2015 IL App (1st) 121477-UB

FOURTH DIVISION
March 26, 2015

No. 1-12-1477

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re LATOYA C., Alleged to be a Person Subject to Involuntary Treatment,	)	Appeal from the Circuit Court of Cook County.
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	No. 12 COMH 1064
v.	)	
Latoya C.,	)	Honorable Paul A. Karkula,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE ELLIS delivered the judgment of the court.
Justices Howse and Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: Respondent's claims regarding the involuntary administration of psychotropic medicine are moot. No exception to mootness applies where respondent has not shown that any specific collateral consequences would result from the trial court's judgment, her appeal does not present issues demonstrating that state actors are in need of guidance, and her appeal does not present issues that are likely to recur.

¶ 2 Following a hearing on April 17, 2012, the circuit court entered an order authorizing the administration of involuntary psychotropic medication to respondent, Latoya C., for 90 days. On appeal, respondent claimed that the order should be reversed for three reasons: first, the trial court failed to make either oral or written findings of fact, as required by section 3-816(a) of the

Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/3-816(a) (West 2012)); second, the State failed to prove that she was provided information about alternative treatment options, as required by section 2-102(a-5) of the Code (405 ILCS 5/2-102(a-5) (West 2012)); and third, the State failed to establish each element of the involuntary medication statute (405 ILCS 5/2-107.1(a-5) (West 2012)). *In re Latoya C.*, 2013 IL App (1st) 121477, ¶ 1.

¶ 3 Respondent recognized that, because the circuit court's involuntary medication order has expired, her challenges to that order were moot. *Id.* ¶ 7. However, respondent claimed that her appeal fell within the three recognized exceptions to the mootness doctrine. *Id.* In an opinion entered on July 26, 2013, this court reversed the trial court's order, finding that the collateral-consequences exception to mootness applied and then holding, on the merits, that the trial court committed reversible error by failing to comply with section 3-816(a) by not making sufficient findings of fact on the record. *Id.* ¶¶ 9, 11-15. We did not reach respondent's remaining contentions of error. *Id.* ¶ 16.

¶ 4 The Illinois Supreme Court then entered a supervisory order directing us to vacate that decision and reconsider it in light of *In re Rita P.*, 2014 IL 115798. *In re Latoya C.*, No. 116555 (Ill. Sept. 24, 2014). In *Rita P.*, the supreme court clarified that the collateral-consequences exception does not *automatically* apply in cases involving the involuntary administration of psychotropic medication, but rather must be considered on a case-by-case basis. *Rita P.*, 2014 IL 115798, ¶ 34. *Rita P.* also held that compliance with section 3-816(a) is directory, not mandatory, and that a trial court's failure to comply with that provision does not require reversal. *Id.* ¶¶ 61-66.

¶ 5 In light of *Rita P.*, we must now reconsider the application of the collateral-consequences exception to the facts of this case and, if it is not applicable, we must consider the other possible

exceptions to the mootness doctrine. For the reasons that follow, we find that the collateral-consequences exception does not apply. We further hold that the public-interest and capable-of-repetition-but-evading-review exceptions to mootness do not apply. We dismiss respondent's appeal as moot.

¶ 6 I. BACKGROUND

¶ 7 On March 30, 2012, 24-year-old respondent was admitted to a mental health facility after a dispute with her cousin over money. On April 12, 2012, one of her treating physicians, Dr. Vesna Pirec, filed a petition requesting a court order authorizing the administration of involuntary treatment, specifically, the administration of an antipsychotic medication known as haloperidol (Haldol), for up to 90 days.

¶ 8 At the hearing on the petition, three witnesses testified. Latasha C., respondent's sister, testified that respondent was diagnosed as schizophrenic and bipolar in 2005. They lived together prior to respondent's admission to the hospital in March 2012. During the time they lived together, respondent told Latasha that the television and radio were talking to her. When respondent started taking medication (Zyprexa), she was no longer delusional. However, she stopped taking the medication and, in October 2011, respondent and her mother got into an argument, which resulted in respondent being admitted to the hospital. She was released the following night and went to a shelter. On February 9, 2012, respondent had a baby and subsequently moved in with her cousin. When respondent was in the final stages of her pregnancy, she became increasingly irritable and would yell at her family. She was not taking her medication at that time.

