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2013 IL App (4th) 120719-U

NO. 4-12-0719

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
March 15, 2013
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
KIMBERLY M. BEASLEY,)	No. 09CF1201
Defendant-Appellant.)	
)	Honorable
)	Thomas J. Difanis,
)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The trial court's denial of defendant's petition for conditional release from her involuntary mental-health treatment was not against the manifest weight of the evidence.

¶ 2 Defendant, Kimberly M. Beasley, appeals from the trial court's order denying her petition for conditional release from the inpatient mental-health treatment facility where she has resided since the court found her not guilty by reason of insanity on her aggravated-battery charge. She maintains the court's order denying her petition is manifestly erroneous. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 In July 2009, the State charged defendant with aggravated battery (720 ILCS 5/12-4(b)(1) (West 2008)) after she attacked a family friend, Tiara C. Kelly, who was asleep in defendant's mother's bed. Defendant stabbed Kelly several times with scissors. In October 2009, at a stipulated

bench trial, the trial court found defendant not guilty by reason of insanity and remanded her to the Illinois Department of Human Services (Department) for a treatment evaluation. At trial, the court relied upon a report prepared by Dr. Lawrence L. Jeckel, which indicated that, due to her mental illness, defendant could not be held criminally responsible for her actions at the time of the attack. In November 2009, the Department, through the hospital administrator at McFarland Mental Health Center, concluded defendant required inpatient mental-health services. The court entered an order accordingly.

¶ 5 On April 13, 2012, defendant filed a petition for conditional release, which the trial court considered on July 31, 2012, at a stipulated hearing. The parties agreed that, if called to testify, the witnesses would testify consistently with the contents of (1) the Department's May 7, 2012, report, (2) the Department's June 25, 2012, report, (3) Dr. Jeckel's July 19, 2012, report, and (4) defendant's letter.

¶ 6 The Department's May 7, 2010, report set forth the following. Defendant had not adjusted well to her December 2011 transfer from a secure inpatient unit to a non-secure inpatient unit. She was physically aggressive to another patient in February 2012 and was returned to the secure unit. She insisted she was defending herself and was wrongfully punished for the incident. She had not been physically aggressive since her transfer back to the secure unit. She was compliant with her medication and was attending group classes.

¶ 7 The Department's June 25, 2012, report indicated defendant was doing well and remained compliant with medication and rules, exhibiting no aggressive behavior. Defendant denied any psychosis, depression, or thoughts of suicide or homicide. She was placed on staff supervision in March 2012 with a promise of transferring to a nonsecure unit if she maintained appropriate

behavior for three months. She was transferred on June 20, 2012.

¶ 8 Dr. Jeckel's report dated July 19, 2012, provided that defendant had been diagnosed with (1) schizoaffective disorder, bipolar type, (2) alcohol dependence, (3) cannabis abuse, and (4) personality disorder not otherwise specified. Defendant accepted responsibility for the underlying crime, but denied any behavioral problems in the last four months. She claimed the altercation with the other patient in February 2012 was not her responsibility and resulted in the staff's exaggeration of the severity of the incident. From Dr. Jeckel's perspective, it appeared this particular patient had attacked defendant in January 2012, and the February 2012 incident was defendant's retaliation against her for the earlier attack. Defendant wanted to transfer to a group home as soon as possible, while continuing with her medication and all group meetings, including anger management and alcoholics anonymous. Dr. Jeckel reported as follows:

"Toward the end of the session, because she felt that she had not convinced me that I should approve her transfer, [defendant] became more impatient, animated and aggrieved, telling me that I was unfairly treating her if I didn't grant her request. In an aggrieved position, for example, she complained that the staff not only did not believe her version of the February 2012 incident, they did not properly take care of her fibroids or hemorrhoids."

¶ 9 Dr. Jeckel further reported defendant was well-groomed, her speech was normal, her mood was generally euthymic, and her thoughts were logical, sequential, and goal directed. She denied hallucinations, delusions, paranoia, and suicidal or homicidal ideation. In conclusion, Dr. Jeckel opined defendant continued to "evinced a mixture of schizoaffective disorder with a personality

disorder with borderline features, characterized by mood lability, irritability and anger." However, he noted no recent psychotic behavior or evidence of paranoia. He concluded:

"It is furthermore my opinion, to a reasonable degree of medical and psychiatric certainty, that based on review of my past evaluations of [defendant], her medical records from McFarland and the clinical evaluation, that it is premature for [defendant] to be granted a conditional release at this time. I believe she needs to consistently maintain mood stability and achieve greater insight. Her propensity for acting out should be reduced. It is likely that she will be appropriate for conditional release if she continues to remain free of psychosis and can better contain her aggressive impulses, and appropriately communicate with staff without excessive contentiousness."

¶ 10 In defendant's handwritten letter to the trial court, she acknowledged her history of violence, but insisted she would continue her medication and appropriate treatment should she be released. She stated she was not normally a violent or aggressive person. She felt ready to take the "next step" in terms of treatment.

¶ 11 After considering this evidence and arguments of counsel, the trial court denied defendant's petition. The court acknowledged defendant's progress, but described it as a "work in progress." Relying specifically on Dr. Jeckel's report, the court found defendant "still has the same problems. She apparently is coping with them better, but they still exist. And the potential for further problems, for an escalation of potential violence, is still there." The court entered a written

order continuing defendant's custody within the Department. This appeal followed.

