

NOTICE

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FILED

March 27, 2018
Carla Bender
4th District Appellate
Court, IL

2018 IL App (4th) 170422-U

NO. 4-17-0422

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: SOMLUTE S., a Person Found Subject to)	Appeal from
Involuntary Admission and Involuntary Administration)	Circuit Court of
of Psychotropic Medication)	Adams County
)	No. 17MH60
(The People of the State of Illinois,)	
Petitioner-Appellee,)	Honorable
v.)	John C. Wooleyhan,
SOMLUTE S.,)	Judge Presiding.
Respondent-Appellant).		

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices DeArmond and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court (1) affirmed the trial court's involuntary-admission order, and (2) reversed the court's involuntary-administration-of-psychotropic-medication order because the State failed to proved strict compliance with section 2-102(a-5) of the Mental Health Code (405 ILCS 5/2-102(a-5) (West 2016)).

¶ 2 Respondent, Somlute S., appeals from the circuit court's order finding him subject to involuntary (1) admission pursuant to section 1-119 of the Mental Health and Developmental Disabilities Code (Mental Health Code) (405 ILCS 5/1-119 (West 2016)), and (2) administration of psychotropic medication pursuant to section 2-107.1 of the Mental Health Code (405 ILCS 5/2-107.1 (West 2016)). He argues the court's judgment should be reversed because the case falls under an exception to the mootness doctrine, and (1) the State failed to prove by clear and convincing evidence respondent was a person subject to involuntary admission, and (2) the order for involuntary administration of psychotropic medication should be reversed because the State

failed to prove strict compliance with section 2-102(a-5) of the Mental Health Code (405 ILCS 5/2-102(a-5) (West 2016)).

¶ 3 We conclude respondent's claim regarding involuntary admission is moot, but the record does not show whether respondent received written notification of the side effects of the ordered psychotropic medication. Accordingly, we affirm in part, and reverse in part.

¶ 4 I. BACKGROUND

¶ 5 A. Involuntary Admission

¶ 6 On April 10, 2017, Officer Chris Mueller filed a petition for involuntary admission, alleging respondent was a person with mental illness who (1) because of his 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" (405 ILCS 5/1-119(1) (West 2016)); (2) because of his illness "is unable to provide for his *** basic physical needs so as to guard himself *** from serious harm without the assistance of family or others, unless treated on an inpatient basis" (405 ILCS 5/1-119(2) (West 2016)); and (3) "refuses treatment or is not adhering adequately to prescribed treatment; because of the nature of his *** illness is unable to understand his *** need for treatment; and if not treated on an inpatient basis, is reasonably expected based on his *** behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph one or paragraph two above" (See 405 ILCS 5/1-119(3) (West 2016)). On April 13, 2017, Dr. Salvador Sanchez, a psychiatrist at Blessing Hospital, filed a petition for involuntary administration of psychotropic medication.

¶ 7 That same month, the trial court held a hearing on the petition for involuntary admission. Dr. Sanchez testified he had been treating respondent since his admission to Blessing

Hospital on April 8, 2017. According to Dr. Sanchez, respondent had a previous diagnosis of paranoid schizophrenia and had stopped taking his psychotropic medications. Dr. Sanchez conducted a mental status examination and diagnosed respondent with paranoid schizophrenia. Dr. Sanchez testified respondent's negative symptoms included being withdrawn, isolated, and having no interest or desire in any social interaction. According to Dr. Sanchez, respondent's positive symptoms included delusions and hallucinations. Dr. Sanchez stated, "[respondent] is delusional of being poisoned, of Transitions and the Vietnam War taking over the world. He is delusional of—that his therapist, Deanna Sublette, is his princess, and he has also expressed that he is jealous of me and—or I am jealous of him actually, and that he's looking for his princess, and that the food is poisoned in the unit." According to Dr. Sanchez, respondent's delusion about being poisoned affected the amount of food he consumed and may be related to his low renal function. Dr. Sanchez also noted the following relevant history, reported by respondent and his parents:

"[Respondent], at home, called the police complaining of people making loud noises and trying to run his life and damaging his car. He believes that Vietnam and Transitions are taking over the world. He is so paranoid that he has a dead bolt and lock[s] himself in his room where he will not allow anybody to enter. He keeps rotten food covered in mold in his—in his room.

He also practices other bizarre behaviors such as keeping his spit in plastic bags and sometimes even putting those plastic bags in his—in his pocket."

In October 2011 and February 2015, respondent was previously hospitalized at Blessing Hospital for mental-health treatment.

