

Respondent appeals, arguing that (1) the trial court erred by (a) finding him subject to involuntary admission, (b) denying his requests for an independent psychological examination and substitution of judge, and (c) granting the physician's petition for involuntary administration of psychotropic medication; and (2) he was denied the effective assistance of counsel. Because we agree only that the court erred by denying respondent's request for an independent psychological examination in case No. 10-MH-640, we affirm the court's judgment in Sangamon County case No. 10-MH-575 and reverse the court's judgment in Sangamon County case No. 10-MH-640.

I. BACKGROUND

A. The Involuntary Admission (Appellate Court Case No. 4-10-0569)

On June 30, 2010, Sriecri Patibandla, the psychiatrist at McFarland Mental Health Center who initially examined respondent, filed a petition seeking to involuntarily admit respondent (Sangamon County case No. 10-MH-575). The petition alleged that respondent was in need of immediate hospitalization because he suffered from a mental illness that (1) could lead to dangerous conduct and (2) restricted him from providing for his physical needs.

At a July 23, 2010, hearing on the involuntary-admission petition, respondent (1) represented himself with the assistance of standby counsel and (2) testified on his own behalf. To prove its case, the State presented testimony from Chassan Bitar, respondent's psychiatrist at McFarland, that respondent suffered from schizoaffective disorder and, among other things, was a danger to himself and others.

Following that hearing, the trial court granted the petition, ordering respondent

involuntarily admitted for a period not to exceed 90 days and finding as follows:

"The [c]ourt has considered all the evidence, including [respondent's] statements, the doctor's testimony, and [the court believes] that you are a person who is suffering from mental illness, and *** that as a result of that illness *** you are, one, unable to care for your basic physical needs so as to guard yourself from serious physical harm, and moreover, a person who's reasonably expected to inflict serious physical harm upon yourself or another in the near future."

Shortly thereafter, respondent appealed.

B. The Involuntary Administration of Psychotropic Medications
(Appellate Court Case No. 4-10-0597)

On July 26, 2010, three days after respondent's hearing on the involuntary-admission petition, Bitar filed a petition seeking to involuntarily administer psychotropic medications to respondent (Sangamon County case No. 10-MH-640). The petition alleged that respondent was "very psychotic and delusional." Bitar requested the following medications to treat respondent's condition: (1) Ziprasidone (20 to 160 milligrams per day), (2) Lorazepam (1 to 12 milligrams per day), and Benztropine (1 to 4 milligrams per day). (Bitar also requested (1) a number of alternatives to the Ziprasidone and (2) one alternative to the Benztropine.)

At a July 30, 2010, hearing on the involuntary-administration-of-psychotropic-medications petition, respondent again (1) represented himself with the assistance of standby counsel and (2) testified on his own behalf. In support of the petition, the State presented

testimony from Bitar that the requested medications were necessary because of the "deterioration in [respondent] from his base line" since his admission.

Following that hearing, the trial court found respondent subject to involuntary administration of the requested psychotropic medications for a period not to exceed 90 days, finding as follows:

"[The court] find[s] that the] State has proven [its case] by clear and convincing evidence and grant[s] the [p]etition. [The court] find[s] respondent] is a person suffering from mental illness, and as to other factors, *** as to all the factors, *** the evidence has shown the benefits of the treatment outweigh the harm; and [respondent] lacks the capability to give informed, reasoned consent about his treatment."

Shortly thereafter, respondent appealed.

In October 2010, on respondent's motion, this court consolidated respondent's appeals.

II. ANALYSIS

Respondent argues that (1) the trial court erred by (a) finding him subject to involuntary admission, (b) denying his requests for an independent psychological examination and substitution of judge, and (c) granting the physician's petition for involuntary administration of psychotropic medication; and (2) he was denied the effective assistance of counsel. We address respondent's contentions in turn.

Initially, we note that respondent concedes that his case is moot but nonetheless

posits that his consolidated appeal falls within the collateral-consequences exception to the mootness doctrine. The State concedes this contention, and we accept the State's concession.

A. Respondent's Claim That the Trial Court Erred by
Finding Him Subject to Involuntary Admission
(Appellate Court Case No. 4-10-0569)

Respondent first contends that the trial court erred by finding him subject to involuntary admission in Sangamon County case No. 10-MH-575. Specifically, respondent asserts that the State failed to prove that he was (1) reasonably expected to inflict serious physical harm upon himself or another or (2) unable to provide for his basic physical needs. We disagree.

