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2014 IL App (4th) 140395-U
NO. 4-14-0395
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
November 3, 2014
Carla Bender
4th District Appellate
Court, IL

In re: LINDA C., a Person Found Subject to)
Involuntary Admission,)
THE PEOPLE OF THE STATE OF ILLINOIS,)
Petitioner-Appellee,)
v.)
LINDA C.,)
Respondent-Appellant.)
Appeal from)
Circuit Court of)
Adams County)
No. 14MH54)
Honorable)
John C. Wooleyhan,)
Judge Presiding.)

PRESIDING JUSTICE APPLETON delivered the judgment of the court.
Justices Harris and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* No exception to the mootness doctrine applied to justify review of the moot appeal from the trial court's order of respondent's 90-day involuntary commitment.

¶ 2 Respondent, Linda C., appeals from the trial court's order of involuntary commitment pursuant to section 3-700 of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/3-700 (West 2012)). Respondent seeks reversal because she claims the court found her subject to involuntary commitment on a ground not alleged in the petition. We affirm.

¶ 3 **I. BACKGROUND**

¶ 4 On April 17, 2014, police officer Adam Gibson took respondent to the emergency room at Blessing Hospital in Quincy after she had called police 17 times to report items missing from her home. Gibson signed the State's petition for respondent's involuntary admission filed

pursuant to section 3-700 of the Code (405 ILCS 5/3-700 (West 2012)). The petition alleged respondent was a person (1) with a mental illness who, because of her illness, was 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 (405 ILCS 5/1-119(1) (West 2012)); (2) with a mental illness who, because of her illness, was unable to provide for her basic physical needs so as to guard herself from serious harm without the assistance of family or others, unless treated on an inpatient basis (405 ILCS 5/1-119(2) (West 2012)); and/or (3) in need of immediate hospitalization for the prevention of such harm (405 ILCS 5/3-701(b) (West 2012)).

¶ 5 On April 28, 2014, the trial court conducted a hearing at Blessing Hospital, where psychiatrist Dr. Lee Johnson testified as the State's expert. He said he had been treating respondent since her admission. In Dr. Johnson's opinion, respondent had improved since admission with the administration of medication, but she was in need of further inpatient treatment at Blessing or at another Illinois Department of Human Services facility. Respondent suffers from paranoid disorder of the schizophrenic type. Dr. Johnson said respondent was able to feed herself, but her personal hygiene was "very poor." He said respondent's mental illness manifested itself through her beliefs that people were taking advantage of her and stealing items from her home. He also said she frequently became disoriented, which posed a significant risk to her safety. In the doctor's opinion, respondent was unable to provide for her basic physical needs without assistance. He said he had treated respondent during her involuntary hospitalization in 2009 as well.

¶ 6 Respondent testified on her own behalf. She said she lived alone in her apartment where she cooked and cleaned for herself. She said she would often stock up on food, but she

would soon find it missing. She recently changed the locks after finding four women "coming into [her] house." She had hidden knives throughout her home for protection. She admittedly recently called the police 17 times to report various items missing. Though she had always worked as a beautician, respondent testified at the hearing she had been most recently working as a nurse. When asked how long she had been a nurse, she stated: "oh, 6, 7, no[] 14, probably 24, no[,] I would say, no[,] 20, 20 years, I would say." She said she had clients on a waiting list.

¶ 7 After considering the evidence and recommendations of counsel, the trial court stated:

"The evidence has shown that the respondent does currently suffer from a mental illness, and because of that mental illness is not currently adhering to a prescribed course of treatment, and because of the nature of the illness is unable to understand the need for treatment, and if not treated on an inpatient basis, could reasonably be expected to suffer continued mental and/or emotional deterioration, and that the respondent is in need of hospitalization for the prevention of any harm coming from that. [These are grounds set forth in 405 ILCS 5/1-119(3) (West 2012).]

The order today would show that the least restrictive setting for the respondent would be further treatment at Blessing Hospital, with leave granted to transfer the respondent to a facility at the Department of Human Services, should that become necessary, all for a period of time not to exceed 90 days."

This appeal followed.

¶ 8

II. ANALYSIS

¶ 9 On appeal, respondent argues the trial court's order should be reversed because the (1) court ordered respondent's involuntary commitment on grounds not alleged in the petition, and (2) the evidence was insufficient to prove by clear and convincing evidence respondent was a person subject to involuntary admission.

