

NOTICE
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2012 IL App (4th) 110966-U

Filed 3/26/12

NO. 4-11-0966

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

In re: DAVID H., a Person Found Subject to Involuntary Admission,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v.)	No. 11MH891
DAVID H.,)	Honorable
Respondent-Appellant.)	Steven H. Nardulli,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Turner and Justice Pope concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's finding that respondent was a person subject to involuntary admission on an inpatient basis is not against the manifest weight of the evidence.
- ¶ 2 Respondent, David H., appeals from a judgment in which the trial court found him to be a "person subject to involuntary admission" (405 ILCS 5/1-119 (West 2010)) and ordered his hospitalization in a mental-health facility of the Illinois Department of Human Services for a period not to exceed 90 days (see 405 ILCS 5/3-813(a) (West 2010)). His appointed counsel, the Legal Advocacy Service of the Illinois Guardianship and Advocacy Commission (to which we will refer simply as "counsel"), has moved to withdraw from representing respondent, because counsel does not think any reasonable argument could be made in support of this appeal. See *In re Keller*, 138 Ill. App. 3d 746, 748 (1985) (the procedures in *Anders v. California*, 386 U.S. 738 (1967), apply to civil involuntary-admission cases in which appellate counsel moves to withdraw on the ground that

the appeal is frivolous). We have notified respondent of his right to file additional points and authorities by a certain date, but he has not done so.

¶ 3 After carefully reviewing the record, we conclude that counsel is correct in its assessment of the merits of this appeal. Therefore, we grant counsel's motion to withdraw, and we affirm the trial court's judgment.

¶ 4 I. BACKGROUND

¶ 5 A. The Petition for Involuntary Admission

¶ 6 On October 15, 2011, respondent's mother, Christine Priebe, signed a petition to have him involuntarily admitted to a mental-health facility, pursuant to article VI of the Mental Health and Developmental Disabilities Code (405 ILCS 5/3-600 through 3-611 (West 2010)). According to the petition, she sought his emergency inpatient admission because he was "committed at Iowa City Psych[ological] Hospital" from July 12 to August 3 (presumably that same year, 2011) and because, in addition to "talk[ing] out of his head," he had been behaving aggressively toward her and had been miming a pistol with his hand and sticking his finger in his mouth, as if to shoot himself. Attached to Priebe's petition were three medical certificates opining that respondent was subject to involuntary inpatient admission and that he was in need of immediate hospitalization to prevent him from physically harming himself or others.

¶ 7 B. The Hearing on the Petition

¶ 8 1. *Zhihong Zhang's Testimony*

¶ 9 On October 21, 2011, the trial court held a hearing on the petition for involuntary admission. The State called a psychiatrist, Zhihong Zhang, who testified he had been treating respondent since October 17, 2011. He diagnosed respondent as suffering from schizoaffective

disorder. This mental disorder manifested itself in three symptoms. First, respondent's "thought processes" were "disorganized." He could not carry on a meaningful conversation, and his perception of time was distorted. He erroneously thought that October 20, 2011, was his first day at McFarland Mental Health Center.

¶ 10 Second, respondent was delusional. He had been hearing voices telling him he was a dog, a cat, a dinosaur, and a king. He also lacked insight into his mental illness. He denied having a mental illness and insisted that the only medication he needed was cannabis.

¶ 11 Third, respondent was agitated and aggressive (he was over 6 feet tall and weighed approximately 200 pounds). On October 16, 2011, he yelled and screamed, and he grabbed a nurse by the arm. That same day, a staff member found him in a closet with a comforter wrapped around his neck, as if he were preparing to hang himself. On October 17, 2011, he came out of his room, swearing, and hit another patient on the left shoulder. Respondent received emergency medication on that occasion.

¶ 12 Zhang opined that because of the schizoaffective disorder, respondent was reasonably expected to inflict serious physical harm on himself or another in the future and that he needed hospitalization to keep that from happening.

¶ 13 A treatment plan had been formulated. Zhang did not think that respondent could be on his own. Nor did he think that a nursing home or group home was an option. Because respondent was delusional and still a danger to himself, he needed care that was more intensive than the care he would receive in a nursing home or group home. Hospitalization, in Zhang's opinion, was the least restrictive alternative at this time. He recommended involuntary admission for a period not exceeding 90 days.

¶ 14

2. Respondent's Testimony

¶ 15 Respondent testified in his own behalf. He said he was from Quincy and that he was 28 years old.

¶ 16 Since approximately October 1, 2011, he had been receiving unemployment benefits. For 6 1/2 years, he had worked for Keokuk Steel Casings, doing maintenance work on industrial furnaces. The union was trying to get him his job back.

¶ 17 Respondent did not believe he had a mental illness. He had no recollection of trying to hang himself in a closet. He had no desire to hurt himself. He denied hitting another patient.

¶ 18 He admitted having auditory hallucinations, however. For example, whenever he heard a dog bark, he heard a voice saying, "[H]elp me[]" or "[H]urt me.[]" But he never did what the voices told him to do, and consequently he was of the opinion that his condition did not rise to the level of a mental illness.

