



in the treatment of his mental illness and the safety of himself and others. We affirm.

¶ 3 During a stipulated bench trial on May 7, 2009, the circuit court of Clinton County found that Christian Goeden was not guilty by reason of insanity of first-degree murder in the June 17, 2008, shooting death of his father, Clifford Goeden. The court ordered the Department to conduct an inpatient evaluation of Goeden to determine whether he was in need of mental health services. During a hearing on July 23, 2009, the court reviewed the Department's report and found that Goeden was in need of inpatient mental health services in a secure setting. Goeden was placed in the custody of the Department, and he was assigned to the Alton Mental Health Center in Alton, Illinois.

¶ 4 On November 12, 2009, Goeden filed a motion for transfer to a nonsecure setting, discharge, or conditional release. He asserted that he had maintained psychiatric stability, that he had not been involved in incidents of maladaptive or aggressive behaviors that required restraints, seclusion, or emergency medications, and that he does not pose a risk of harm to himself or others.

¶ 5 On December 17, 2009, the circuit court conducted a hearing on Goeden's motion. During the hearing, Goeden testified that he had been in the custody of the Department for about six months and that he had not been disciplined or the subject of any incident reports in which he was the aggressor. Goeden acknowledged that he had refused to take psychotropic medication that had been prescribed by the treating staff psychiatrist. He told the court that he had a right to refuse medications and that he refused to take the prescribed medications because of the side effects. Goeden testified that he attended a computer class, but declined to attend a recommended anger management class because he has never had a problem with anger. Goeden stated that he defined anger to include an impulse to violence, and that he never had that impulse. He stated that he had episodes of righteous indignation rather than anger. Goeden, becoming upset, told the court that the hospital setting was

distressing, depressing, and demoralizing. Goeden testified that since his admission to the Alton facility, he had met all criteria required for placement in a staff-supported apartment setting. He said that if he was released, he would be willing to follow all conditions imposed by the court. During cross-examination, Goeden acknowledged that he had told one of his doctors that he did not think he had a mental illness and that he did not want to pollute his mind with medications.

¶ 6 Dr. Kanwal Mahmood is a board-certified psychiatrist who had been a member of the treatment team upon Goeden's admission to the Alton facility until a few months prior to the hearing. Dr. Mahmood explained that Goeden was transferred to a different treatment team after he became angry with his original treatment team who had testified in favor of a court order for involuntary administration of psychotropic medication to him. Dr. Mahmood noted that during Goeden's first six months at Alton, Goeden had been involved in conflicts with the staff and residents over unit rules regarding the television and badge scanning, and that Goeden had not interacted with other residents. Dr. Mahmood testified that Goeden had been diagnosed with schizoaffective disorder, depressive type, anxiety disorder, and a personality disorder, and that his treatment plan included medications and attendance at a symptom management group and an anger management group. Dr. Mahmood opined that it was essential that Goeden take medication and attend the recommended groups. Dr. Mahmood's written report dated October 29, 2009, was admitted into evidence. Dr. Mahmood's report stated that the treatment team's opinion was that Goeden was mentally ill and in need of mental health services on an inpatient basis. Dr. Mahmood and the team opined that Goeden had multiple risk factors for future violence, including a history of being abused and bullied, paranoia, feelings of estrangement, isolation, a denial of his mental illness, and a refusal to take medications.

¶ 7 After considering the written report and the testimony given by Dr. Mahmood and by

Goeden, the circuit court denied Goeden's motion for transfer to a nonsecure setting, discharge, or conditional release. The court found that while Goeden had a right to refuse to take the medication prescribed, the medical testimony showed that taking the prescribed medication was essential to his treatment and that Goeden's refusals to take medication and attend treatment groups impacted the ability of the providers to treat his illness. The court found no evidence that Goeden's treatment had begun or that he had made any progress in treatment. Goeden appealed.

¶ 8 While that appeal was pending, Goeden filed another motion for transfer to a nonsecure setting, discharge, or conditional release. A hearing on Goeden's motion was held on September 30, 2010. Goeden and Dr. Mahmood testified during the hearing.