¶ 9 Dr. Pirec, a psychiatrist, testified that she briefly treated respondent during her hospitalization in October 2011 and treated respondent during her most recent hospitalization.

Pirec diagnosed respondent with schizoaffective disorder and testified that she was symptomatic at the time of the hearing. Respondent told Pirec that she was a celebrity, that "Obama" came to the hospital, and that she had an aura around her. Respondent also acted provocatively in the hospital and exhibited paranoia. Pirec was concerned that respondent's symptoms would affect her ability to care for her child. Pirec administered two doses of Haldol to respondent on or about April 4, 2012. However, after taking the two doses, respondent refused to take more medication.

¶ 10 Pirec wanted to use Haldol to treat respondent's psychosis, and she believed the benefits of the drug would outweigh the risk of harm for respondent. Alternatively, Pirec testified that she would seek to treat respondent with other medications. At the hearing, Pirec detailed the benefits, risks, and side effects of Haldol, as well as the alternative medications that she proposed. After doing so, Pirec testified that respondent had been given "written information" about those medications. Pirec believed that respondent refused to take medication because she lacked an understanding of her symptoms.

¶ 11 Respondent testified that immediately before she was admitted to the hospital she was living with her cousin and supporting herself with Social Security benefits. She testified that she did not make any threats to harm herself or anyone else and that her most recent admission to the hospital occurred because she had a dispute with her cousin over money. During her time in the hospital, she took four doses of Haldol but was unsure if she received any benefits from the medication. The side effects from the medication included dizziness, drowsiness, an increase in appetite, and blurred vision. Although respondent did not have a problem with blurred vision prior to taking Haldol, the problem persisted after she stopped taking it. Respondent did not feel that Pirec knew her well because Pirec only saw her for about five minutes per day. At the time of trial, respondent indicated that she would not consent to taking medication from Pirec because

taking Haldol was the hospital's choice and Pirec never offered her any other types of medication. She said that hospital personnel kept telling her that the drug worked, but it did not. On redirect examination, respondent acknowledged that a few days before the hearing, Dr. Rogers, who first treated her at the hospital, gave her a thick stack of papers "full of all types of medicine."

¶ 12 Following closing arguments, the trial court granted the petition. The court found Pirec to be "extremely credible," and also that the State had met its burden by clear and convincing evidence. This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 There is no dispute that this case is moot, as the circuit court's 90-day involuntary medication order expired on July 16, 2012. However, respondent contends that each of her three contentions of error falls within the three recognized exceptions to the mootness doctrine: the collateral-consequences exception, the public-interest exception, and the exception for issues capable of repetition yet evading review.

¶ 15 A. Collateral Consequences

¶ 16 The collateral-consequences exception applies where a plaintiff has suffered or is threatened with an actual injury caused by the action she challenges, which is likely to be redressed by a favorable judicial decision. *In re Alfred H.H.*, 233 Ill. 2d 345, 361 (2009). In other words, respondent must demonstrate that the result of this case has caused or threatens to cause her real harm—for example, a blemish on her record that will impact her ability to find suitable employment or to renew her driver's license. See, *e.g.*, *id.* at 362; *In re Deborah S.*, 2015 IL App (1st) 123596, ¶¶ 24-25. This exception is case-specific, not issue-specific, because it focuses not on the importance of any particular issue raised in the case, but rather on the "stigma" to

respondent stemming from the ultimate outcome of the case, regardless of how it was reached. *In re Splett*, 143 Ill. 2d 225, 228 (1991).

¶ 17 We know from *Rita P.* that this exception does not automatically apply simply by virtue of the fact that respondent has had no previous involuntary medication treatments. *Rita P.*, 2014 IL 115798, ¶¶ 30-34. Nor can respondent rely on vague, unsupported statements of harm or difficulty arising from this order. *Id.* ¶¶ 33-34; see also *People v. Madison*, 2014 IL App (1st) 131950, ¶¶ 17-19 (refusing to apply collateral-consequences exception, where defendant's speculative argument that finding of unfitness would potentially hinder her ability to obtain firearm owner's identification card was insufficient under *Rita P.*).