¶ 19 He also admitted he had been a patient in Iowa City Psychiatric Hospital, where he had received shots resembling insulin. The medication was called "Haldol Dek." By his understanding, he was supposed to go back to Iowa City on October 28, 2011, to receive more of this medication.

¶ 20 "Haldol Dek" helped alleviate the auditory hallucinations, and because a doctor considered this medication to be good for him, respondent was willing to continue taking it if he were released. He assumed that, upon his release, he could go back to his mother's house, where, as far as he was concerned, he had been doing just fine. Churches and homeless shelters also would be willing to take him in.

¶ 21

II. ANALYSIS

¶ 22 A. An Exception to the Doctrine of Mootness: Collateral Consequences

¶ 23 On October 21, 2011, the trial court ordered respondent's involuntary admission for a period not to exceed 90 days. Obviously, the maximum 90-day period has passed by now. Consequently, the question arises as to whether this case falls within any of the exceptions to the doctrine of mootness.

¶ 24 Arguably, this case falls within the exception for orders having collateral consequences, considering that this apparently is the first time respondent has been involuntarily admitted to a mental-health facility; or at least the record appears to contain no evidence that he was involuntarily admitted on any previous occasion. See *In re Alfred H.H.*, 233 Ill. 2d 345, 361 (2009). It is unclear whether his admission to Iowa City Psychiatric Hospital was voluntary or involuntary. If the admission in Iowa City was voluntary, the present involuntary admission in this case could have collateral consequences. See *In re Joseph P.*, 406 Ill. App. 3d 341, 347 (2010) (because the record fails to show that the respondent was previously subject to an order for involuntary administration of medication, the collateral-consequences exception to the mootness doctrine is applicable). If the present case is respondent's first involuntary admission—and we should assume it is, absent any indication to the contrary in the record—he "could be plagued in the future by the adjudication at issue." *Id. at 346*. He has been burdened with something new: a (previously nonexistent) history of involuntary admission by reason of mental illness, a history that, in the future, could be used against him or held against him. See *Alfred H.H. at 362*. Therefore, we conclude that this case falls within an exception to the doctrine of mootness: the exception for collateral consequences. See *Joseph P.*, 406 Ill. App. 3d at 347.

¶ 25

B. The Merits of This Appeal

¶ 26

A court may not order the involuntary admission of someone as an inpatient in a mental-health facility unless the court finds, by clear and convincing evidence, that he or she is a "person subject to involuntary admission on an inpatient *** basis." 405 ILCS 5/3-809 (West 2010); *In re Cochran*, 139 Ill. App. 3d 198, 200 (1985). Section 1-119 of the Code (405 ILCS 5/1-119 (West 2010)) provides three alternative definitions of a "person subject to involuntary admission on an inpatient basis." The definition relevant to this case is in subsection (1): "[a] person with mental illness who because of his or her illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed." 405 ILCS 5/1-119(1) (West 2010).

¶ 27

The elements of that statutory definition must be proved by an explicit medical opinion, based upon direct observation of the person's conduct. The clear and convincing evidence must prove that, as a direct result of the person's mental illness, the person is reasonably expected to act in such a way as to physically harm himself or herself or someone else, or to place himself or herself or someone else in reasonable expectation of being physically harmed, unless the person is treated as an inpatient. *In re Alaka W.*, 379 Ill. App. 3d 251, 268 (2008); 405 ILCS 5/1-119(1) (West 2010).

¶ 28

On appeal, we ask whether the trial court made a finding that was against the manifest weight of the evidence when it found that respondent was a "person subject to involuntary admission on an inpatient basis." 405 ILCS 5/1-119 (West 2010); see *In re Moore*, 301 Ill. App. 3d 759, 764 (1998). The finding is against the manifest weight of the evidence only if it is clearly apparent that the statutory definition was not proved by clear and convincing evidence, or only if the finding is

unreasonable, arbitrary, or not based on the evidence. See *In re C.S.*, 383 Ill. App. 3d 449, 451 (2008).

¶ 29 This deferential standard of review leads us to uphold the trial court's finding that respondent was a "person subject to involuntary admission on an inpatient basis." Zhang opined that respondent had a mental illness, a schizoaffective disorder, and that this mental illness would be reasonably expected to result in respondent's physically harming himself or someone else unless he were treated as an inpatient. See 405 ILCS 5/1-119(1) (West 2010). Zhang based his opinion on direct observations of respondent's grabbing a nurse, hitting another patient, and making preparations to hang himself. Hence, the finding that respondent is a "person subject to involuntary admission on an inpatient basis" is grounded on the evidence, and the finding is not against the manifest weight of the evidence.

¶ 30

III. CONCLUSION

¶ 31 For the foregoing reasons, we grant counsel's motion to withdraw from representing respondent in this appeal, and we affirm the trial court's judgment.

¶ 32 Affirmed.