

NOTICE
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2012 IL App (4th) 110093-U

Filed 4/10/12

NO. 4-11-0093

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Linda K., a Person Found Subject to)	Appeal from
Involuntary Admission,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	Sangamon County
Petitioner-Appellee,)	No. 10MH1038
v.)	
LINDA K.,)	Honorable
Respondent-Appellant.)	Esteban F. Sanchez,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Presiding Justice Turner and Justice McCullough concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court dismissed respondent's appeal from her involuntary admission as moot.

¶ 2 Following a hearing in December 2010 and January 2011, the trial court found respondent, Linda K., subject to involuntary admission to a mental health facility (405 ILCS 5/3-700 (West 2010)).

¶ 3 Respondent appeals, arguing that (1) the State failed to prove by clear and convincing evidence that hospitalization was the least-restrictive treatment alternative available (405 ILCS 5/3-811 (West 2010)) and (2) this case falls under the public-interest and capable-of-repetition-yet-evading-review exceptions to the mootness doctrine. Because we conclude that this appeal is moot, and that none of the exceptions to the mootness doctrine apply, we dismiss respondent's appeal.

¶ 4

I. BACKGROUND

¶ 5

On December 8, 2010, Kathy Love, the hospital treatment coordinator at McFarland Mental Health Center (McFarland), filed a petition to involuntarily admit respondent (405 ILCS 5/3-601 (West 2010)). In her petition, Love stated that respondent was admitted to McFarland on January 26, 2010, after respondent was found unfit to stand trial on charges of forgery. (Respondent explains in her brief to this court that she was confined to McFarland while she awaited a determination as to her fitness and that she was adjudicated unfit to stand trial.) Love's petition reported that respondent received psychotropic medication under court order while at McFarland and that respondent showed no intention of continuing her medication if released and not under court order. The petition also stated that on December 7, 2010, the State dismissed the forgery charges with prejudice. According to an independent evaluation performed by Dr. Aura Eberhardt, a psychiatrist at McFarland, the State dismissed the charges due to respondent's inability to attain fitness.

¶ 6

On December 10, 2010, the trial court conducted a bench trial on Love's petition. The State called Dr. Srieihri Patibandla, one of respondent's treating psychiatrists at McFarland, as a witness. Dr. Patibandla testified that he diagnosed respondent with schizophrenia, undifferentiated type. He testified that respondent was unaware that she suffered from a mental illness and that she needed medication and that she often needed prompting regarding her hygiene. Dr. Patibandla's opinion was that respondent was unable to care for herself and guard herself against harm without assistance. Further, he believed that respondent was not appropriate for a nursing home and that hospitalization was the least-restrictive treatment alternative at that time because respondent's medication was often administered under duress. Dr. Patibandla

opined that it was likely that respondent would quit taking her medications if released.

¶ 7 Respondent testified that she was willing to take her medications on her own if released and that she was capable of taking care of her basic physical needs. She also testified that she preferred a nursing home to continued confinement and that she would live at her parents' home if discharged. (Dr. Patibandla, however, testified that respondent's father was deceased, and when respondent was asked about her parents' whereabouts, she responded she would "really rather not talk about that.") Respondent further testified that her parents' home had been foreclosed on, but she believed she could still live there for up to a year. During her testimony, respondent requested an examination by an independent psychiatrist. The trial court granted her request, and continued the hearing until January 2011.

¶ 8 On January 7, 2011, respondent submitted into evidence an independent psychiatric evaluation performed by Dr. Aura Eberhardt. Dr. Eberhardt concluded that respondent would "probably need a supervised setting from where she [could] work her way up" and "because of her poor insight into her illness[,] her risk to decompensate because of noncompliance with treatment [was] high." Dr. Eberhardt nevertheless concluded it was appropriate to "[c]onsider discharge to a structured setting/group home."

¶ 9 The State then cross-examined respondent. Respondent explained that she believed that she was able to live on her own and would go back to her parents' home if released. She also testified that her parents no longer lived in their home. Respondent added that she believed that she could go back to her previous job at a factory or get a job with the teacher's association. She said that she would not apply for disability benefits at that time but promised to continue taking her medications upon release.

¶ 10 The State recalled Dr. Patibandla to testify and he maintained, despite Dr. Eberhardt's independent evaluation, that he believed a group home would not be appropriate for respondent. Dr. Patibandla explained that respondent was on court-ordered medications, which she refused to take and did not believe she needed. Dr. Patibandla opined that respondent would not continue on her medications if released to a group home. Further, if respondent stopped taking her medications, she would "resort back to the preexisting state that she was in when she was first brought [to McFarland]." He also testified that respondent was unable to provide for her basic physical needs, she was not likely able to support herself without the help of others, and her mental illness continued to cause "significant thought disorganization."