¶ 10

A. Mootness

¶ 11 Both parties agree the issues raised by respondent on appeal are moot. The commitment order, entered April 28, 2014, was limited in duration to 90 days. Because 90 days have passed, any challenge to the order is moot and any decision on the merits would result in an advisory opinion. This court will not render advisory opinions or decide moot questions. *In re Barbara H.*, 183 Ill. 2d 482, 490-91 (1998).

¶ 12

However, an issue raised in an otherwise moot appeal may be reviewed when (1) addressing the issues involved is in the public interest; (2) the case is capable of repetition, yet evades review; or (3) the respondent will potentially suffer collateral consequences as a result of the trial court's judgment. *In re Alfred H.H.*, 233 Ill. 2d 345, 355-63 (2009).

¶ 13

The public-interest exception to the mootness doctrine allows a reviewing court to consider an otherwise moot case when (1) the question is of a public nature, (2) a need for an authoritative determination for the future guidance of public officials exists, and (3) the future recurrence of the question is likely. *Alfred H.H.*, 233 Ill. 2d at 355. A question presented on review is not of a public nature if the question, as is the case here, is whether the evidence was sufficient to involuntarily commit a respondent or administer treatment. *Alfred H.H.*, 233 Ill. 2d at 356-57.

¶ 14 Next, the capable-of-repetition-yet-evading-review exception applies when (1) the action is too short to be fully litigated before the underlying order expires, and (2) a reasonable expectation exists that the complaining party will be subject to an involuntary-commitment action again. *Alfred H.H.*, 233 Ill. 2d at 358. It is unlikely a resolution of a sufficiency-of-the-evidence issue would have any impact on future involuntary-commitment or treatment proceedings because the current proceedings are based on the current condition of respondent's mental illness, and future proceedings would require a new evaluation of respondent's mental state and conduct. *Alfred H.H.*, 233 Ill. 2d at 359-60.

¶ 15 Last, the collateral-consequences exception applies when a respondent has suffered, or is threatened with, an actual injury traceable to the petitioner and will likely be redressed by a favorable judicial decision. *Alfred H.H.*, 233 Ill. 2d at 361. However, 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. According to the record before us, respondent was involuntarily committed in 2009.

¶ 16 Here, the only potential issue for review is whether the trial court's findings that respondent was a person subject to involuntary admission were against the manifest weight of the evidence. Because the only potential issue for review is a sufficiency-of-the-evidence challenge, neither the public-interest exception nor the capable-of-repetition-yet-evading-review exception applies.

¶ 17 Further, the collateral-consequences exception does not apply because respondent has been subject to a prior involuntary admission. Therefore, the collateral consequences have already attached.

¶ 18 We have found respondent's appeal is moot and none of the exceptions to the mootness doctrine apply. We need not address the substantive issue of the sufficiency of the evidence, but we choose to briefly note no reversible error occurred.

¶ 19 B. Sufficiency of the Evidence

¶ 20 Here, respondent argues she was alleged in the complaint to be subject to involuntary admission on an "inflict physical harm" basis (405 ILCS 5/1-119(1) (West 2012)) and a "basic physical needs" basis (405 ILCS 5/1-119(2) (West 2012)), yet she was found subject to involuntary admission on the basis she "refused treatment and, as a result, would suffer deterioration" (405 ILCS 5/1-119(3) (West 2012)). It is reversible error when the pleadings allege one statutory basis for involuntary admission, but the evidence, arguments, and findings relate solely to another basis. See *In re Moore*, 292 Ill. App. 3d 1069, 1071-72 (1997). Based on *Moore*, the State concedes the trial court erred in finding respondent subject to involuntary admission on the basis not alleged. However, the State maintains reversal is not required where the evidence was sufficient to sustain a finding that respondent was unable to care for her basic physical needs. We agree with the State.

¶ 21 In *Moore*, the State "did not even attempt to prove" the statutory basis originally alleged. *Moore*, 292 Ill. App. 3d at 1071. By contrast, the State's expert witness here, Dr. Johnson, discussed at length whether respondent was able to care for her basic physical needs. More important, the State here sought a finding by the court that respondent was unable to care for her basic physical needs and respondent's counsel argued in opposition to that basis. That is, respondent's counsel argued respondent *was* able to care for herself. Thus, the grounds alleged in the petition were argued at the hearing.

