NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2011 IL App (4th) 110397-U

Filed 12/6/11

NO. 4-11-0397

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Derrick V., a Person Found Subject to	)	Appeal from
Administration of Psychotropic Medication,	)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Sangamon County
Petitioner-Appellee,	)	No. 11MH330
v.	)	
DERRICK V.,	)	Honorable
Respondent-Appellant.	)	Esteban F. Sanchez,
	)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Justices Steigmann and Pope concur in the judgment.

ORDER

¶ 1 *Held:* We grant Legal Advocacy's motion to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967). Respondent's appeal was not moot because it fell under the collateral consequences exception. However, the trial court's decision was not against the manifest weight of the evidence, and respondent therefore cannot raise any meritorious issues on appeal.

¶ 2 This appeal comes to us on the motion of Legal Advocacy Service, a division of the Illinois Guardianship and Advocacy Commission (Legal Advocacy), to withdraw as counsel on appeal because no meritorious issues can be raised in this case, pursuant to *Anders v. California*, 368 U.S. 738 (1967), extended to civil matters by *In re Keller*, 138 Ill. App. 3d 746, 486 N.E.2d 291 (1985), applied to appeals of involuntary admission orders by *In re Juswick*, 237 Ill. App. 3d 102, 604 N.E.2d 528 (1992). For the following reasons, we grant Legal Advocacy's motion and affirm the trial court.

¶ 3 I. BACKGROUND

¶ 4 A. Procedural History

¶ 5 On February 14, 2011, respondent, Derrick V., began treatment at McFarland Mental Health Center (McFarland) after he was found unfit to stand trial in McLean County case No. 10-CF-834. On April 5, 2011, Dr. Patibandla, respondent's treating psychiatrist, filed a petition for administration of psychotropic medicine pursuant to section 2-107.1 of the Mental Health Code (405 ILCS 5/2-107.1 (West 2010)). On April 6, 2011, the trial court appointed counsel to represent respondent, and on April 8, 2011, a hearing was conducted. The trial court granted the petition and ordered respondent to forced medications not to exceed 90 days.

¶ 6 On May 5, 2011, respondent filed a notice of appeal, and the trial court appointed Legal Advocacy as counsel for respondent. On May 25, 2011, the trial court in McLean County issued an "Order For Restoration" finding respondent fit to stand trial in McLean County case No. 10-CF-834. On August 11, 2011, Legal Advocacy filed a motion to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967), alleging (1) no justiciable issues were presented for review and (2) no meritorious grounds can be raised that warrant relief for respondent. Our records show respondent was provided notice of the motion. On our own motion, we gave respondent leave to file additional points and authorities in his behalf on or before September 12, 2011, and he has not done so. After examining the record in accordance with our duties under *Anders*, we grant Legal Advocacy's motion and affirm the trial court's ruling.

¶ 7 B. Respondent's Mental Health and the Trial Court's Findings

¶ 8 Respondent was admitted to McFarland because he was found unfit to stand trial. Dr. Patibandla became respondent's treating psychiatrist after he was admitted, and he remained his psychiatrist until respondent's release. Dr. Patibandla testified on behalf of the State at the trial court hearing. The parties stipulated that Dr. Patibandla was an expert in the field of psychiatry. He diagnosed respondent with delusional disorder, based upon respondent's paranoid ideation that he is both the President of the United States and a member of the Federal Bureau of Investigations, as well as his belief that the Central Intelligence Agency and the Pentagon were responsible for his hospitalization. Dr. Patibandla testified respondent refused to discuss his mental condition, did not acknowledge he had a mental illness, and did not have any understanding or insight into his mental illness. He also testified respondent exhibited functional deterioration and had written two threatening letters concerning the delivery of a bomb to the mental health center.

¶ 9 Dr. Patibandla petitioned the trial court under section 2-107.1 of the Mental Health Code for the involuntary administration of psychotropic medication to treat respondent's anxiety, psychosis, and agitation because respondent refused to take the medications (405 ILCS 5/2-107.1(a)(4) (West 2010)). He also requested that certain tests and procedures be performed to safely and effectively administer the medicine pursuant to section 2-107.1(a)(4)(G) (405 ILCS 5/2-107.1(a)(4)(G) (West 2010)).

¶ 10 Dr. Patibandla testified he attempted to discuss the medications with respondent on at least three occasions. He also gave respondent written information on the medications, including their benefits and possible side effects. Dr. Patibandla testified that alternative, less-

restrictive group or individual therapy was not appropriate for respondent. Dr. Patibandla concluded the benefits of the medication would outweigh the risks. He further testified the medication would help respondent relax, better participate in his treatment and legal proceedings, cooperate with his attorney, and prevent him from making threats against others.