We accord great deference to a trial court's determination that an individual is subject to involuntary admission and will not reverse the court's judgment unless it is against the manifest weight of the evidence. *In re Hannah E.*, 376 Ill. App. 3d 648, 661, 877 N.E.2d 63, 75 (2007). A court's judgment is 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 Elizabeth McN.*, 367 Ill. App. 3d 786, 789, 855 N.E.2d 588, 590 (2006) (quoting *In re John R.*, 339 Ill. App. 3d 778, 781, 792 N.E.2d 350, 353 (2003)).

A person is subject to involuntary admission when, in pertinent part, the trial court determines by clear and convincing evidence that because of a mental illness, the person is either (1) reasonably expected to engage in dangerous conduct that places [him] or another in reasonable expectation of being harmed or (2) "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(1), (2) (West 2008) as amended by Pub. Act 96-1399, § 5, eff. July 29, 2010 (2010 Ill. Legis. Serv. 3593 (West)).

In this case, Bitar, respondent's treating psychiatrist at McFarland, opined at the July 23, 2010, hearing on the involuntary-admission petition that he reasonably expected respondent to inflict serious physical harm upon himself or others in the near future. In support of his opinion, Bitar explained that respondent suffered from "grandiose delusion" and that respondent was very paranoid that people were out to get him because he ran for president. Bitar added that prior to the hearing, respondent had at least one incident in which he became very angry with staff members and "hit another patient" at McFarland.

In light of Bitar's testimony, the trial court's finding that respondent could reasonably be expected to inflict serious physical harm upon himself or someone else was not against the manifest weight of the evidence. Therefore, we need not determine whether the State failed to prove that respondent was unable to provide for his basic physical needs. (It appears from the record, however, that the State met its burden in that regard, as well.)

Accordingly, we conclude that the trial court did not err when it determined that respondent was subject to involuntary admission.

**B. Respondent's Claim That the Trial Court Erred by Denying
His Request for an Independent Psychological Examination
(Appellate Court Case No. 4-10-0597)**

Respondent contends that the trial court erred by denying his request for an independent psychological examination at his hearing on Bitar's petition for involuntary administration of psychotropic medication. Specifically, respondent asserts that the court erred by denying his request for an independent psychological examination because the court erroneously believed that he was not entitled to such an evaluation under the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-100 through 6-107 (West 2008)). We agree.

Section 3-804 of the Mental Health Code grants a respondent the option of an independent psychological examination at a hearing for involuntary administration of psychotropic medication, as follows:

"The respondent is entitled to secure an independent examination by a physician, qualified examiner, clinical psychologist or other expert of his choice. If the respondent is unable to obtain an examination, he may request that the court order an examination to be made by an impartial medical expert." 405 ILCS 5/3-804 (West 2008).

See *In re R.C.*, 338 Ill. App. 3d 103, 1128, 788 N.E.2d 99, 105 (2003) (concluding that the trial court had no discretion to deny the respondent his statutory right to an independent psychological examination at a hearing for involuntary treatment).

At respondent's July 30, 2010, hearing on the involuntary-administration-of-psychotropic-medications petition in this case, the trial court responded to respondent's request for an independent psychological examination as follows:

"[T]he issue [is one] of independent examination. [The court will] ask [the State's attorney] for her opinion as to whether [respondent] is entitled to independent psychiatric examination for a [f]orced[-m]edication [p]etition. [The court's] belief is [that] he is not."

In response to the court's inquiry, the assistant state's attorney stated, "That would be my belief, also."

This exchange shows that the trial court denied respondent his statutory right to an independent expert's evaluation because it believed that respondent was not entitled to such an evaluation. The court's erroneous belief requires reversal. See *R.C.*, 338 Ill. App. 3d at 112-13, 788 N.E.2d at 105 (reversing the trial court's judgment because it denied the respondent's request for an independent psychological evaluation even though the respondent did so for the sole purpose of securing a continuance).

Because we have concluded that the trial court committed reversible error by denying respondent's motion for an independent psychological examination, we need not determine whether the court erred by (1) denying his request for substitution of judge or (2) finding him subject to involuntary administration of psychotropic medication at that same hearing.

In closing, we reject respondent's contentions related to ineffective assistance of counsel, given that respondent elected to represent himself and has not explained what standards, if any, standby counsel failed to meet. See *People v. Simpson*, 204 Ill. 2d 536, 566, 792 N.E.2d 265, 285-86 (2001) (holding that an individual may not seek to avoid the consequences of his decision to represent himself by asserting ineffective assistance of standby counsel without showing how standby counsel's actions fell below an objective standard of reasonableness in light of the level of guidance standby counsel was required to offer).

III. CONCLUSION

For the reasons stated, we affirm the trial court's judgment in appellate court case No. 4-10-0569 and reverse the court's judgment in appellate court case No. 4-10-0597.

Case No. 4-10-0569: Affirmed.

Case No. 4-10-0597: Reversed.