¶ 8 In Dr. Sanchez's opinion, respondent was unable to provide for his own basic physical needs so as to guard himself from serious harm without outside assistance. Due to the nature of his illness, respondent was unable to understand his need for treatment. Without inpatient treatment, respondent would be reasonably expected, based on his behavioral history, to suffer further mental or emotional deterioration to the point that he would be unable to provide for his own basic, physical needs. Dr. Sanchez testified, "we have tried to provide multiple treatment alternatives after we provided extensive education to the patient[,] including the medications and the side effects possible. He has made it very clear and is very adamant that he does not want any treatment." According to Dr. Sanchez, respondent's therapist regularly engaged him in talk therapy, but he failed to make any progress and did not complete any treatment work.

¶ 9 Dr. Sanchez testified a treatment plan for respondent included psychotropic medications and therapy. Dr. Sanchez recommended (1) respondent be referred to a Department of Human Services facility for a period not to exceed 90 days, and (2) court-ordered psychotropic medication. Dr. Sanchez opined this recommendation was the least restrictive setting appropriate for respondent.

¶ 10 Following Dr. Sanchez's testimony, the State withdrew the first allegation in the petition and proceeded on the remaining two allegations. After hearing argument, the trial court determined the State proved the petition by clear and convincing evidence. Specifically, the court found respondent currently suffered from a mental illness and was unable to provide for his own basic physical needs so as to guard himself from harm without the assistance of others. The

court further found "that because of his mental illness, the respondent is currently not adhering adequately to a prescribed course of treatment, that because of the nature of his illness, he is currently unable to understand the need for treatment, and if he is not receiving inpatient treatment, he could reasonably be expected to suffer continued mental and/or emotional deterioration."

¶ 11 B. Involuntary Administration of Psychotropic Medication

¶ 12 Immediately following the hearing on the petition for involuntary admission, the trial court held a hearing on the petition for involuntary administration of psychotropic medication. Dr. Sanchez reiterated his diagnosis of paranoid schizophrenia and testified respondent continued to exhibit deterioration in functioning since his hospitalization.

Specifically, Dr. Sanchez testified respondent "continues to keep to himself, withdrawn, isolated, guarded, suspicious, paranoid, and very selective of what type of food he eats because he believes that the food has been poisoned." In Dr. Sanchez's opinion, respondent experienced suffering, including "a decrease in his renal function which may, in turn, even threaten his life."

¶ 13 Dr. Sanchez recommended a medication called Invega Sustenna (with a dose range up to 234 milligrams), an antipsychotic medication that would allow respondent to return to his lifestyle, become a part of his family again, and provide for his own basic daily needs. Side effects of Invega Sustenna included localized pain, sedation, weight gain, and possible involuntary movements. However, respondent had taken a similar compound in the past and did very well on it. Treatment alternatives included group therapy, individual therapy, and talk therapies, all of which respondent refused to participate in. Dr. Sanchez recommended certain medical tests prior to the administration of medication, including a complete blood count, a comprehensive metabolic panel, a thyroid-stimulating hormone exam, a lipid panel, a urine

exam, and an electrocardiogram. These tests would ensure the medication was appropriate and respondent was healthy enough to tolerate the medication. Dr. Sanchez opined respondent's paranoid schizophrenia caused him to lack the capacity to make a rational decision about his treatment. There was no testimony regarding written information about the side effects, risks, and benefits of the treatment, or about alternatives to the treatment.

¶ 14 The trial court found each of the statutory factors alleged in the petition were proved by clear and convincing evidence. Accordingly, the court entered an order authorizing the medical testing and involuntary administration of psychotropic medication.

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, respondent argues the trial court's judgment should be reversed because the case falls into an exception to the mootness doctrine and (1) the State failed to prove by clear and convincing evidence respondent was subject to involuntary admission, and (2) the order for involuntary administration of psychotropic medication should be reversed because the State failed to prove strict compliance with section 2-102(a-5) of the Mental Health Code (405 ILCS 5/2-102(a-5) (West 2016)).

¶ 18 A. Involuntary-Admission Order

¶ 19 The April 10, 2017, involuntary-admission order expired on its own terms 90 days after it was entered; accordingly, the appeal of this order is moot. "As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *In re Alfred H.H.*, 233 Ill. 2d 345, 351, 910 N.E.2d 74, 78 (2009). However, we will consider an otherwise moot case where it falls under a recognized exception. Here, respondent's case does not fall into any of the

following three mootness exceptions: (1) the collateral-consequences exception, (2) the capable-of-repetition-yet-evading-review exception, or (3) the public-interest exception. See *id.* This court considers these exceptions on a case-by-case basis. *Id.* at 354. "All of the exceptions to the mootness doctrine are 'to be construed narrowly and require a clear showing of each criterion to bring the case within the terms.'" *In re Sharon H.*, 2016 IL App (3d) 140980, ¶ 20, 52 N.E.3d 698 (quoting *In re J.T.*, 221 Ill. 2d 338, 350, 851 N.E.2d 1, 8 (2006)).