¶ 9 Goeden testified that he had been hospitalized at Alton for about 15 months and that he believed he had maintained psychiatric stability throughout the admission. Goeden said that he had not engaged in any aggressive behaviors that required emergency medication, restraints, or seclusion. Goeden stated that he had been taking medication as prescribed and that he felt he had more ordered thoughts as a result of the medication. He said that he had been able to write a screenplay and some children's stories. He was taking a gardening class and a symptom-management class, and he stated that the classes had helped him to understand his illness and diagnoses. Goeden testified that he had been granted a supervised grounds pass and that the next step is an unsupervised grounds pass. He noted he was a step higher on the Department's progressive privileges program than he had been six months ago. Goeden did not feel that he was a danger to himself or others. He stated that if he was released to a less restrictive setting, he would continue to take medication and attend counseling, he would work on short-film production, and he would work toward establishing social connections. Goeden told the court that he found the hospital setting to be very alienating because he had so little in common with the other residents. He felt that he had

made sufficient progress to be considered for a transfer to a less restrictive environment. He attributed his progress in great part to the medication.

¶ 10 By the time of this hearing, Dr. Mahmood was again Goeden's treating psychiatrist. Dr. Mahmood testified that psychiatrically, Goeden was doing well. Dr. Mahmood noted that Goeden was angry when he was initially admitted to the Alton facility. Goeden did not believe he had a mental illness. He felt that he had been victimized by his father. She noted that Goeden's attitude began to change once he began taking medication. Dr. Mahmood testified that she collaborated with the entire treatment team, including nurses, psychologists, and social workers, as she prepared her evaluations of Goeden's condition and his progress. Dr. Mahmood noted that the Department had developed treatment criteria for patients who are judged not guilty by reason of insanity, and that these patients gain privileges as they progress through the steps of treatment. She stated that the duration of each step is based on each individual patient's level of progress in treatment and the nature of the crime of which he was acquitted. Dr. Mahmood testified that Goeden currently had a supervised grounds pass and that his next step was an unsupervised grounds pass. Dr. Mahmood stated that the treatment team expressed concerns about moving Goeden through the process too quickly because he continued to isolate himself and refrain from social interactions with other residents, he was not taking care of himself, and he was not sharing his true emotions and feelings. Dr. Mahmood acknowledged that Goeden's unwillingness to interact socially with other residents could be due, in part, to the fact that Goeden had more education and different interests than many of the residents at Alton. She noted that Goeden had not harmed himself or others and that he had been compliant with medication. Dr. Mahmood opined that Goeden had a number of risk factors for future violence and that he required continued treatment in a secure, inpatient setting. In her report, she noted that Goeden had a history of being abused and bullied and that he was very sensitive to criticism, tried to blame others for mistakes, had

problems with relationships, and was isolating himself. Dr. Mahmood testified that Goeden's isolation and lack of social interaction were symptoms of his avoidance personality disorder. Dr. Mahmood testified that Goeden had made progress, but he needed to improve on social interactions and sharing his feelings.

¶ 11 At the close of the evidence, the circuit court denied Goeden's motion for transfer to a nonsecure setting. The court noted that Goeden had made significant progress in treatment since the last hearing, and it acknowledged that Goeden's difficulty with interpersonal interactions with other residents at Alton could be partly attributable to the fact that few residents had an academic and social background similar to Goeden's. The court found that the concerns of Dr. Mahmood and the staff regarding Goeden's isolation and his failure to care for himself were significant and that Goeden needed to make progress in developing interpersonal skills before he could be placed in a less restrictive setting. The court found that Goeden's personal opinions about his suitability for transfer were outweighed by the opinions of Dr. Mahmood and the treatment team. The court found that it was appropriate for the Department to consider the violent nature of the circumstances giving rise to Goeden's hospitalization. The court noted that the issue was not whether Goeden will reach the point where he is suitable for transfer to a less restrictive environment, but whether he was ready at the moment. The court concluded that Goeden had not progressed to the point where he could be transferred to a less restrictive setting, and that he needed further treatment in a secure, inpatient setting.

¶ 12 On appeal, Goeden contends that he presented clear and convincing evidence to establish that he is not dangerous and that the conditions of conditional release could have reasonably assured his participation and satisfactory progress in treatment and the safety of himself and others. He argues that confinement of a harmless, mentally ill person is unconstitutional and a violation of Illinois law.