¶ 11 Respondent also testified at the hearing. He testified he did not believe he was "delusional about anything" and he was able to pass a fitness exam if the court would allow him to take one. Respondent further testified his mental state was urgently needed and he did not "believe [he] should be diluted from [his] mental state to a zombie."

¶ 12 The trial court granted the petition after hearing the testimony of Dr. Patibandla and respondent. The trial court found (1) respondent suffered from a serious mental illness; (2) respondent exhibited both deterioration of his ability to function and exhibited threatening and disruptive behavior; (3) respondent's symptoms of deterioration and threatening and disruptive behavior have had continuing presence; (4) the benefits of treatment outweighed the harm; (5) respondent lacked the capacity to make a reasoned decision about the course of treatment necessary; and (6) less-restrictive alternatives were explored but found to be inappropriate.

¶ 13 II. ANALYSIS

¶ 14 Legal Advocacy addresses two potential issues for review in its motion to withdraw as counsel: (1) whether recognized exceptions to the mootness doctrine apply and (2) whether the order to involuntarily administer medication should be reversed because the State failed to prove, by clear and convincing evidence, respondent lacked the capacity to reasonably decide to take or refuse psychotropic medication. We address each in turn.

¶ 15 A. Exceptions to the Mootness Doctrine

¶ 16 Respondent's 90-day medication order was set to expire on July 6, 2011. On May 25, 2011, in McLean County case No. 10-CF-834, the trial court found respondent fit to stand trial, and he was released from McFarland. As a result, this case is moot.

¶ 17 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, 355-61, 910 N.E.2d 74, 80-83 (2009). We discuss each in turn.

¶ 18 The public-interest exception permits review of otherwise moot cases when (1) the question is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officials; and (3) the question is likely to recur in the future. *Alfred H.H.*, 233 Ill. 2d at 355, 910 N.E.2d at 80. "Sufficiency of the evidence claims are inherently case-specific reviews" and do not generally present questions of public nature. *Alfred H.H.*, 233 Ill. 2d at 356-57, 910 N.E.2d at 81. An authoritative determination is not needed when the case does not involve conflicting precedent or address a situation where the law is in disarray. *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 81.

¶ 19 Respondent's appeal is a sufficiency-of-the-evidence claim and therefore does not satisfy the first prong of the public-interest exception. Respondent has not shown this appeal addresses a situation where the law is in disarray, nor has he shown this appeal involves conflicting precedent. Finally, we find it unlikely that the same facts which give rise to this appeal will recur as to respondent or anyone else. Therefore, the public-interest exception does not apply to this appeal.

¶ 20 Next, the capable-of-repetition-yet-evading-review exception applies when (1) the action is too short to be fully litigated prior to the expiration of the underlying order and (2) a reasonable expectation exists that the complaining party will be subject to an involuntary medication action in the future. *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82.

¶ 21 Respondent meets the first criteria of the capable-of-repetition-yet-evading-review exception. Respondent's involuntary medication order was limited to 90 days, causing the order to be of such short duration that it could not have been fully litigated prior to its expiration. However, we conclude that respondent has not met the second requirement of the exception. Respondent was committed to McFarland because he was found unfit to stand trial. It is only because of his temporary commitment to McFarland and his treatment resulting therefrom that respondent was the subject of the involuntary medication order. Respondent has since been released and found fit to stand trial. Therefore, we find it unlikely that respondent will become a party to an action for involuntary medication in the future.

¶ 22 The last exception to the mootness doctrine is the collateral consequences exception which has been held to apply to mental health cases, and is decided on a case-by-case basis. *Alfred H.H.*, 233 Ill. 2d at 362, 910 N.E.2d at 84. This exception allows for appellate review even though an order has expired because respondent has suffered, or is threatened with, an actual injury traceable to petitioner that is likely to be redressed by a favorable judicial decision. *Alfred H.H.*, 233 Ill. 2d at 361, 910 N.E.2d at 83. Although the Illinois Supreme Court has recognized that mere reversal "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." *Alfred H.H.*, 233 Ill. 2d at 362, 910 N.E.2d at 84. We note, reversal could have

several benefits, such as, affecting respondent's ability to seek employment and preventing respondent's hospitalization from being mentioned in a subsequent proceeding. *Alfred H.H.*, 233 Ill. 2d at 362, 910 N.E.2d at 84.

