

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).

2013 IL App (4th) 120931-U

NO. 4-12-0931

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 19, 2013

Carla Bender

4th District Appellate
Court, IL

| | | |
|--------------------------------------|---|------------------------|
| In re: JESSICA H., a Person Found |) | Appeal from |
| Subject to Involuntary Admission, |) | Circuit Court of |
| THE PEOPLE OF THE STATE OF ILLINOIS, |) | McLean County |
| Petitioner-Appellee, |) | No. 12MH303 |
| v. |) | |
| JESSICA H., |) | Honorable |
| Respondent-Appellant. |) | Rebecca Simmons Foley, |
| |) | Judge Presiding. |

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Steigmann and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court granted respondent's counsel's motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), agreeing no meritorious issues could be raised as to whether the State demonstrated by clear and convincing evidence the need for involuntary admission.

¶ 2 This case comes to us on the motion of the Legal Advocacy Service, Illinois Guardianship and Advocacy Commission (Guardianship), to withdraw as counsel on appeal on the ground this case presents no justiciable issue for review. For the reasons that follow, we agree and allow Guardianship's motion to withdraw.

¶ 3 I. BACKGROUND

¶ 4 On September 25, 2012, the State filed a petition for involuntary admission pursuant to section 3-601 of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/3-601 (West 2010)), naming respondent, Jessica H., as a person with a mental illness in

need of immediate hospitalization. Respondent is a 30-year-old woman. The petition stated respondent "wanted [the] writer to give orders to the doctor for euthanasia as it was time for her to go."

¶ 5 On September 27, 2012, the trial court held a hearing on the petition. Respondent's treating psychiatrist at the hospital, Dr. Robert Scott Hamilton, testified respondent suffers from paranoid schizophrenia. He observed respondent expressing delusional ideas "about a micro chip being implanted in her head and needing to have a brain refresh and [that] she needs to go to Hong Kong to get that done." (During Dr. Hamilton's testimony, respondent stated "the Morgan family *** told me last night via weak links that they have the ability to help me too. They're going to buy the technology from Hong Kong and make it Americanized.") Dr. Hamilton stated respondent has a "long-term illness" and was previously placed in hospitals and nursing homes. He opined respondent's placement in a nursing home probably indicated respondent could not "be maintained in the community." Respondent told him she was "aggressive" toward staff members at the El Paso nursing home and "that she shook staff members or a staff member." He stated it was his understanding respondent had "escaped" from the El Paso nursing home and that it was not a "secure enough" facility for respondent. Dr. Hamilton maintained respondent's "delusional ideas would lead her towards behavior that would be against her best interest" and she had the potential to harm herself. (Respondent interrupted and stated "I want to be immortal. I've been talking about it for years. I read the book on it.") Dr. Hamilton testified he believed there was no less restrictive treatment appropriate for respondent.

¶ 6 Respondent's mother, Sharon H., testified that prior to respondent's admission to BroMenn Health Care respondent had been living at the El Paso Healthcare nursing facility. Respondent had previously lived at a nursing facility in Rockford. Respondent had "repeated hospitalizations" over the past 12 years for "various reasons," including (1) not taking medication, (2) suicide attempts, (3) "intense anxiety," and (4) "physical altercations between herself and [family] members." Sharon testified respondent "hears voices, and they sometimes tend to lead her to do things that cause herself physical harm." Respondent had made four suicide attempts. The last attempt occurred in February 2009 when respondent went into the river and suffered frost bite and hypothermia. Respondent told Sharon "that she needs to go to Hong Kong and get her brain and her body together" because "she needs her body and her brain to be updated so that she can be at a better functioning level." Respondent refers to this as getting "updates" and believes she has telepathy and people can read her mind. Respondent refers to the voices in her head as "weak links." Sharon testified respondent could not return to El Paso because of the altercation leading to the petition. On rebuttal, Sharon testified respondent does not have children.

¶ 7 Respondent testified she was living in the El Paso nursing home before her admission to the hospital. She testified she "would feel a heartbeat in her stomach" and believe she was pregnant and when she walked by a television she could feel something being "sucked out" of her stomach. This caused her to get upset with staff members. She testified that on the day she left El Paso she was waiting for her breakfast to be served and she thought she was having a diabetic seizure. The staff would not serve her early, so respondent "shook" a staff member. Respondent also testified she shook an El Paso administrator because he allowed her

children to be hurt and she was not going to "put up" with him hurting her children.

¶ 8 On the day she left El Paso, respondent went on a walk and told staff she refused to come back and she "wanted them to call the police on me." Respondent testified she "told the cops the truth about what I heard via weak links, that the White House had amnestied me from being in a nursing home and that they had sent me a check for the work I do for the U.S. government in maintaining democracy and warning America of September 11th and warning America of the diplomats that died recently and the embassies that were bombed." Respondent explained she "told the police they were holding me hostage in El Paso because that's what I was alerted to, that there had been a rescue mission sent for me but that no one could get through because the locals kept fighting it with Arabia."

