

NOTICE

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2014 IL App (4th) 130415-U

NO. 4-13-0415

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 25, 2014

Carla Bender

4th District Appellate
Court, IL

In re: SHEILA N., a Person Found Subject)	Appeal from
to Involuntary Admission,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	Sangamon County
Petitioner-Appellee,)	No.13MH232
v.)	
SHEILA N.,)	Honorable
Respondent-Appellant)	Steven H. Nardulli,
)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The appellate court granted appointed counsel's motion to withdraw where respondent's case was moot and did not fall under any of the recognized exceptions to the mootness doctrine.

¶ 2 This appeal comes to us on the motion of the Legal Advocacy Service of the Illinois Guardianship and Advocacy Commission (Legal Advocacy) to withdraw as counsel on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), as extended to civil matters by *In re Keller*, 138 Ill. App. 3d 746, 486 N.E.2d 291 (1985), because no meritorious issues can be raised in this case.

¶ 3 For the following reasons, we grant Legal Advocacy's motion and dismiss respondent's appeal as moot.

¶ 4

I. BACKGROUND

¶ 5 On April 2, 2013, a police officer filed a petition for emergency inpatient involuntary admission of respondent, Sheila N., to McFarland Mental Health Center (McFarland), asserting respondent (1) was reasonably expected to commit physical harm to herself or others, (2) was unable to provide for her basic physical needs, and (3) refused treatment and/or misunderstood the importance of treatment. Respondent's daughter initially called police due to respondent's delusions and increasingly threatening, aggressive, and impulsive behavior.

¶ 6 The hearing originally set for April 5, 2013, was continued on the State's motion. On April 12, 2013, the trial court held a hearing on the petition. The State called Dr. Kasturi Kripakaran, respondent's psychiatrist, to testify. Kripakaran explained respondent, age 57, was diagnosed with schizoaffective disorder, bipolar type, as a teenager. On this occasion, respondent exhibited the symptoms of her schizoaffective disorder in her beliefs that (1) her daughter was stealing from her and (2) food and water caused her feet to swell. Respondent had a history of hospitalizations, most recently in 2012, when respondent was involuntarily admitted to McFarland and discharged with two days' worth of psychotropic medications.

¶ 7 While hospitalized pending the hearing, respondent required emergency medication due to her loud, threatening behavior. To Kripakaran's knowledge, respondent had never physically harmed anyone but presented a risk of physical aggression. According to Kripakaran, respondent indicated she would not take her prescribed medication upon her discharge from McFarland. Kripakaran testified respondent did not understand the need for treatment and that failure to hospitalize respondent would lead to further mental or emotional deterioration. Additionally, Kripakaran opined respondent was unable to take care of her basic

needs and hygiene, as evidenced by reports that she had no food in the home and exhibited symptoms of dehydration. She also needed regular prompts to shower. Due to respondent's serious mental illness, Kripakaran believed involuntary admission to be the only way to prevent harm to respondent or others, as respondent's current state would not support her living on her own or in a group home; therefore, hospitalization was the least restrictive placement alternative. Kripakaran recommended the court involuntarily admit respondent for a period not exceeding 90 days.

¶ 8 Respondent frequently interrupted Kripakaran's testimony with inconsistent and nonsensical outbursts. Respondent then testified she lived on her own, cleaned her house, and tried to "have a normal married life." According to respondent, she did her own grocery shopping and took care of her family before she was prescribed "90 thousand milligrams" of Depakote.

¶ 9 The trial court found the State established by clear and convincing evidence that respondent was an individual who suffered from mental illness such that she could "reasonably be expected to engage in conduct which may place other individuals in a reasonable expectation they might be physically harmed." Moreover, the court determined respondent was "unable to provide for her own basic needs and guard herself from serious harm unless treated on an in-patient basis." The court then ordered respondent's immediate hospitalization for a period not exceeding 90 days.

¶ 10 Respondent filed a timely notice of appeal and the trial court appointed Legal Advocacy to represent respondent on appeal. On August 15, 2013, Legal Advocacy filed a motion to withdraw, attaching to its motion a brief conforming to the requirements of *Anders*, 386 U.S. 738, as extended to civil matters by *Keller*, 138 Ill. App. 3d at 747-48, 486 N.E.2d at

292. This court allowed respondent leave to file additional points and authorities by September 19, 2013. Respondent has not done so. After examining the record and executing our duties in accordance with *Anders*, we grant Legal Advocacy's motion to withdraw and dismiss the appeal.

¶ 11

II. ANALYSIS

¶ 12 Legal Advocacy asserts no meritorious argument can be made on appeal to support contentions that (1) the State failed to prove by clear and convincing evidence respondent's involuntary admission was warranted and (2) a recognized exception to the mootness doctrine applies. Because we agree the case is moot and that none of the recognized exceptions to the mootness doctrine apply, we need not address Legal Advocacy's substantive arguments.

¶ 13 Respondent's 90-day commitment order expired on its own terms on July 10, 2013. Thus, respondent's case is moot. See *In re Barbara H.*, 183 Ill.2d 482, 490, 702 N.E.2d 555, 559 (1998) (A case is moot when the original judgment no longer has any force or effect). Generally, Illinois courts do not decide moot questions or render advisory opinions. *In re Alfred H.H.*, 233 Ill. 2d 345, 351, 910 N.E.2d 74, 78 (2009). However, we will consider an otherwise moot case where it falls under a recognized exception. Here, Legal Advocacy contends respondent's case does not fall into any of the following three mootness exceptions: (1) the collateral-consequences exception, (2) the capable-of-repetition-yet-evading-review exception, or (3) the public-interest exception. See *Alfred H.H.*, 233 Ill. 2d at 351, 910 N.E.2d at 78. This court considers these exceptions on a case-by-case basis. *Alfred H.H.*, 233 Ill. 2d at 354, 910 N.E.2d at 79.