¶ 12

II. ANALYSIS

¶ 13 Defendant contends the trial court's decision to deny her petition for conditional discharge was against the manifest weight of the evidence when the evidence showed she had made remarkable progress in treatment and had a "well-thought-out plan for her transition back into normal life." She claims the court's decision was based on, what should be recognized as an understandable frustration and hostility over her current situation, not on a demonstration of her potential danger to herself or others.

¶ 14

The Unified Code of Corrections provides that an order authorizing involuntary commitment is appropriate when a defendant has been found not guilty by reason of insanity, is mentally ill, and because of her mental illness, "is reasonably expected to inflict serious physical harm upon [herself] or another and who would benefit from inpatient care or is in need of inpatient care." 730 ILCS 5/5-2-4(a-1)(B) (West 2010). Regarding the issue of whether a defendant is appropriate for conditional release, section 5-2-4(g) of the Unified Code provides "[t]he findings of the [c]ourt shall be established by clear and convincing evidence." 730 ILCS 5/5-2-4(g)(West 2010). The Code further provides "[t]he burden of proof and the burden of going forth with the evidence rest with the defendant." 730 ILCS 5/5-2-4(g)(West 2010).

¶ 15

The trial court's decision is given great deference and will not be set aside unless it is against the manifest weight of the evidence. *In re Moore*, 301 Ill. App. 3d 759, 764 (1998). "For a decision to be against the manifest weight of the evidence, it must appear that a conclusion opposite to that reached by the trier of fact is clearly evident." *People v. Wolst*, 347 Ill. App. 3d 782, 790 (2004) (quoting *People v. Barwig*, 334 Ill. App. 3d 738, 743 (2002)). In reviewing

decisions concerning the freedoms allowed to a person committed after a finding of not guilty by reason of insanity, appellate courts have long "recognized that predicting the future dangerousness of an individual is an inexact medical science, and therefore, [they] have held that orders of commitment will not be overturned when there is 'a reasonable expectation that the respondent would engage in dangerous conduct.' " *In re Knapp*, 231 Ill. App. 3d 917, 920 (1992) (quoting *In re Powell*, 85 Ill. App. 3d 877, 880 (1980)).

¶ 16 In support of her contention of error, defendant points to *dicta* in *Wolst* which emphasizes that it is the trial court, not the psychiatrist, who must consider and weigh all of the evidence. *Wolst*, 347 Ill. App. 3d at 792. In fact, the legislature saw fit to provide trial courts with a list of issues that may be considered as evidence in a hearing for conditional release. Those are:

"(1) whether the defendant appreciates the harm caused by the defendant to others and the community by his or her prior conduct that resulted in the finding of not guilty by reason of insanity;

(2) Whether the person appreciates the criminality of conduct similar to the conduct for which he or she was originally charged in this matter;

(3) the current state of the defendant's illness;

(4) what, if any, medications the defendant is taking to control his or her mental illness;

(5) what, if any, adverse physical side effects the medication has on the defendant;

(6) the length of time it would take for the defendant's mental

health to deteriorate if the defendant stopped taking prescribed medication;

(7) the defendant's history or potential for alcohol and drug abuse;

(8) the defendant's past criminal history;

(9) any specialized physical or medical needs of the defendant;

(10) any family participation or involvement expected upon release and what is the willingness and ability of the family to participate or be involved;

(11) the defendant's potential to be a danger to himself, herself, or others; and

(12) any other factor or factors the Court deems appropriate."

730 ILCS 5/5-2-4(g) (West 2010).

¶ 17 The trial court acknowledged the "remarkable progress" defendant had made in treatment. However, the court was troubled by defendant's reaction to Dr. Jeckel toward the end of their session when it appeared she "likely felt convinced that [the court] would not approve conditional release." The court stated, by quoting from Dr. Jeckel's report, defendant "'became more impatient, animated, and aggrieved stating that she was being unfairly treated, not only by me, but by the staff, and that they did not believe her.'" The court found defendant displayed "her usual mild paranoia and defensiveness" when she "became frustrated with Dr. Jeckel and realizing that he was likely not going to approve conditional release." The court stated: "So she still has the same

problems. She apparently is coping with them better, but they still exist. And the potential for further problems, for an escalation of potential violence, is still there." The court agreed with Dr. Jeckel that defendant's conditional release at this time was premature.

¶ 18 We find the evidence supported the trial court's decision and demonstrated that defendant, if released at this time, would reasonably be expected to inflict serious physical harm upon herself or another. The court stated its concern about the safety of defendant and others based on defendant's recent history. However, the court noted if defendant continued making progress, her goal of conditional release "will be attained," but not upon this petition at this time. The February 2012 incident with her fellow patient, coupled with her apparent increased agitation with Dr. Jeckel during his evaluation, demonstrated that defendant was not ready for conditional release. Although her progress was notable, she continued to need inpatient treatment. We cannot say the court's determination was against the manifest weight of the evidence because the opposite conclusion is not clearly evident under these facts. Giving the court's decision the great deference it is due, we conclude the court appropriately determined that defendant, due to her mental illness, continued to be a danger to herself or others and was in need of further treatment.

¶ 19

III. CONCLUSION

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

¶ 21 Affirmed.