¶ 9 Respondent had decided not to take medication "once or twice" in the past few weeks because "I felt like I was arsenicked [*sic*] by El Paso" and "I was afraid if I had arsenic in my body as well as meds, it could drift me off into a never-awakening dream." Respondent admitted she heard voices in her head.

¶ 10 Respondent referred to suicide as the "ultimatum game" and related an instance when she had a voice in her head telling her that her boyfriend "would go back in a torture chamber device" until she slit her throat and killed herself. Respondent testified she "tried cutting [her] trachea all the way through" but could still breath and was "sown back together." In addition, she recounted a time she "got an ultimatum saying the aliens were about ready to invade and that if [she] didn't hurry up and kill [her]self, that it could mean years of torture." Respondent stated she was "not going to follow ultimatum games anymore."

¶ 11 After the hearing, the trial court, as relevant to this appeal, found respondent (1) suffered from a mental illness, and (2) 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. The court ordered respondent hospitalized in the Department of Human Services for a period not to exceed 90 days.

¶ 12 In March 2013, appointed counsel, Guardianship, moved to withdraw as counsel on appeal pursuant to *Anders*, 386 U.S. 738, and *In re Keller*, 138 Ill. App. 3d 746, 486 N.E.2d 291 (1985), asserting no justiciable issues warrant appeal. The record shows service of the motion on respondent. On our own motion, this court granted respondent leave to file additional points and authorities by April 15, 2013. She filed none. After examining the record in accordance with our duties under *Anders*, we grant Guardianship's motion to withdraw as counsel on appeal.

¶ 13 II. ANALYSIS

¶ 14 Guardianship asserts the record shows no meritorious issues can be raised on appeal. Specifically, Guardianship contends no colorable argument can be made the State failed to demonstrate the need for involuntary admission by clear and convincing evidence. We agree.

¶ 15 A. Mootness

¶ 16 As respondent's 90-day commitment has ended, this appeal is moot. Guardianship contends the record does not indicate whether respondent's previous hospital admissions were involuntary and the collateral-consequences exception applies. Our review of the record does not indicate whether respondent has ever been (1) convicted of a felony or (2) properly subject to an order for involuntary commitment or administration of medication. Therefore, we apply the

collateral-consequences exception to the mootness doctrine and address the merits. See *In re Alfred H.H.*, 233 Ill. 2d 345, 362-63, 910 N.E.2d 74, 84 (2009) (collateral-consequences exception will not apply when a respondent has previously been involuntarily committed); *In re Joseph P.*, 406 Ill. App. 3d 341, 347, 943 N.E.2d 715, 720 (2010) (where a respondent has not been previously forcibly medicated or convicted of a felony, collateral consequences have not attached).

¶ 17 B. Merits

¶ 18 Guardianship contends the trial court's finding respondent was subject to involuntary admission was not against the manifest weight of the evidence.

¶ 19 A trial court's decision in an involuntary-admission proceeding is given great deference and will not be set aside at the appellate level, unless it is against the manifest weight of the evidence. *In re Alfred H.*, 358 Ill. App. 3d 784, 788, 832 N.E.2d 964, 967 (2005). "A judgment is against the manifest weight of the evidence only when an opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on evidence." *Id.*

¶ 20 Pursuant to section 1-119(1) of the Code (405 ILCS 5/1-119(1) (West 2010)), a "[p]erson subject to involuntary admission on an inpatient basis" means:

"(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).

No respondent may be found subject to involuntary admission on an inpatient basis unless that

finding is established by clear and convincing evidence. 405 ILCS 5/3-808 (West 2010).

¶ 21 Here, Dr. Hamilton, respondent's treating psychiatrist at the hospital, diagnosed respondent as suffering from paranoid schizophrenia, a mental illness. Dr. Hamilton testified respondent admitted to him being "aggressive" toward El Paso staff and shaking staff. Respondent admitted she shook two El Paso staff members prior to her admission to BroMenn because staff did not serve her food when she requested it and felt staff allowed her "children" to be hurt. Testimony shows respondent (1) hears voices in her head, something she terms "weak links"; (2) heard voices leading her to participate in the "ultimatum game" and attempt suicide ; (3) made multiple suicide attempts; (4) believed she needed to go to Hong Kong to get an "update" and "brain refresh"; and (5) believed that when she walked by a television, something in her stomach, supposedly a child, was being "sucked out" of her stomach.

¶ 22 The trial court's finding that respondent (1) suffered from mental illness and (2) is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing her or another in physical harm or in reasonable expectation of being physically harmed is supported by the manifest weight of the evidence.

¶ 23 III. CONCLUSION

¶ 24 For the reasons stated, we grant Guardianship's motion to withdraw and affirm the trial court's judgment.

¶ 25 Affirmed.