2015 IL App (3d) 140959-U

Order filed September 9, 2015

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2015

In re CATHRENE D.,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
Alleged to Be a Person Subject to	)	Rock Island County, Illinois,
Involuntary Admission to a Facility and	)	
Involuntary Treatment	)	
	)	
(The People of the State of Illinois,	)	Appeal Nos. 3-14-0959
	)	3-14-0960
Petitioner-Appellee,	)	Circuit Nos. 14-MH-22
	)	14-MH-24
v.	)	
	)	
Cathrene D.,	)	Honorable Frank R. Fuhr,
	)	Judge, Presiding.
Respondent-Appellant).	)	

JUSTICE SCHMIDT delivered the judgment of the court.
Justices Holdridge and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held*: The appeal is dismissed as the issues presented are moot.

¶ 2 Respondent, Cathrene D., appeals from the 90-day involuntary commitment order and 30-day order for administration of psychotropic medications. On appeal, respondent argues that:

(1) her arguments fall within one of the recognized exceptions to the mootness doctrine; (2) the State failed to prove by clear and convincing evidence that she was subject to involuntary admission; (3) the State did not file a proper predisposition report; and (4) the State failed to prove that respondent was subject to involuntary administration of psychotropic medication. We dismiss the appeal as moot.

¶ 3 FACTS

¶ 4 On November 24, 2014, the State filed a petition for the involuntary inpatient admission of respondent. The petition stated that, after a welfare check, respondent was admitted to Trinity Medical Center pursuant to section 3-600 of the Mental Health and Developmental Disabilities Code (Code). 405 ILCS 5/3-600 (West 2014). The petition alleged that respondent was a person with a mental illness who, because of her illness, was unable to provide for her basic physical needs and was in need of immediate hospitalization.

¶ 5 A certificate of examination stated respondent was brought to the hospital in a grandiose and delusional manner. Respondent was not eating or taking her medication, and there was no heat in her house.

¶ 6 In a second certificate, Dr. Anupama Upadhyay stated that respondent was admitted to the hospital after a police welfare check. At the time, respondent was living in a home with no food, water, and heat. Respondent was unable to take care of her basic needs, and she was psychotic and delusional with no insight into her need for treatment.

¶ 7 The State filed a predisposition report with its petition. The report included a goal of treating respondent's psychosis through the use of therapy and medications. The timetable for attaining the stated goals was one to two weeks. The report stated that respondent required inpatient treatment and had previous psychiatric admission in January 2007 and April 2012.

¶ 8 The State also filed a report from Dr. Iyad Alkhouri. Alkhouri evaluated respondent after she was admitted to Trinity Medical Center. Respondent was unable to provide a meaningful history, she was incoherent and did not understand why she was in a medical facility. Respondent was very erratic, disorganized, and delusional.

¶ 9 On December 9, 2014, the cause proceeded to a hearing. Alkhouri testified that he examined respondent at least eight times, and diagnosed respondent with schizoaffective disorder, bipolar type. When she was admitted to the hospital, respondent claimed that she did not need help with housing or taking care of her needs because she was the daughter of a president, she owned several properties, and had a "significant fortune." Respondent thought Alkhouri was unqualified to treat her because she had knowledge of seven types of medical degrees, and Alkhouri did not have any of those.

¶ 10 After her admission, respondent took her medication for two days. Respondent then refused further medication and went unmedicated for the next 2½ weeks. Alkhouri tried to get respondent to cooperate with a disposition that would allow her to live at home or with her family; however, respondent was extremely disorganized and uncooperative.

¶ 11 Alkhouri opined that respondent was mentally ill and did not have the insight or judgment to engage in a meaningful, safe plan to leave the hospital. Respondent had also threatened her mother and had attempted to harm her on several occasions. Alkhouri said the least restrictive treatment was to place respondent in an inpatient program until her acute psychosis was controlled.

¶ 12 Respondent repeatedly interrupted Alkhouri's testimony, and the court threatened to remove her from the proceeding. After Alkhouri's testimony, counsel for respondent inquired if

she wanted to testify, and respondent replied in the affirmative and then made an incoherent statement.

