

other documents supporting his appeal. He has not filed a response. We have considered the Service's motion to withdraw as counsel on appeal and the attached memorandum. We have examined the entire record and find no grounds for appeal. For the following reasons, we grant the Service's motion and affirm the judgment of the circuit court.

¶ 3 The respondent, Benjamin W., was voluntarily admitted to St. Elizabeth's Hospital in Belleville, Illinois, on January 18, 2012, but was transferred to Alton Mental Health Center on January 30, 2012. Benjamin W. had previously been admitted to Alton Mental Health Center in 1997 and 2000. On March 30, 2012, Benjamin W. requested a discharge. In response, the Center petitioned the circuit court for the involuntary admission of Benjamin W., alleging that he was mentally ill and that, unless treated on an inpatient basis, was reasonably expected, due to his mental illness, to place himself or another in physical harm or in fear thereof.

¶ 4 At the hearing, the State called Sarah Johnson, a licensed clinical social worker, who testified that the respondent suffered from schizoaffective disorder, bipolar type. Johnson further testified that due to his condition, Benjamin W. "has several delusions and extensive mood symptoms" and that he believed he was in the CIA. Benjamin W. advised the court that he was also in the secret service. Johnson further testified that the respondent believed that he had "\$46 million from a double jeopardy charge" and that "the poison from his medications were coming out of his leg." She further testified that "[h]e tends to communicate very aggressively and in a threatening manner" while refusing treatment for his mental condition as well as for cellulitis and glaucoma.

¶ 5 MOOTNESS

¶ 6 We will first address the issue of mootness. The Service argues that Benjamin W.'s appeal is moot and that no exception to the mootness doctrine applies.

¶ 7 "An appeal is moot when intervening events have rendered it impossible for the

reviewing court to grant effectual relief to the complaining party." (Internal quotation marks omitted by the *Hernandez* court.) *In re Commitment of Hernandez*, 239 Ill. 2d 195, 201 (2010) (citing *Felzak v. Hruby*, 226 Ill. 2d 382, 392 (2007) (quoting *In re J.T.*, 221 Ill. 2d 338, 349-50 (2006))). "[I]f it is apparent that this court cannot grant effectual relief, the court should not resolve the question before it ***." *Id.* (citing *People ex rel. Partee v. Murphy*, 133 Ill. 2d 402, 408 (1990)). "This court will depart from the above rules and reach moot questions only in limited circumstances." *Id.* Exceptions to the mootness doctrine include "the public-interest exception, the capable-of-repetition-yet-avoiding-review exception, and the collateral-consequences exception." *In re Lance H.*, 2012 IL App (5th) 110244, ¶ 16 (citing *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009)). The collateral-consequences exception applies where " 'the stigma of an involuntary admission may confront respondent in the future.' " *In re Alfred H.H.*, 233 Ill. 2d at 362 (quoting *In re Splett*, 143 Ill. 2d 225, 228 (1991)).

¶ 8 Because the involuntary admission of Benjamin W. has passed, we agree with the Service that this case is moot. However, for the following reasons, we believe there is a meritorious and nonfrivolous argument to be made in favor of applying the collateral-consequences exception.

¶ 9 The Service cites *In re Alfred H.H.*, 233 Ill. 2d 345 (2009), for the proposition that "[t]he mere reversal of a commitment order would not purge a respondent's mental health records of any treatment and could later impact and be used against him in future proceedings." The Service then states that, "due to Mr. W.'s past mental health treatment and domestic violence history, the collateral consequences exception to mootness might not apply to decide this case on the merits."

¶ 10 We believe that counsel misreads the rule from *In re Alfred H.H.* In that case, our supreme court stated the following with regard to the collateral consequences of an

adjudication ordering an involuntary admission:

"Though the appellate court is correct that the mere reversal of an adjudication will not, in itself, purge a respondent's mental health records of any mention of the admission or treatment, that is not the same as saying that there is no effect whatsoever. In fact, there are a host of potential legal benefits to such a reversal. For instance, a reversal could provide a basis for a motion *in limine* that would prohibit any mention of the hospitalization during the course of another proceeding. Likewise, the reversal could affect the ability of a respondent to seek employment in certain fields. See 225 ILCS 80/24(a)(16) (West 2006) (allowing for the refusal to issue a license or to revoke a license to practice optometry based on mental illness)." *Id.* at 362.

The *In re Alfred H.H.* court went on to find that the collateral-consequences exception did not apply in its case because the respondent had "had multiple involuntary commitments prior to the present case" and was a "felon who has served a sentence for murder." *Id.* at 362-63. The court said that "there is no collateral consequence that can be identified that could stem solely from the present adjudication" and that "[e]very collateral consequence that can be identified already existed as a result of respondent's previous adjudications and felony conviction." *Id.* at 363.

¶ 11 First, the Service points us to testimony in the record that Benjamin W. had been admitted to Alton on two prior occasions, but the testimony does not indicate whether those admissions were involuntary. If they were not, then the involuntary admission which is the subject of this appeal could carry collateral consequences for the respondent beyond any prior admissions. Voluntarily seeking help may have fewer negative consequences than would the record of an adjudication finding the respondent mentally ill. Additionally, the respondent could later assert that he was previously treated for his mental illness and that no further

inpatient treatment was necessary at the time of the involuntary admission. A prior voluntary admission is different from a voluntary admission subsequent to an involuntary admission, the latter of which would constitute acquiescence in the circuit court's determination. *In re Thompson*, 215 Ill. App. 3d 986, 988 (1991) (citing *In re Wathan*, 104 Ill. App. 3d 64 (1982); *In re Riviere*, 183 Ill. App. 3d 456 (1989)). Additionally, this court has applied the collateral-consequences exception to the mootness doctrine in other cases in which the respondent had been admitted on prior occasions. See *id.* at 987-88.