¶ 14

A. Collateral-Consequences Exception

¶ 15 The collateral-consequences exception to the mootness doctrine applies to a first involuntary commitment order. *In re Val. Q.*, 396 Ill. App. 3d 155, 159, 919 N.E.2d 976, 980 (2009). This exception allows a reviewing court to consider an otherwise moot case where the involuntary commitment or treatment " 'could return to plague the respondent in some future proceedings or could affect other aspects of the respondent's life.' " *In re Charles H.*, 409 Ill. App. 3d 1047, 1053, 950 N.E.2d 710, 715 (2011) (quoting *Val Q.*, 396 Ill. App. 3d at 159, 919 N.E.2d at 980). The exception does not apply where the respondent has previously been ordered involuntary committed or treated because the collateral consequences of involuntary admission have already attached. *Charles H.*, 409 Ill. App. 3d at 1053, 950 N.E.2d at 715; *In re Joseph P.*, 406 Ill. App. 3d 341, 346, 943 N.E.2d 715, 720 (2010).

¶ 16 In this case, respondent has been involuntarily committed on previous occasions throughout her lifelong diagnosis of mental illness. Respondent's last involuntary commitment to McFarland occurred in 2012, a few months prior to the admission at issue in this case. Thus, the collateral consequences of involuntary admission have already attached and the trial court's order in this matter will not return to plague respondent in future proceedings or in other aspects of her life. Because respondent has been subject to numerous involuntary commitments, the collateral consequences exception to the mootness doctrine does not apply in this case.

¶ 17

B. Capable-of-Repetition-Yet-Evading-Review Exception

¶ 18 The capable-of-repetition-yet-evading-review exception to the mootness doctrine applies where "(1) the challenged action is in its duration too short to be fully litigated prior to its cessation and (2) there is a reasonable expectation that the same complaining party would be subjected to the same action again." *Barbara H.*, 183 Ill. 2d at 491, 702 N.E.2d at 559. The

respondent must demonstrate "a substantial likelihood the issue presented by him, and resolution thereof, would have some bearing on a similar issue in a later case." *Joseph P.*, 406 Ill. App. 3d at 346, 943 N.E.2d at 720. In other words, respondent must show statutory or constitutional errors made during the trial court proceedings could impact a future case against respondent based on the same errors. *Alfred H.H.*, 233 Ill. 2d at 358-360, 910 N.E.2d at 82-83.

¶ 19 Due to respondent's long history of mental illness resulting in numerous involuntary commitments and orders to take medication, she likely will face further commitment proceedings pursuant to section 1-119 of Mental Health and Developmental Disabilities Code (405 ILCS 5/1-119 (West 2012)). However, the ruling in this case was based on the unique set of facts—specifically, respondent's belief that food and water made her feet swell—presented to the trial court during the April 2013 proceedings; any future court ruling must be based on the unique set of facts presented to the court on that future occasion. See *Joseph P.*, 406 Ill. App. 3d at 346, 943 N.E.2d at 720 ("Any future proceedings would entail a fresh evaluation of [respondent's] particular condition existing at that time"). Thus, we conclude the capable-of-repetition-yet-evading-review exception to the mootness doctrine does not apply in this instance.

¶ 20 C. Public-Interest Exception

¶ 21 Finally, the narrowly construed public-interest exception to the mootness doctrine allows a reviewing court to consider an otherwise moot case when (1) the question presented is of public nature, (2) a need exists for an authoritative determination for the future guidance of public officers, and (3) the question is likely to recur in the future. *Alfred H.H.*, 233 Ill. 2d at 355, 910 N.E.2d at 80. Respondent must demonstrate "a clear showing of each criterion." *In re Andrew B.*, 237 Ill. 2d 340, 347, 930 N.E.2d 934, 938 (2010). The exception does not typically apply to cases in which respondent appeals only the sufficiency of the evidence because the

unique set of facts upon which the trial court based its findings impacts only the individual, not the public. *Alfred H.H.*, 233 Ill. 2d at 356-57, 910 N.E.2d at 81.

¶ 22 Because the only potential issue on appeal concerns the sufficiency of the evidence that is unique to respondent, we conclude the question presented is not of a public nature. Moreover, nothing in the record demonstrates the trial court or parties committed a procedural error that requires an authoritative determination for the future guidance of public officers. Additionally, the unique facts considered by the trial court during the April 2013 proceedings are unlikely to recur in future proceedings against future respondents such that the case presents a matter of public interest. We therefore conclude the public-interest exception to the mootness doctrine does not apply in this case.

¶ 23 Based on the foregoing, we agree with Legal Advocacy no meritorious argument can be made that respondent's case falls within a recognized exception to the mootness doctrine.

¶ 24 III. CONCLUSION

¶ 25 After reviewing the record consistent with our responsibilities under *Anders*, we agree with Legal Advocacy respondent's case is moot. We grant Legal Advocacy's motion to withdraw as counsel for respondent and dismiss respondent's appeal as moot.

¶ 26 Dismissed.