¶ 13 Section 5-2-4(e) of the Unified Code of Corrections (Code) states that a defendant who has been acquitted of a crime based on a finding of not guilty by reason of insanity and who has been involuntarily admitted to a secure facility for mental health services may file a petition for transfer to a nonsecure setting within the Department or discharge or conditional release. 730 ILCS 5/5-2-4(e) (West 2008). Under section 5-2-4(g) of the Code, it is the defendant's burden to prove by clear and convincing evidence that he is ready for transfer to a nonsecure setting or conditional release, and the court's findings must be established by clear and convincing evidence. 730 ILCS 5/5-2-4(g) (West 2008); *People v. Wolst*, 347 Ill. App. 3d 782, 790, 808 N.E.2d 534, 541 (2004). The evidence for and against a defendant's petition may include, but is not limited to: whether the defendant appreciates the harm caused by the defendant's prior conduct that resulted in the finding of not guilty by reason of insanity; the current state of the defendant's illness; what, if any, medications the defendant is taking to control his mental illness and the side effects of the medications on the defendant; the defendant's past criminal history; any family participation or involvement; the defendant's potential to be a danger to himself or others; and any other factors the court deems appropriate. 730 ILCS 5/5-2-4(g) (West 2008). It is within the province of the circuit court as trier of fact, not the psychiatrists, to weigh all of the evidence and to resolve any conflicts in the evidence. *Wolst*, 347 Ill. App. 3d at 792, 808 N.E.2d at 543; *People v. King*, 114 Ill. App. 3d 346, 352, 448 N.E.2d 887, 892 (1983). The court's determination as to whether a defendant has carried his burden of proof must be respected unless it is against the manifest weight of the evidence. *Wolst*, 347 Ill. App. 3d at 790, 808 N.E.2d at 541.

¶ 14 In this case, the circuit court had an opportunity to review the written reports and to hear testimony from and observe the demeanor of Goeden and Dr. Mahmood during the hearings on December 17, 2009, and September 30, 2010.

¶ 15 During the hearing on Goeden's first petition for transfer to a nonsecure setting, the

evidence clearly established that Goeden had refused to take prescribed medications and attend recommended classes, and that he had refused to attend and participate in treatment team reviews. The circuit court found that Goeden's refusal to take medications and attend treatment groups impacted the ability of the providers to treat his illness and that there was no evidence that Goeden's treatment had begun or that he had made any progress in treatment. These findings were supported by clear and convincing evidence. The court's decision to deny the initial petition for transfer to a nonsecure setting is not against the manifest weight of the evidence.

¶ 16 The evidence from the hearing on September 30, 2010, showed that Goeden became more cooperative with his treatment team and that his mood and behavior improved when he began to take prescribed medications. Nevertheless, Dr. Mahmood and the treatment team were concerned that Goeden's isolation and lack of interpersonal socialization were risk factors for future violence where by history Goeden had isolated himself for weeks before he shot his father and where Goeden continued to have paranoid thoughts and a lack of interpersonal skills. The circuit court, as fact finder, had the responsibility to judge the credibility of the witnesses and the weight to be given the testimony, and it assigned greater weight to the opinions and reservations of Dr. Mahmood and the treatment team as to Goeden's suitability for transfer to a less restrictive setting. In addition, the circuit court, and the treatment team, could properly consider the nature of the conduct giving rise to Goeden's hospitalization when assessing his risks for future violence, as this conduct was violent and occurred in the not-too-distant past.

¶ 17 In this case, Goeden did not meet his burden to prove by clear and convincing evidence that he is a harmless, mentally ill person and that he could be released to a less restrictive setting under conditions that would reasonably assure his satisfactory progress in treatment and the safety of himself and others. There is clear and convincing evidence to

support the circuit court's findings that Goeden was still mentally ill and that he continued to require mental health services on an inpatient basis. The trial court's decision to deny Goeden's second motion for a transfer to a nonsecure setting is not against the manifest weight of the evidence.

¶ 18 Accordingly, the orders of the circuit court, denying the defendant's motions for transfer to a nonsecure setting, are affirmed.

¶ 19 Affirmed.