

NOTICE
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2012 IL App (4th) 110636-U

Filed 8/6/12

NO. 4-11-0636

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: ROBERT P., a Person Found)	Appeal from
Subject to Involuntary Admission,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	McLean County
Petitioner-Appellee,)	No. 11MH199
v.)	
ROBERT P.,)	Honorable
Respondent-Appellant)	Rebecca Simmons Foley,
)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Presiding Justice Turner and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court denied respondent's counsel's motion to withdraw, without prejudice.

¶ 2 This case comes to us on the motion of the Legal Advocacy Service, Illinois Guardianship and Advocacy Commission (Guardianship), to withdraw as counsel on appeal on the ground this case presents no justiciable issue for review. For the reasons that follow, we disagree and deny Guardianship's motion to withdraw, without prejudice.

¶ 3 I. BACKGROUND

¶ 4 Respondent, Robert P., is a 45-year-old man who was named in a "Petition for Involuntary Admission" filed on June 22, 2011. On June 24, 2011, the trial court held a hearing on the petition. Respondent's treating psychiatrist, Dr. Scott McCormick, testified respondent suffers from a manic depressive illness. On June 22, respondent threatened to poke himself in

the neck with a pencil if he was not released from Advocate BroMenn Medical Center. Later that day, respondent threatened others at the hospital with a chair. As a result, hospital staff placed respondent in physical restraints for six to eight hours. Dr. McCormick testified he believed no less restrictive environment would be appropriate for respondent.

¶ 5 Respondent's sister, Deborah P., testified she had provided respondent care for several years and regularly attended respondent's monthly psychiatric appointments with him. On June 10, she brought respondent to the Chestnut Health Systems (Chestnut) facility in Bloomington. While at Chestnut, respondent acted in such a manner requiring the police to remove him and take him to the Advocate BroMenn emergency room. On June 22, during a telephone conversation, respondent threatened to hurt somebody if Deborah did not come to see him by 5 p.m. Additionally, respondent previously cut himself and burned his chest with a cigarette. Deborah testified respondent was homeless, and she would not be capable of caring for respondent in her home.

¶ 6 Respondent testified and denied he had a substance abuse problem but admitted using illegal drugs. He admitted he threatened to harm himself and that he burned himself with a cigarette. Respondent agreed he was manic depressive.

¶ 7 After the hearing, the trial court found respondent suffered from a mental illness and ordered him hospitalized in the Department of Human Services for a period not to exceed 90 days.

¶ 8 In January 2011, appointed counsel, Guardianship, moved to withdraw as counsel on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *In re Keller*, 138 Ill. App. 3d 746, 486 N.E.2d 291 (1985), asserting no justiciable issues warrant appeal. The record shows

service of the motion on respondent. On our own motion, this court granted respondent leave to file additional points and authorities by February 27, 2012. He filed none. After examining the record in accordance with our duties under *Anders*, we deny Guardianship's motion to withdraw as counsel on appeal.

¶ 9

II. ANALYSIS

¶ 10 Guardianship contends the case presents no justiciable issue on appeal because this case is moot. Specifically, Guardianship argues because the 90-day involuntary commitment period has passed, this case is moot. Additionally, Guardianship argues none of the three exceptions to the mootness doctrine applies. Guardianship did not address any substantive issues in its brief.

¶ 11 We cannot determine from the record whether this case presents any justiciable issues.

¶ 12

A. Mootness

¶ 13 "An appeal is considered moot where it presents no actual controversy or where the issues involved in the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant effectual relief to the complaining party." *In re J.T.*, 221 Ill. 2d 338, 349-50, 851 N.E.2d 1, 7-8 (2006). Generally, courts of review do not decide moot questions. *In re Alfred H.H.*, 233 Ill. 2d 345, 351, 910 N.E.2d 74, 78 (2009). Reviewing courts, however, recognize exceptions to the mootness doctrine, such as (1) the public-interest exception, applicable where the case presents a question of public importance that will likely recur and whose answer will guide public officers in the performance of their duties; (2) the capable-of-repetition exception, applicable to cases involving events of short duration that are

capable of repetition, yet evading review; and (3) the collateral-consequences exception, applicable where the involuntary treatment order could return to plague the respondent in some future proceedings or could affect other aspects of the respondent's life. *In re Wendy T.*, 406 Ill. App. 3d 185, 189, 940 N.E.2d 237, 241 (2010) (citing *Alfred H.H.*, 233 Ill. 2d at 355-62, 910 N.E.2d at 80-84).