¶ 11 At the conclusion of the hearing, the trial court called Dr. Kasturi Kripakaran, the psychiatrist who began treating respondent on December 22, 2010, as a witness. Dr. Kripakaran testified that respondent's mental illness caused paranoia, confusion, and thought disorganization, which "caused her dysfunction in the community." Dr. Kripakaran explained that respondent did not believe she had a mental illness and did not know why she was taking medication. Dr. Kripakaran also believed respondent would not be able to provide for her basic physical needs if released and that hospitalization was the least-restrictive treatment alternative at that time.

¶ 12 On this evidence, the trial court found respondent subject to involuntary admission, as follows:

"[The State has] proved by clear and convincing evidence that [respondent is] subject to involuntary admission because she continues to suffer from a mental illness, and at this point, because of her unwillingness to acknowledge her illness and to seek

medication and unwillingness go to a structured setting, this is the least restrictive environment for her."

The court ordered respondent to be hospitalized for a period not to exceed 90 days (405 ILCS 5/3-700 (West 2010)).

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, respondent argues that (1) the State failed to prove by clear and convincing evidence that hospitalization was the least-restrictive treatment alternative (405 ILCS 5/3-811 (West 2010)) and (2) this case falls under the public-interest and capable-of-repetition-yet-evading-review exceptions to the mootness doctrine. The State responds, in part, that respondent's case is moot and she has failed to satisfy the public-interest and capable-of-repetition-yet-evading-review exceptions to the mootness doctrine. For the reasons that follow, we dismiss respondent's appeal as moot.

¶ 16 A. The Mootness Doctrine

¶ 17 Respondent's 90-day commitment order has expired, and as a result, this case is moot. See *In re Barbara H.*, 183 Ill. 2d 482, 490, 702 N.E.2d 555, 559 (1998) (where "judgments no longer have any force or effect," a determination "as to the lawfulness of those judgments will not affect the outcome of the particular controversy," and "those judgments can no longer serve as the basis for [an] adverse action"). This, however, does not end our analysis.

¶ 18 B. The Exceptions to the Mootness Doctrine

¶ 19 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).

Because respondent argues only that the first two exceptions apply, we focus our analysis on these two exceptions.

¶ 20 B. The Exceptions to the Mootness Doctrine

¶ 21 1. *The Public-Interest Exception*

¶ 22 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.

¶ 23 Respondent claims that the public-interest exception applies here because the matter involves a question of due process and compliance with the procedural requirements of the Mental Health and Developmental Disability Code (405 ILCS 5/1-100 through 100/40 (West 2010)). However, although respondent attempts to characterize her claim as one of public concern, respondent's only contention on appeal is that the State's evidence was insufficient—namely, that the State did not prove by clear and convincing evidence that hospitalization was the least-restrictive treatment alternative. The Supreme Court of Illinois has concluded that "[s]ufficiency 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.

¶ 24 Further, an authoritative determination is only necessary when the case involves conflicting precedent or addresses a situation where the law is in disarray. *Alfred H.H.*, 233 Ill.

2d at 358, 910 N.E.2d at 81. This court has had several opportunities to determine what constitutes sufficient evidence that hospitalization is the least-restrictive treatment alternative. See *In re James H.*, 405 Ill. App. 3d 897, 905-07, 943 N.E.2d 743, 751-52 (2010); *In re Lillie M.*, 375 Ill. App. 3d 852, 858-59, 875 N.E.2d 157, 162-64 (2007); *In re Tommy B.*, 372 Ill. App. 3d 677, 688, 867 N.E.2d 1212, 1222-23 (2007). Therefore, it is not necessary to make an authoritative determination in this case.

¶ 25 Finally, we find it unlikely that the same facts which give rise to this appeal will recur. Any future commitment proceedings will be based on the condition of respondent's illness *at that time* and a decision to commit respondent will include a fresh evaluation upon which the court will base its decision. See *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82. Therefore, a determination as to the sufficiency of the evidence in this case will not likely have any bearing on future litigation.

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

¶ 27 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 the same action in the future. *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82.

¶ 28 Here, respondent can show the first criteria of the exception. Respondent's involuntary commitment 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.

¶ 29 However, respondent cannot show the second requirement of the exception—namely, that a reasonable expectation exists that the respondent will be subject to the

same action in the future. A respondent must show there is "a substantial likelihood that the issue presented in the instant case, and any resolution thereof, would have some bearing on a similar issue presented in a subsequent case." *Alfred H.H.*, 233 Ill. 2d at 360, 910 N.E.2d at 83. Here, respondent disputes whether the specific facts that led to her involuntary admission in this case met the statutory requirements for finding hospitalization was the least-restrictive treatment alternative. Our review of the record shows that a resolution of that issue in this case would not be of use to respondent in future proceedings.

¶ 30

III. CONCLUSION

¶ 31 Because we conclude that this appeal is moot and that none of the exceptions to the mootness doctrine apply, we dismiss respondent's appeal.

¶ 32 Dismissed.