¶ 18 Here, respondent argues that the collateral-consequences exception applies because "no evidence indicated that [she] was ever *** subject[ed] to involuntary commitment or forced medication under a court order," and thus the "collateral consequences of having once been a committed and forcibly medicated individual will attach to [her] and could be used against her in future proceedings." Respondent further claims that an involuntary commitment order "would negatively affect [her] future." These contentions are precisely the types of harm deemed too vague to trigger the exception. *Rita P.*, 2014 IL 115798, ¶¶ 33-34; *Madison*, 2014 IL App (1st) 131950, ¶¶ 17-19.

¶ 19 Our recent opinion in *Deborah S.*, 2015 IL App (1st) 123596, is instructive. There, in considering the collateral consequences respondent claimed she would face, we accepted her argument that her involuntary commitment impacted her ability to retain or renew her driver's license and, in turn, her ability to seek employment similar to her previous jobs as a substitute mail carrier and as a driver for Walmart. *Id.* ¶¶ 24-25. But we rejected, as too vague, her claim that her involuntary admission could "plague her" in future proceedings relating to her pending

divorce. *Id*. ¶ 24. Here, respondent's claims of injury fall into the latter camp. We find that the collateral-consequences exception is inapplicable.

¶ 20 B. Public Interest

¶ 21 The public-interest exception applies only when: " '(1) the question presented is of a public nature; (2) an authoritative determination of the question is desirable for the future guidance of public officers; and (3) the question is likely to recur.' " *Rita P.*, 2014 IL 115798, ¶ 36 (quoting *In re Shelby R.*, 2013 IL 114994, ¶ 16).

¶ 22 With regard to the trial court's compliance with section 3-816(a) of the Code, the first prong of this exception is easily met. The requirements imposed on a trial court in adjudicating mental-health cases are unquestionably public in nature. See *Rita P.*, 2014 IL 115798, ¶ 36. But respondent cannot establish the second prong. There is no need for additional guidance from this court regarding the trial court's compliance with section 3-816(a), because the supreme court has spoken recently and decisively on this issue. In *Rita P.*, 2014 IL 115798, ¶ 60, the Illinois Supreme Court held that section 3-816(a) is directory, rather than mandatory, and that no consequences should result from the trial court's noncompliance with that provision. In light of the authoritative determination of this issue in *Rita P.*, public officials are in no need of our further guidance on it.

¶ 23 Nor does the public-interest exception apply to respondent's sufficiency-of-the-evidence argument. That claim involves a case-specific inquiry, not the type of broad public issue that we should address under the public-interest exception. *Id*. ¶ 36; *Alfred H.H.*, 233 Ill. 2d at 356-57. The mere fact that our resolution of this issue could provide precedential value for future litigants does not justify the application of the public-interest exception. *Alfred H.H.*, 233 Ill. 2d at 357.

¶ 24 For the same reason, the public-interest exception does not apply to respondent's claim that the State failed to prove that it complied with section 2-102(a-5) of the Code. That provision requires the State to notify a mental-health treatment recipient, in writing, of the risks, benefits, and side effects of psychotropic medications, as well as their alternatives. 405 ILCS 5/2-102(a-5) (West 2012). The State must strictly comply with the procedures outlined in section 2-102(a-5) and prove its compliance by clear and convincing evidence. *In re Katarzyna G.*, 2013 IL App (2d) 120807, ¶¶ 13, 16; *In re Laura H.*, 404 Ill. App. 3d 286, 289 (2010). In this case, respondent argues that "the State failed to prove that" it complied with section 2-102(a-5), demonstrating that respondent is challenging the sufficiency of the State's evidence of its compliance with section 2-102(a-5). This claim raises a case-specific inquiry that does not generally merit application of the public-interest exception. *Rita P.*, 2014 IL 115798, ¶ 36; *Alfred H.H.*, 233 Ill. 2d at 356-57. Respondent has not identified how engaging in this inquiry will guide public officers in their future compliance with section 2-102(a-5).

¶ 25 Nor does respondent point to any conflict of law or other legal issue that would be resolved if we were to address the merits of this issue. The Illinois Supreme Court generally applies the public-interest exception in cases involving a split in the case law or an issue of first impression. *In re Shelby R.*, 2013 IL 114994, ¶¶ 19, 21. Here, we see no question of law that would be resolved in reaching respondent's claim. Rather, we would simply be assessing whether the State's evidence of its compliance with section 2-102(a-5) was sufficient in this case. As we noted above, such a narrow, case-specific inquiry does not justify the application of the public-interest exception.

