

NOTICE
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2012 IL App (4th) 110815-U

Filed 3/26/12

NO. 4-11-0815

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

In re: JOHN C., a Person Found Subject to Involuntary Admission,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 11MH17
JOHN C.,)	Honorable
Respondent-Appellant.)	Heidi N. Ladd,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Pope and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The collateral-consequences exception to the mootness doctrine applied, warranting consideration of the issues on the merits because the record does not reveal whether respondent's prior mental-health hospitalizations were the result of involuntary commitment orders or voluntary commitments. Because of the uncertainty, it is possible that the current involuntary commitment order would adversely affect respondent in the future.

(2) The trial court's involuntary admission order was not against the manifest weight of the evidence, as the State presented sufficient evidence for the court to find that hospitalization was the least-restrictive treatment alternative.

¶ 2 On August 29, 2011, the trial court found respondent, John C., to be a person subject to involuntary admission and ordered him hospitalized for no more than 90 days. Respondent appeals, arguing the court's order was not supported by clear and convincing evidence. We affirm.

¶ 3 **I. BACKGROUND**

¶ 4 On August 24, 2011, Lynn Griffith, a case manager at The Pavilion in Champaign,

Illinois, filed a petition, seeking to involuntarily admit respondent to a mental-health facility in light of his notice of his desire to be discharged from his voluntary admission pursuant to section 3-403 of the Mental Health and Developmental Disabilities Code (Mental Health Code) (405 ILCS 5/3-403 (West 2010)). The petition requested respondent be immediately hospitalized, alleging he was mentally ill and (1) due to his illness was reasonably expected, unless treated on an inpatient basis, to engage in conduct placing him or another in physical harm or in reasonable expectation of being physically harmed; (2) due to his illness was 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; and (3) refused treatment or failed to adhere adequately to prescribed treatment, was unable to understand his need for treatment, and was reasonably expected, based on his behavioral history, to suffer mental or emotional deterioration which would result in a reasonable expectation of physical harm to himself or another or his inability to provide for his own basic needs.

¶ 5 On August 29, 2011, the trial court conducted a hearing on the petition. The State presented the testimony of Lisa Cochran, a registered nurse at The Pavilion, and Dr. Martin Repetto, a psychiatrist and medical director at The Pavilion. Respondent did not present any evidence. The parties are familiar with the evidence presented and we will discuss it only to the extent necessary to put their arguments in context.

¶ 6 Following the hearing, the trial court found the State presented clear and convincing evidence to show respondent had "a long history of psychiatric hospitalizations and poor compliance with medication." The court determined respondent's condition had deteriorated and, if not treated, could lead to more aggression and volatile behavior. He was unable to provide for his basic needs so as to guard himself from serious harm. The court granted the petition on these bases and ordered

respondent hospitalized for a period not to exceed 90 days. This appeal followed.

¶ 7

II. ANALYSIS

¶ 8

Initially, the parties agree that this case is moot. Specifically, the trial court limited the duration of its order to a period not to exceed 90 days and that time period has expired. "Any decision on the merits would result in an advisory opinion" and this court does "not render advisory opinions or decide moot questions." *In re James H.*, 405 Ill. App. 3d 897, 901 (2010). However, we may reach the merits of respondent's appeal if we find an exception to the mootness doctrine applies. Respondent argues that the collateral-consequences exception applies. See *In re Alfred H.H.*, 233 Ill. 2d 345, 361-63 (2009).

¶ 9

The collateral-consequences exception applies when a respondent has suffered, or is threatened with, an actual injury traceable to the petitioner and will likely be redressed by a favorable judicial decision. *Alfred H.H.*, 233 Ill. 2d at 361. However, the collateral-consequences exception will not apply when a respondent has previously been involuntarily committed because any collateral consequences have already attached as a result of the prior commitments. See *Alfred H.H.*, 233 Ill. 2d at 362-63.

¶ 10

The record shows that respondent has had a history of hospitalizations for mental-health treatment and we are certain that at least one of those was a voluntary commitment. However, we are unable to ascertain whether respondent has been the subject of any prior involuntary commitments. A voluntary commitment would not necessarily result in future adverse collateral legal consequences, as could involuntary commitments. See *In re Meek*, 131 Ill. App. 3d 742, 745 (1985). Because the record is unclear as to whether this is respondent's first involuntary commitment, we find this to be a case where the mootness doctrine does not apply. *Meek*, 131 Ill.

App. 3d at 745. Therefore, we will consider respondent's appeal on the merits.

¶ 11 Respondent claims the trial court erred in entering an order of involuntary commitment based on the evidence presented at the hearing. Specifically, he argues the State failed to produce clear and convincing evidence that he was a person subject to involuntary admission and that the incidents of aggressive behavior described by the State's witnesses reflected only respondent's desire to be discharged from The Pavilion. Respondent admits he suffers from a mental illness but claims he could have been treated in a less-restrictive environment.

¶ 12 Because the trial court is in the best position to weigh the evidence and determine the credibility of witnesses, we will not reverse the court's decision unless it is against the manifest weight of the evidence. *In re Lillie M.*, 375 Ill. App. 3d 852, 855-856 (2007). If a person is subject to involuntary admission, the court is required to order the least-restrictive treatment that is appropriate. 405 ILCS 5/3-811(a) (West 2010). In addition to hospitalization, the court may also consider out-patient treatment or placement in the care of a relative. A statutory preference exists for treatment other than hospitalization, and therefore the court may order hospitalization only where it has been shown to be the least-restrictive treatment alternative. *Lillie M.*, 375 Ill. App. 3d at 858.

¶ 13 After our review of the record, we find the State presented sufficient evidence to support the trial court's order. Nurse Lisa Cochran testified that respondent was very aggressive with staff and patients, had a volatile personality, and made disparaging and rude comments to others. She described one occasion when a male patient told respondent to stop his disparaging comments to staff. Respondent attacked that patient and a fistfight ensued. Respondent broke a metal table leg off of a table and tried to strike the other patient with it. It took eight staff members and an injection of Haldol, Ativan, and Benadryl to subdue respondent. He continued to threaten extreme physical

violence for the next several days.

¶ 14 Dr. Martin Repetto testified that respondent suffered from a "serious mental illness," diagnosed as psychosis not otherwise specified and mild mental retardation. He exhibited irritability, agitation, aggressive behavior, and suicidal ideations as a result of his mental illness. According to Dr. Repetto, respondent was (1) a danger to himself and others, (2) extremely violent, (3) unable to provide for his basic needs without assistance, and (4) unable to understand the nature of his psychosis or his need for treatment. Respondent's prognosis was poor and he would continue to deteriorate if he remained untreated. Dr. Repetto opined that hospitalization was the least-restrictive treatment alternative for respondent, as respondent was homeless and had no family members to care for him.

¶ 15 According to the testimony, the severity of respondent's behavioral problems, coupled with his history of not complying with outpatient treatment, made inpatient hospitalization the least-restrictive treatment alternative for respondent. Based on Dr. Repetto's proposed treatment plan, the staff would work with respondent to stabilize him, find the proper medication regimen, educate him in the severity of his illness, and "make it easier on him to comply with *** monthly injections." Dr. Repetto testified that respondent needed constant supervision and a secure setting. Accordingly, we find the State presented sufficient evidence to support the trial court's order that hospitalization was the least-restrictive treatment alternative.

¶ 16 III. CONCLUSION

¶ 17 For the foregoing reasons, we affirm the trial court's judgment.

¶ 18 Affirmed.