

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).

2012 IL App (4th) 110732-U

Filed 4/2/12

NO. 4-11-0732

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

|   |   |                     |
|---|---|---------------------|
| In re: Justin G., 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. 11MH683         |
| v.  | ) |                     |
| JUSTIN G.,                                  | ) | Honorable           |
| Respondent-Appellant.                       | ) | Esteban F. Sanchez, |
|   | ) | Judge Presiding.    |

JUSTICE COOK delivered the judgment of the court.  
Justices Pope and McCullough concurred 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 case is moot, but falls within an exception to the mootness doctrine. 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 Respondent, Justin G., was a patient at McFarland Mental Health Center (McFarland). On August 9, 2011, Dr. Alluri, respondent's treating psychiatrist at McFarland, filed a petition for administration of psychotropic medicine pursuant to section 2-107.1 of the Mental Health and Developmental Disabilities Code (Mental Health Code) (405 ILCS 5/2-107.1 (West 2010)). On August 12, 2011, the trial court conducted a hearing on Dr. Alluri's petition. Respondent was not present at the hearing.

¶ 5 Dr. Alluri testified on behalf of the State at the hearing. The parties stipulated to Dr. Alluri's qualification as an expert witness. Dr. Alluri testified that he diagnosed respondent with paranoid schizophrenia based upon respondent's delusional thoughts about having "something in his brain that can control him." He also testified respondent stopped eating and was losing weight, respondent was not able to take care of himself, he was isolating himself, and was very anxious. According to Dr. Alluri, respondent has been hospitalized nine times and has previously been prescribed psychotropic medication.

¶ 6 Dr. Alluri also testified to the following: (1) respondent lacked the capacity to give consent and make a reasoned decision about treatment, (2) respondent did not acknowledge he had a mental illness or have any understanding of his illness, and (3) respondent exhibited deterioration in his ability to function.

¶ 7 Dr. Alluri petitioned the trial court for the involuntary administration of psychotropic medication to treat respondent because respondent refused to take the medications. Dr. Alluri requested Olanzapine, or in the alternative, Risperidone, to treat respondent's schizophrenia. He also requested Lorazepam for respondent's agitation and anxiety. Dr. Alluri

also listed Benztropine as a requested medication to treat any stiffness or unwanted muscle movements—a potential side effect of the Olanzapine. Dr. Alluri requested that certain tests and procedures be performed to safely and effectively administer the medicine pursuant to section 2-107.1(a)(4)(G) of the Mental Health Code (405 ILCS 5/2-107.1(a)(4)(G) (West 2010)).

¶ 8 Dr. Alluri provided respondent with written information about the benefits and side effects of the requested medication. He testified he discussed these medications with respondent, but respondent refused to take them. Dr. Alluri's opinion was that the benefits of the treatment outweighed any harm to respondent. He also denied that less restrictive group or individual therapy or any less restrictive alternative treatment was appropriate for respondent.

¶ 9 After hearing the testimony of Dr. Alluri, the trial court found (1) respondent was suffering from a mental illness, (2) respondent was deteriorating as a result of that mental illness, (3) respondent lacked the capacity to give informed consent to refuse medication, (4) the benefits of treatment outweighed the harm, and (5) there was "factual support in the statute." The trial court granted the petition and ordered respondent subject to forced medications and tests for up to 90 days.

¶ 10 On August 16, 2011, respondent filed a notice of appeal, and the trial court appointed Legal Advocacy as counsel for respondent. 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 by December 15, 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.

¶ 11

## II. ANALYSIS

¶ 12 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.

¶ 13

### A. Exceptions to the Mootness Doctrine

¶ 14

Respondent's 90-day medication order was set to expire on November 9, 2011. As a result, this case is moot. 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.

¶ 15

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 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.

¶ 16 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.

¶ 17 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.

¶ 18 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, respondent does not meet the second requirement of the exception. Respondent's claim is that the trial court lacked sufficient evidence to involuntarily medicate him. It is unclear how a resolution of this issue could be of use to respondent in future proceedings. Therefore, the capable-of-repetition-yet-evading-review exception does not apply. See *Alfred H.H.*, 233 Ill. 2d at 360, 910 N.E.2d at 83 (where respondent challenged the sufficiency of the evidence and "[did] not raise a constitutional argument or challenge the interpretation of the statute," resolution of the issue would not likely be relevant to a future controversy affecting respondent, and the exception therefore did not apply).

¶ 19 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. 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.

¶ 20 Legal Advocacy argues that the collateral consequences exception to mootness does not apply in this case. It maintains respondent has been voluntarily or involuntarily admitted for treatment for his mental illness nine times. Further, respondent has taken psychotropic medications in the past. The record before us, however, fails to show any prior admissions that were involuntary. Accordingly, we decline to find that respondent is not likely to experience collateral consequences that would stem solely from the present adjudication. We find the case falls within an exception to the mootness doctrine.

¶ 21 Although we find this case is moot, we will briefly address whether the trial court's decision was against the manifest weight of the evidence, and whether respondent can make any meritorious arguments on appeal.

¶ 22

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

¶ 23

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 trial 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.

¶ 24

The right to refuse psychotropic medication is protected by the federal constitution. *In re C.E.*, 161 Ill. 2d 200, 213, 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) of the Mental Health Code:

"(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).

¶ 25 Dr. Alluri testified to each of these statutory elements at trial. He diagnosed respondent with a serious mental illness—paranoid schizophrenia. Dr. Alluri testified that respondent exhibited deterioration in his ability to function as he was eating less than 25% of his food and was losing weight, respondent was not able to take care of himself, was isolating himself, and was very anxious. Respondent has suffered from this illness since the age of 17, has been hospitalized nine times, and has received psychotropic medications in the past. Dr. Alluri believed respondent was unable to make a reasoned decision about treatment and that the benefits of the treatment outweighed any harm to respondent. Further, Dr. Alluri found other less

restrictive services to be inappropriate for respondent. The trial court found there was a factual basis to satisfy the requirements of the Mental Health Code for the involuntary administration of psychotropic medication.

¶ 26 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.

¶ 27 **III. CONCLUSION**

¶ 28 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.

¶ 29 Affirmed.