¶ 23 We conclude the collateral consequences exception to mootness applies in this case. Respondent's admission to McFarland, as a result of his unfitness to stand trial, was his first and only order for involuntary mental health treatment. Further, respondent has never taken psychotropic medications, nor had he ever been ordered to involuntarily receive them until the present proceedings. We find that respondent is likely to experience collateral consequences that would stem solely from the present adjudication. Therefore, we will consider whether the trial court's decision was against the manifest weight of the evidence, and whether respondent can make any meritorious arguments on appeal.

¶ 24 B. The Trial Court's Decision Was Not Manifestly Erroneous

¶ 25 At the trial level, the State must prove, by clear and convincing evidence, the statutory basis for involuntarily medicating the respondent. *In re Dorothy W.*, 295 Ill. App. 3d 107, 108, 692 N.E.2d 388, 389 (1998). The appropriate standard of review is then whether the trials court's decision was manifestly erroneous. *In re Israel*, 278 Ill. App. 3d 24, 35, 664 N.E.2d 1032, 1039 (1996). A trial court's decision is not against the manifest weight of the evidence unless the opposite conclusion is clearly evident. *In re Edward S.*, 298 Ill. App. 3d 162, 165, 698 N.E.2d 186, 188 (1998). Therefore, "[a] reviewing court will not reverse a trial court's decision merely because it might have come to a different conclusion." *Dorothy W.*, 295 Ill. App. 3d at 108, 692 N.E.2d at 389 (1998).

¶ 26 The right to refuse psychotropic medication is protected by the federal

constitution. *In re C.E.*, 161 Ill. 2d 200, 211, 641 N.E.2d 345, 351 (1994). To involuntarily administer these medications, the State must prove the following under section 2-107.1(a)(4):

> "(A) That the recipient has a serious mental illness or developmental disability.
>
> (B) That because of said mental illness or developmental disability, the recipient currently exhibits any one of the following: (I) deterioration of his or her ability to function, as compared to the recipient's ability to function prior to the current onset of symptoms of the mental illness or disability for which treatment is presently sought, (ii) suffering, or (iii) threatening behavior.
>
> (C) That the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in item (B) of this subdivision (4) or the repeated episodic occurrence of these symptoms.
>
> (D) That the benefits of the treatment outweigh the harm.
>
> (E) That the recipient lacks the capacity to make a reasoned decision about the treatment.
>
> (F) That the other less restrictive services have been explored and found inappropriate.
>
> (G) If the petition seeks authorization for testing and other procedures, that such testing and procedures are essential for the safe and effective administration of the treatment." 405 ILCS 5/2-

107.1(a)(4) (West 2010).

¶ 27 Dr. Patibandla testified to each of these statutory elements at trial. He testified respondent was diagnosed with delusional disorder and experienced deterioration of his ability to function. He also testified respondent participated in threatening and disruptive behavior, which had been present since he first entered treatment on February 14, 2011, and continued up until the date of the petition, April 5, 2011. He testified that other less-restrictive services were explored and concluded respondent would not be good for group or individual therapy because of his illness.

¶ 28 Dr. Patibandla testified respondent lacked the capacity to make a reasoned decision regarding taking medication. He based this opinion on respondent's delusional comments about his belief he was the President and worked for the Federal Bureau of Investigations, as well as his accusations that the Pentagon and Central Intelligence Agency were responsible for respondent's hospitalization. Dr. Patibandla's conclusion was further supported by respondent's refusal to discuss his mental condition, his lack of acknowledgment he had a mental illness, and his inability to understand or have insight into his mental illness. Finally, Dr. Patibandla testified the benefits of the medication outweighed the risks and that he had requested testing and other procedures to ensure the medicine was administered effectively and safely.

¶ 29 Although respondent testified he was not delusional, was able to pass a fitness examination, and did not believe the drugs to be necessary, there was ample testimony from Dr. Patibandla stating the opposite conclusion. The trial court based its decision on this testimony and indicated at the conclusion of the hearing that all statutory elements had been met. We conclude the State presented clear and convincing evidence of the statutory basis for involuntary

medication of respondent. We find the trial court's decision was not against the manifest weight of the evidence, and therefore agree respondent can raise no meritorious issues on appeal.

¶ 30 III. CONCLUSION

¶ 31 After reviewing the record consistent with our responsibilities under *Anders*, we agree with Legal Advocacy that respondent can raise no meritorious issues on appeal. We grant Legal Advocacy's motion to withdraw as counsel for respondent and affirm the trial court's judgment.

¶ 32 Affirmed.