¶ 26 We recognize that, in *In re Nicholas L.*, 407 Ill. App. 3d 1061, 1070-71 (2011), and *In re Laura H.*, 404 Ill App. 3d 286, 289-90 (2010), we applied the public-interest exception to issues

similar to respondent's section 2-102(a-5) challenge. However, those cases both involved questions of law. In *Nicholas L.*, the court was called upon to address whether section 2-102(a-5) required the State to provide the respondent with written notice of the alternatives to a proposed treatment and whether the State's failure to do so necessitated reversal. *Nicholas L.*, 407 Ill. App. 3d at 1071-74. In *Laura H.*, the court decided whether written information that the State allegedly provided to the respondent would satisfy the requirements of section 2-102(a-5) as a matter of law, when they explained the side effects of the recommended drug but not its benefits or any alternative drugs. *Laura H.*, 404 Ill. App. 3d at 291-92. Thus, in both cases, the courts clarified what type of information the State was required to provide under section 2-102(a-5). Here, in contrast, addressing respondent's challenge would not clarify the requirements of section 2-102(a-5) for the State or the trial court. Respondent does not contend that the State wholly failed to comply with that provision or that the trial court misapprehended the State's burden of proving its compliance. Instead, she simply contends that the State failed to elicit sufficient information from Dr. Pirec regarding what information he provided to her. This is not an issue of broad public concern that we must address under the public-interest exception.

¶ 27 C. Capable Of Repetition Yet Evading Review

¶ 28 The capable-of-repetition-yet-evading-review exception to mootness has two requirements: (1) the challenged action must be of a duration too short to be fully litigated prior to its cessation, and (2) there must be a reasonable expectation that the same complaining party would be subjected to the same action again. *In re Barbara H.*, 183 Ill. 2d 482, 491 (1998). The first requirement is clearly met in this case because the order lasted only 90 days.

¶ 29 With respect to respondent's section 3-816(a) claim, respondent cannot meet the second element of this exception. In *Rita P.*, our supreme court held that compliance with section 3-

816(a) is directory. *Rita P.*, 2014 IL 115798, ¶ 43. In doing so, the supreme court rejected the contention that a trial court's failure to expressly state its findings of fact would have any negative effects upon a respondent. *Id.* ¶¶ 51, 60, 66. Because, according to *Rita P.*, the trial court's failure to state its findings of fact did not injure respondent, respondent cannot claim that she would be injured even if she was subjected to the same action in a later case. Thus, it is unlikely that she would raise this issue in a future case or that future courts will be called upon to address it.

¶ 30 We also reject respondent's contention that this exception applies to her argument that the State failed to prove the allegations of its petition. In *Alfred H.H.*, our supreme court declined to apply the capable-of-repetition-yet-evading-review exception to an identical issue. *Alfred H.H.*, 233 Ill. 2d at 360. The court noted that deciding whether the State presented sufficient evidence during the hearing would have no effect upon subsequent hearings relating to respondent's mental illness. *Id.* Here, respondent argues that the State did not present sufficient evidence to support the administration of psychotropic medication. That is a highly fact-intensive inquiry, requiring us to review the evidence presented by the State at the hearing. Like *Alfred H.H.*, it is unclear how the resolution of this question would affect the sufficiency of the State's evidence in future proceedings.

¶ 31 For the same reason, this exception does not apply to respondent's argument regarding the State's compliance with section 2-102(a-5). Whether the State presented sufficient evidence of its compliance with section 2-102(a-5) in this case is a fact-intensive inquiry that would have no effect upon whether the State could prove its compliance in future proceedings. Therefore, the capable-of-repetition-yet-evading-review exception does not apply.

¶ 32 III. CONCLUSION

¶ 33 For the reasons stated above, we dismiss respondent's appeal as moot. The trial court's order granting the State's petition for the involuntary administration of psychotropic medication expired long ago, and no exception to the doctrine of mootness justifies reviewing the substance of respondent's appeal.

¶ 34 Appeal dismissed.