diagnosis and evaluation for a minimum of sixty (60) days and a maximum of ninety (90) days in a hospital or treatment resource. In certain limited instances, the general sessions court, acting pursuant to its jurisdiction over criminal matters, may exercise its authority under this statute.

Tenn. Code Ann. § 40-1-107 vests the general sessions courts with original jurisdiction over criminal actions. However, that jurisdiction is not unlimited. The jurisdiction of the general sessions court is limited to misdemeanors and then only if the defendant expressly waives in writing an indictment, presentment, grand jury investigation, and jury trial and the district attorney general does not object. Tenn. Code Ann. § 40-1-109; Tenn. R. Crim. P. 5(c)(2). Under these circumstances, the general sessions court may hear the case and "enter such verdict and judgment as the evidence warrants and the law directs, including any fine or jail sentence prescribed by law for such misdemeanor." Tenn. R. Crim. P. 5(c)(2). *See Brown v. State*, 1990 WL 40998 (Tenn. Crim. App. April 11, 1990) (Defendant found not guilty of

misdemeanor offense of assault and battery in bench trial ordered to undergo evaluation pursuant to Tenn. Code Ann. § 33-7-303). If a defendant does not waive these rights, the general sessions court may not conduct a trial on the merits. *See* Op. Tenn. Atty. Gen. No. 98-048 (February 23, 1998); *State v. Jarnigan*, 958 S.W.2d 135 (1997).

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