¶ 14 *1. Public-Interest Exception*

¶ 15 "The public-interest exception permits review of an otherwise moot appeal when (1) the issue is of a public nature, (2) an authoritative determination is necessary to guide public officers in future cases, and (3) there is a likelihood the issue will recur." *In re Andrew B.*, 237 Ill. 2d 340, 347, 930 N.E.2d 934, 938 (2010). "This exception must be construed narrowly and established by a clear showing of each criterion." *Andrew B.*, 237 Ill. 2d at 347, 930 N.E.2d at 938. Sufficiency of the evidence claims are inherently case-specific reviews that do not present broad public-interest issues, and the challenge in an underlying appeal of the sufficiency of the evidence does not meet the public-interest exception. *Alfred H. H.*, 233 Ill. 2d at 356-57, 910 N.E.2d at 81; *In re James H.*, 405 Ill. App. 3d 897, 904, 943 N.E.2d 743, 749 (2010).

¶ 16 Here, the underlying appeal challenges sufficiency of the evidence, which does not meet the public-interest exception. Therefore, the public-interest exception does not apply.

¶ 17 *2. Capable-of-Repetition Exception*

¶ 18 The capable-of-repetition exception applies when (1) the challenged action is of such a duration that it may not be fully litigated prior to its cessation, and (2) there is a reasonable expectation that "the same complaining party would be subjected to the same action again." *In re Charles K.*, 405 Ill. App. 3d 1152, 1161-62, 943 N.E.2d 1, 9 (2010) (quoting *Alfred H.H.*, 233 Ill.

2d at 358, 910 N.E.2d at 82). Where a case is merely challenging the sufficiency of the particular evidence presented, the issue is not one that could arise in a subsequent mental-health case brought against the respondent. *Charles K.*, 405 Ill. App. 3d at 1162, 943 N.E.2d at 9.

¶ 19 Here, respondent challenges the sufficiency of the evidence presented at the hearing. The record fails to indicate how a resolution of this issue could be of use to respondent in future litigation, and it is not one that could arise in a subsequent mental-health case brought against respondent. Therefore, here, the capable-of-repetition exception does not apply.

¶ 20 *3. Collateral-Consequences Exception*

¶ 21 "The collateral-consequences exception to the mootness doctrine allows a reviewing court to consider an otherwise moot case where the involuntary admission 'could return to plague the respondent in some future proceedings or could affect other aspects of the respondent's life.' " *In re Charles H.*, 409 Ill. App. 3d 1047, 1052-53, 950 N.E.2d 710, 715 (2011) (quoting *In re Val Q.*, 396 Ill. App. 3d 155, 159, 919 N.E.2d 976, 980 (2009)). The collateral-consequences exception applies where (1) the record does not indicate that the respondent has previously been subject to an involuntary-treatment order and (2) it appears that the respondent will likely be subject to future proceedings that would be adversely impacted by his involuntary treatment. *In re Linda K.*, 407 Ill. App. 3d 1146, 1150, 948 N.E.2d 660, 664 (2011). According to the supreme court, the collateral-consequences exception will not apply when a respondent has previously been involuntarily committed because any collateral-consequences have already attached as a result of the prior commitments. *Alfred H.H.*, 233 Ill. 2d at 362-63, 910 N.E.2d at 84. Additionally, where a respondent has never been previously forcibly medicated or convicted of a felony, collateral-consequences have never previously

attached. *In re Joseph P.*, 406 Ill. App. 3d 341, 347, 943 N.E.2d 715, 720 (2010).

¶ 22 In our case, our review of the record does not indicate whether respondent has ever been (1) convicted of a felony or (2) properly subject to an order for involuntary commitment or administration of medication. Further, given respondent's medical condition, in future proceedings he may be adversely impacted by the involuntary treatment judgment. Thus, on the basis of the record before us, the collateral-consequences exception applies, and we are unable to determine whether any justiciable issues are presented for review.

¶ 23 Therefore, we deny the motion for leave to withdraw, without prejudice.

¶ 24 III. CONCLUSION

¶ 25 For the foregoing reasons, we express no opinion on the issues raised, and we deny Guardianship's motion for leave to withdraw. The denial is without prejudice.

¶ 26 Motion for leave to withdraw as counsel denied, without prejudice.