¶ 20 *1. Collateral-Consequences Exception*

¶ 21 In analyzing the collateral-consequences exception, we "must consider all the relevant facts and legal issues raised in the appeal before deciding whether the exception applies." *In re Rita P.*, 2014 IL 115798, ¶ 34, 10 N.E.3d 854. Further, "[c]ollateral consequences must be identified that 'could stem solely from the present adjudication.'" *Id.* (quoting *Alfred H.H.*, 233 Ill. 2d at 364). Respondent has failed to raise any facts or legal issues identifying collateral consequences that could stem solely from the present case. Accordingly, we find the collateral-consequences exception does not allow for a review of the merits of respondent's claim.

¶ 22 *2. Capable-Of-Repetition-Yet-Evading-Review Exception*

¶ 23 Another exception to the mootness doctrine exists for cases where the events are capable of repetition, yet are of such a short duration as to evade review. *J.T.*, 221 Ill. 2d at 350. "This exception has two elements. First, the challenged action must be of a duration too short to be fully litigated prior to its cessation. Second, there must be a reasonable expectation that 'the same complaining party would be subjected to the same action again.'" *Alfred H.H.*, 233 Ill. 2d at 358 (quoting *In re Barbara H.*, 183 Ill. 2d 482, 491, 702 N.E.2d 555, 559 (1998)). The "same action" need not be identical, but "the actions must have a substantial enough relation that the

resolution of the issue in the present case would be likely to affect a future case involving respondent." *Id.* at 359.

¶ 24 There is no question the first criterion has been met, as the involuntary-medication order expired by its own terms in 90 days, and appellate review could not have taken place prior to its expiration. *Id.* However, respondent has failed to meet the second criterion, as he raises only a sufficiency of the evidence argument. See *Sharon H.*, 2016 IL App (3d) 140980, ¶ 24. Accordingly, we conclude this exception does not allow for our review of respondent's claim regarding the involuntary-admission order.

¶ 25 *3. Public-Interest Exception*

¶ 26 "Application of the public interest exception requires (1) the existence of a question of public importance; (2) the desirability of an authoritative determination for the purpose of guiding public officers in the performance of their duties; and (3) the likelihood that the question will recur." *J.T.*, 221 Ill. 2d at 350. Respondent does not argue his claims raise questions of public importance. Nor does respondent contend his claims present issues on which an authoritative determination would provide guidance to public officers in the performance of their duties. We conclude the fact-specific nature of his sufficiency-of-the-evidence claim does "not present the kind[] of broad public interest issue[]" necessary to meet the first criterion of this exception. *Alfred H.H.*, 233 Ill. 2d at 356-57.

¶ 27 We conclude respondent's claim regarding the involuntary-admission order does not fall within one of the recognized exceptions to the mootness doctrine and we therefore affirm the court's judgment.

¶ 28 *B. Involuntary-Administration Order*

¶ 29 The April 13, 2017, involuntary-administration of medication order expired on its own terms 90 days after it was entered; accordingly, the appeal of this order is moot.

Respondent contends the involuntary-administration order falls into the capable-of-repetition-yet-evading-review exception to the mootness doctrine. The State concedes respondent's claim regarding the involuntary-administration order falls within an exception to the mootness doctrine. The State further concedes the order for involuntary administration of psychotropic medication should be reversed because the State failed to prove strict compliance with section 2-102(a-5) of the Mental Health Code (405 ILCS 5/2-102(a-5) (West 2016)). We accept the State's concessions.

¶ 30 Section 2-102(a-5) of the Mental Health Code requires respondent be advised "in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment," before psychotropic medication may be involuntarily administered. 405 ILCS 5/2-102(a-5) (West 2016). "Strict compliance with section 2-102(a-5) 'is necessary to protect the liberty interests of the mental-health treatment recipient.' " *In re David M.*, 2013 IL App (4th) 121004, ¶ 38, 994 N.E.2d 694 (quoting *In re Linda K.*, 407 Ill. App. 3d 1146, 1151, 948 N.E.2d 660, 665 (2011)). Here, the record is silent as to whether respondent received written notification of the side effects, risks, and benefits of the proposed treatment, or of alternatives to the treatment. Accordingly, the involuntary-administration order was entered in violation of this provision of the Mental Health Code and must be reversed.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, we affirm in part, and reverse in part.

¶ 33 Affirmed in part, reversed in part.