2012 IL App (4th) 110928-U

Filed 4/10/12

NO. 4-11-0928

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re Joshua B., a Person Found Subject to Involuntary Admission,	)	Appeal from Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Vermilion County
Petitioner-Appellee,	)	No. 11MH11
v.	)	
JOSHUA B.,	)	Honorable
Respondent-Appellant.	)	Craig H. DeArmond,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Pope and McCullough concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's judgment where (1) the respondent's appeal fell within the collateral-consequences exception to the mootness doctrine, and (2) the trial court's finding that the respondent was subject to involuntary admission was not against the manifest weight of the evidence.

¶ 2 Following an October 2011 hearing, the trial court found respondent, Joshua B., subject to involuntary admission at a mental-health facility. 405 ILCS 5/1-119 (West 2010).

¶ 3 Respondent appeals, arguing that the State failed to establish by clear and convincing evidence that his involuntary admission was warranted. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 In September 2011, James H. Falk, staff psychologist at the Danville Veteran's Administration (VA) hospital, filed a petition for the involuntary inpatient admission of respondent pursuant to section 3-403 of the Mental Health and Developmental Disabilities Code

(Mental Health Code) (405 ILCS 5/3-403 (West 2010)). Respondent had voluntarily admitted himself to the VA hospital approximately one month earlier because he was "not sleeping well" or taking his medication, was manic, was using marijuana, and had threatened his mother. Respondent later submitted a written notice to be discharged.

¶ 6 Falk's petition alleged that respondent was (1) mentally ill, (2) not adhering adequately to prescribed treatment or refusing treatment, (3) unable to understand his need for treatment, and (4) reasonably expected to suffer mental or emotional deterioration such that he was reasonably expected to harm others or place them in the fear of being harmed unless he was treated on an inpatient basis. Falk attached two medical certificates to the petition, both asserting respondent was subject to involuntary admission and in need of immediate hospitalization.

¶ 7 At the October 2011 hearing on Falk's petition, Dr. Surinderpal Kahlon, a psychiatrist at the VA hospital, testified that he performed a September 2011 evaluation on respondent and diagnosed him with bipolar disorder, manic type. Kahlon based his diagnosis on the following observations: respondent (1) threatened to sue, (2) invaded others' space, (3) interfered daily with the hospital nurses at the nurses' station, and (4) refused to cooperate with the ward staff when they told him to stop kickboxing in the hallway. According to Kahlon, patients diagnosed with "manic" disorders are "full of energy," irritable, threatening, grandiose, and delusional.

¶ 8 Kahlon believed that, due to respondent's mental illness, respondent could reasonably be expected to engage in conduct that would place himself or others in physical harm or the expectation of physical harm. Specifically, around the time respondent initially admitted himself to the VA hospital, respondent made a "violent physical threat" to his mother and a

"grievous" threat to his former psychiatrist. While at the VA hospital, respondent threatened to sue "the physicians or anybody else who came in his way." Respondent did not sleep well and often invaded others' space.

¶ 9 On cross-examination, Kahlon admitted that he did not personally observe respondent's threats or speak to respondent's mother or psychiatrist. Rather, Kahlon knew of these threats from reviewing respondent's medical records. Kahlon testified that respondent's medical records also indicated respondent became involved in nonphysical altercations with other patients and had to have emergency injections administered on more than one occasion. Respondent's last injection was a "couple weeks" before the hearing.

¶ 10 Although respondent had been complying with his medication and his condition had improved during his time at the VA hospital, Kahlon opined that without treatment, respondent would be reasonably expected to suffer emotional or mental deterioration. Moreover, respondent's medication was still being adjusted. Kahlon believed inpatient hospitalization was the least-restrictive treatment option for respondent and recommended respondent stay in the inpatient ward at the VA hospital until he was stable enough to be placed.

