

NOTICE
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2012 IL App (4th) 110315-U

Filed 2/14/12

NO. 4-11-0315

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: ROBERT F., a Person Found)	Appeal from
Subject to Administration of Psychotropic Medication,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	Sangamon County
Petitioner-Appellee,)	No. 11MH309
v.)	
ROBERT F.,)	Honorable
Respondent-Appellant.)	Brian Otwell,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Steigmann and Cook concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court reversed the trial court's involuntary-administration-of-psychotropic-medication judgment because the court denied respondent his statutory right to an independent evaluation under section 3-804 of the Mental Health Code.

¶ 2 Following an April 2011 hearing, the trial court found respondent, Robert F., subject to involuntary administration of psychotropic medications (405 ILCS 5/2-107.1 (West 2010)).

¶ 3 Respondent appeals, arguing the trial court erred by denying his request for an independent psychological examination. We agree the trial court erred in denying respondent's request and reverse the court's judgment.

¶ 4 I. BACKGROUND

¶ 5 In March 2011, the State filed a petition to involuntarily administer psychotropic

medications to respondent, pursuant to section 2-107.1 of the Mental Health and Developmental Disabilities Code (Code). 405 ILCS 5/2-107.1 (West 2010). Prior to the commencement of the April 2011 hearing on the petition, counsel for respondent requested an independent evaluation because respondent did not agree with the medications proposed by the State's witness, Dr. Vinod Alluri. The State objected, and the trial court denied respondent's request for an independent examination. Respondent then sought a one-week continuance, which the court also denied.

¶ 6 The State sought to obtain an order for the involuntary administration of the following five medications: haloperidol, haloperidol decanoate, olanzapine, lorazepam, and benztropine. At the hearing, Dr. Alluri testified respondent had been a patient at McFarland Mental Health Center since February 2010 and had been diagnosed with paranoid schizophrenia. Dr. Alluri stated Haloperidol would benefit respondent because it would treat his disorganized thoughts caused by his schizophrenia. Possible side effects of this drug, according to Dr. Alluri, included increased levels of blood glucose, higher cholesterol, unwanted muscle movements, and stiffness. Respondent had taken haloperidol previously and experienced muscle stiffness. The benztropine was being ordered to relieve that side effect. Possible side effects of benztropine itself included constipation, urinary retention, and memory loss.

¶ 7 Dr. Alluri further testified respondent had been given written information regarding the potential side effects of the medications. Dr. Alluri stated the benefits of the requested treatment outweighed the potential harm, and less-restrictive alternatives has been discussed with respondent, but in Dr. Alluri's opinion, the alternatives were not appropriate in respondent's case because respondent did not want to participate in individual or group therapy and failed to cooperate with such treatment in the past. Dr. Alluri also confirmed he was

requesting a court order for a complete blood count, comprehensive metabolic panel, lipid profile and electrocardiogram (EKG) to ensure the safe and effective administration of the medications.

¶ 8 On cross-examination, Dr. Alluri acknowledged respondent had not taken psychotropic medications in the five weeks leading up to the hearing but stated the medications he had been on had long-lasting cumulative effects of four to eight weeks. Dr. Alluri further testified respondent's condition improved during the one-year time period he had previously taken Haloperidol, so much so Dr. Alluri wanted to discharge respondent from the hospital; however, respondent did not want to leave the hospital because he did not want to go to a nursing home. Dr. Alluri agreed respondent could experience future side effects through increased dosages of previously administered medications. He also confirmed respondent had not physically attacked or threatened to hurt anyone, and respondent was maintaining his physical hygiene, eating properly, and shaving.

¶ 9 Respondent testified he had previously taken haloperidol decanoate and, as a result, suffered sore throats, inconsistent patterns of thirst and hunger, fever, muscle stiffness, light-headedness, vision and speech problems, anxiety, extensive drowsiness, difficulty sleeping, difficulty urinating, dry mouth, and headaches. Additionally, respondent stated benztropine had caused him severe eye pain and olanzapine affected his emotional state. These medications also affected respondent's memory.

¶ 10 The trial court ruled the State met its burden of proof and found respondent was a person subject to involuntary administration of psychotropic medication.

¶ 11 II. ANALYSIS

¶ 12 Respondent contends, and the State agrees, the trial court erred by denying his

request for an independent psychological examination at his hearing on the State's petition for involuntary administration of psychotropic medication. We agree.

¶ 13 A. Mootness

¶ 14 We note this case is moot. The circuit court entered the order on April 8, 2011, and limited its enforceability for a period not to exceed 90 days. The 90-day period has passed. However, respondent contends his appeal falls within the public-interest exception and the capable-of-repetition-yet-evading-review exception to the mootness doctrine. The State concedes this contention and we accept the State's concession. We will therefore address the merits of this appeal.

¶ 15 B. The Trial Court Erred by Denying Respondent's Request
For an Independent Psychological Examination

¶ 16 Section 3-804 of the Code grants a respondent the option of an independent psychological examination prior to a court ordering involuntary administration of psychotropic medication. 405 ILCS 5/3-804 (West 2010). Specifically, the Code states, in part:

"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 pursuant to Supreme Court Rules, or by a qualified examiner, clinical psychologist or other expert." 405 ILCS 5/3-804 (West 2010).

Further, sections 2-107.1 (a-5)(2) and (3), which govern the administration of authorized

involuntary treatment, incorporates section 3-804 and provides:

"(2) *** The court may grant an additional continuance not to exceed 21 days when, in its discretion, the court determines that such a continuance is necessary in order to provide the recipient with an examination pursuant to Section 3-803 or 3-804 of this Act ***. ***

(3) Unless otherwise provided herein, the procedures set forth in Article VIII of Chapter 3 of this Act *** shall govern hearings held under this subsection (a-5)." 405 ILCS 5/2-107.1(a-5)(2), (a-5)(3) (West 2010).

See *In re R.C.*, 338 Ill. App. 3d 103, 110, 788 N.E.2d 99, 103 (2003), *appeal denied*, 205 Ill. 2d 584, 803 N.E.2d 483 (2003) (concluding the trial court has no discretion to deny a respondent his statutory right to an independent psychological examination at a hearing for involuntary treatment).

¶ 17 At respondent's hearing for involuntary administration of psychotropic medications, the State objected to respondent's request for an independent examination, stating "[t]he right to have an independent examination is solely for involuntary admittance, not for forced medications." When asked by the trial court for any authority for the independent evaluation request, counsel for respondent replied "[m]y understanding is that it's not prohibited by the statute." This exchange shows the trial court denied respondent his statutory right to an independent expert's evaluation because it believed respondent was not entitled to one. Both the State and respondent agree the trial court's ruling was in error. We agree with the parties and conclude the

court committed error by denying respondent his right to an independent psychological examination.

¶ 18

III. CONCLUSION

¶ 19

For the reasons stated, we reverse the trial court's judgment.

¶ 20

Reversed.