¶ 12 Second, the Service refers to the respondent's "domestic violence history" but does not point us to any evidence of this in the record. On the other hand, the Service states that the respondent has "no known criminal history." Clearly, the respondent's situation is not analogous to that of the respondent in *In re Alfred H.H.*, which involved a murder conviction and multiple *involuntary* commitments. *In re Alfred H.H.* leads us to conclude that an argument in favor of applying the collateral-consequences exception would be meritorious. Therefore, we need not address counsel's arguments regarding the other exceptions to the mootness doctrine.

¶ 13 THE INVOLUNTARY ADMISSION

¶ 14 The Mental Health and Developmental Disabilities Code (Code) defines a "[p]erson subject to involuntary admission on an inpatient basis" as:

"(1) A person with mental illness who because of his or her illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed;

(2) A person with mental illness who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient

basis; or

(3) A person with mental illness who:

(i) refuses treatment or is not adhering adequately to prescribed treatment;

(ii) because of the nature of his or her illness, is unable to understand his or her need for treatment; and

(iii) if not treated on an inpatient basis, is reasonably expected, based on his or her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph (1) or paragraph (2) of this Section." 405 ILCS 5/1-119 (West 2010).

The Code further provides that "[i]n determining whether a person meets the criteria specified in paragraph (1), (2), or (3), the court may consider evidence of the person's repeated past pattern of specific behavior and actions related to the person's illness." *Id.* The State has the burden of proving, by clear and convincing evidence, that the respondent should be involuntarily admitted. 405 ILCS 5/3-808 (West 2010). To meet its burden, the State " 'must submit an explicit medical opinion' " which " 'must be based upon direct observation of the person's conduct.' " *In re Alaka W.*, 379 Ill. App. 3d 251, 268 (2008) (quoting *In re Love*, 48 Ill. App. 3d 517, 520 (1977)). With regard to physical harm, the State must show that the respondent " 'is reasonably expected to be a serious danger to himself or others as a result of his mental illness.' " *In re Robin C.*, 385 Ill. App. 3d 523, 529 (2008) (quoting *In re Bert W.*, 313 Ill. App. 3d 788, 794 (2000)). We will not reverse the circuit court's determination in an involuntary admission proceeding unless it is against the manifest weight of the evidence. *In re David B.*, 367 Ill. App. 3d 1058, 1069 (2006); see also *In re Phillip E.*, 385 Ill. App. 3d 278, 281-82 (2008). "A finding is against the manifest weight of the

evidence only if the opposite conclusion is clearly apparent or the finding is unreasonable, arbitrary, or not based on evidence." *In re Angel S.*, 376 Ill. App. 3d 42, 49 (2007) (citing *In re Nancy A.*, 344 Ill. App. 3d 540, 554 (2003)).

¶ 15 In its memorandum, the Service points out that the circuit court "found that the State proved all three criteria for Mr. W.'s commitment." However, counsel has failed to recognize that the State did not allege all three criteria. In fact, the State only sought involuntary admission on the basis of the physical harm category. While the State attempted to and did elicit testimony regarding the respondent's ability to provide for his basic needs if discharged, the State failed to include this in its petition as a basis for involuntary admission. Therefore, we will not consider the Service's argument regarding the basic physical needs category. The circuit court erred in finding the basic physical needs and deterioration categories as bases for the involuntary admission of Benjamin W. Nevertheless, we may still affirm the judgment of the circuit court if its determination regarding the physical harm category was not against the manifest weight of the evidence. *In re Joseph S.*, 339 Ill. App. 3d 599, 606-07 (2003).

¶ 16 Regarding physical harm, Johnson testified that the respondent was transferred from St. Elizabeth's to Alton because "he physically assaulted staff at St. Elizabeth's and here, at St. Elizabeth's, and also threatened to break the arms of a staff member." She further testified that his mental illness causes him to "[believe] staff and peers are out to get him" and that "[h]e tends to communicate very aggressively and in a threatening manner." After this testimony, Johnson was asked the following: "If discharged would [Benjamin W.] exhibit dangerous conduct or be dangerous to himself?" Johnson responded, "Only in that he does not manage his medical condition."

¶ 17 Johnson testified that Benjamin W. asked "one of the MHTs" to hang her on April 6 and that "[h]e was threatening toward a peer on the 14th." Johnson then testified that the

respondent had not made any threats for the 10 days preceding the hearing in which she testified. However, she subsequently testified that "[h]is behavior continues to be threatening," and "[h]e continues to talk really loud and stand too close to people."

¶ 18 Johnson's testimony that Benjamin W. would not exhibit dangerous conduct or be dangerous to himself other than "that he does not manage his medical condition" is potentially at odds with the petition and Johnson's other testimony. Nevertheless, the circuit court could have determined that her response to the question was focused more on the "dangerous to himself" aspect of the question, rather than on the "exhibit[ing] dangerous conduct" aspect of the question. Despite any potential conflict, there was sufficient evidence in the form of Johnson's other testimony such that the circuit court's finding was not against the manifest weight of the evidence.

¶ 19 **CONCLUSION**

¶ 20 The motion of the Legal Advocacy Service is granted, and the judgment of the circuit court is affirmed.

¶ 21 Motion granted; judgment affirmed.