¶ 11 On this evidence, the trial court found the State had established each of the elements in its petition by clear and convincing evidence and ordered respondent hospitalized for no more than 90 days.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 A. Mootness

¶ 15 Initially, we note that this case is moot. The trial court entered its involuntary

commitment order on October 6, 2011, and limited its duration to 90 days. The 90-day period has passed; therefore, the order can no longer serve as the basis for adverse action against respondent. See *In re Barbara H.*, 183 Ill. 2d 482, 490, 702 N.E.2d 555, 559 (1998). However, under the collateral-consequences exception to the mootness doctrine, a reviewing court may 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, 1053, 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).

¶ 16 In this case, Kahlon testified that respondent had been hospitalized at the VA hospital eight times since 2001. However, the record does not indicate whether respondent's previous hospitalizations were voluntary or involuntary. Accordingly, we find that the collateral-consequences exception to the mootness doctrine applies. See *In re Meek*, 131 Ill. App. 3d 742, 745, 476 N.E.2d 65, 67 (1985) (concluding case concerning respondent's first involuntary commitment to a mental-health facility was not moot even though respondent had two prior voluntary commitments).

¶ 17 B. Sufficiency of the Evidence

¶ 18 Respondent argues the State failed to prove by clear and convincing evidence that his involuntary admission was warranted. We disagree.

¶ 19 A person is subject to involuntary admission under the Mental Health Code if he has a mental illness and because of that 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 2010). The State has the burden of showing the need for confinement by clear and convincing evidence. *In re O.C.*, 338 Ill. App. 3d 292, 296, 788 N.E.2d 1163, 1167 (2003). A person cannot be involuntarily confined simply because he is mentally ill if he is not a threat or danger to others and can live safely outside confinement. *O.C.*, 338 Ill. App. 3d at 296, 788 N.E.2d at 1167. However, the trial court need not wait until the respondent actually harms himself or another before involuntarily committing him. *In re Tommy B.*, 372 Ill. App. 3d 677, 687, 867 N.E.2d 1212, 1221 (2007).

¶ 20 A trial court's decision on involuntary admission will not be overturned unless it is against the manifest weight of the evidence. *In re Robin C.*, 385 Ill. App. 3d 523, 528, 898 N.E.2d 689, 694 (2008). A judgment will be considered against the manifest weight of the evidence " 'only when an opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary, or not based on evidence.' " *In re Robin C.*, 385 Ill. App. 3d at 528, 898 N.E.2d at 694 (quoting *In re Elizabeth McN.*, 367 Ill. App. 3d 786, 789, 855 N.E.2d 588, 590 (2006)).

¶ 21 In this case, respondent contends that the State failed to present clear and convincing evidence that he was a danger to himself or others. At the October 2011 hearing, however, Kahlon testified that respondent made a "violent physical threat" to his mother and a "grievous" threat to his psychiatrist. Respondent was not sleeping well, was not cooperating with

the staff, and was invading other patients' space. Kahlon further testified that his records indicated that respondent became involved in nonphysical altercations with other patients on more than one occasion, resulting in staff members having to administer emergency injections.

¶ 22 Respondent claims that Kahlon's testimony was insufficient because Kahlon did not personally observe any of respondent's threatening behavior, nor did he speak to respondent's mother or psychiatrist about respondent's threats. Respondent's claim is well-taken. However, Kahlon's testimony concerning these incidents was proper, given that it was based on his review of respondent's medical records. See *Tommy B.*, 372 Ill. App. 3d at 687-88, 867 N.E.2d at 1222 (noting that an expert may (1) rely on documents prepared by others in formulating his opinion so long as the documents are a type commonly used in the expert's profession, and (2) use evidence that is ordinarily hearsay to explain the basis of his opinion, so long as that evidence is of the type reasonably relied upon by experts in the field).

¶ 23 Having reviewed all of the evidence under the applicable standard of review, we conclude that the trial court's finding that respondent was subject to involuntary admission based on his propensity to harm himself or others was not against the manifest weight of the evidence.

¶ 24 III. CONCLUSION

¶ 25 For the reasons stated, we affirm the trial court's judgment.

¶ 26 Affirmed.