¶ 13 At the conclusion of the hearing, the court found that respondent was a person suffering from a mental illness who, because of her illness, was unable to provide for her basic needs so as to guard against serious harm unless treated on an inpatient basis. The court ordered respondent to be involuntarily admitted to the Robert Young Mental Health Center. The inpatient treatment was not to exceed 90 days. Respondent filed a notice of appeal, and the case was docketed as No. 3-14-0959.

¶ 14 On December 2, 2014, the State filed a petition for administration of psychotropic medications. At a subsequent hearing, Alkhouri testified that he had examined respondent eight times, and respondent continued to suffer from schizoaffective disorder, bipolar type. Respondent was not cooperative with treatment and refused to discuss her condition or mood. Alkhouri proposed treating respondent with long-acting, injectable antipsychotic medications. Alkhouri planned to administer one injection of Haldol Decanoate and determine the affect over a one-week period. If the Haldol Decanoate was ineffective, Alkhouri planned to try, in one-week treatment intervals, Prolixin Decanoate, Risperdal Consta, and Invega Sustenna. Alkhouri verbally advised respondent about the benefits and risks of the proposed treatment plan. He did not provide respondent with written side effect information for the proposed treatments.

¶ 15 To ensure the safe administration of the proposed treatment, Alkhouri recommended metabolic blood tests to monitor respondent's glucose, cholesterol and triglyceride levels. Alkhouri also planned to clinically observe respondent for outwardly manifested side effects like tremors and abnormal movements.

¶ 16 The trial court granted the State's petition and entered a 30-day order for the administration of psychotropic medication. Respondent filed a notice of appeal, and the case was docketed as No. 3-14-0960.

¶ 17 On the court's own motion, appeal Nos. 3-14-0959 and 3-14-0960 were consolidated.

¶ 18 ANALYSIS

¶ 19 Initially, we note that there is no dispute that the underlying case is moot. The involuntary commitment order was limited in duration to 90 days, and the medication order expired after 30 days. However, respondent argues that her issues can be reviewed under the collateral consequences, capable of repetition yet avoiding review, and public interest exceptions to the mootness doctrine. The State argues that this appeal does not fall under any of these exceptions. We find that none of the exceptions apply and dismiss the appeal.

¶ 20 I. Collateral Consequences

¶ 21 Respondent argues that the collateral consequences exception to the mootness doctrine applies because the instant actions could be used against her in future proceedings. We find that this exception is inapplicable.

¶ 22 The collateral consequences exception allows for appellate review where a court order or incarceration has ceased, because a plaintiff has " 'suffered, or [is] threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.' " *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (quoting *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990)). This exception is case-specific because it focuses on the "stigma" caused to respondent from the ultimate outcome of the case, regardless of how it was reached. *In re Splett*, 143 Ill. 2d 225, 228 (1991). This exception does not automatically apply because respondent has had no prior involuntary commitments or treatments. *In re Rita P.*, 2014 IL 115798, ¶¶ 30-34.

Nor can this exception be based upon vague, unsupported statements that collateral consequences might plague a respondent in the future. *Id*. ¶ 34. Instead, a respondent must identify collateral consequences that " 'could stem solely from the present adjudication.' " *Id*. (quoting *In re Alfred H.H.*, 233 Ill. 2d 345, 363 (2009)).

¶ 23 Here, respondent does not allege any specific harm that would result from her involuntary admission and administration of psychotropic medication. Instead, respondent vaguely asserts that her admission and treatment will have collateral consequences because she was not previously subject to an involuntary admission. Without a discussion of the specific collateral consequences that would result from the contested orders, we are unable to excuse the mootness doctrine. Therefore, we conclude that the collateral consequences exception is inapplicable in this case.

¶ 24 II. Capable of Repetition Yet Avoiding Review

¶ 25 Respondent argues that the capable of repetition yet avoiding review exception applies to her substantive arguments because: (1) the challenged action was too short to be fully litigated prior to its cessation; and (2) she is likely to be confronted again with issues concerning: the basis for a commitment order, propriety of a section 3-810 treatment plan, omission of written treatment information, and failure to consider less restrictive treatment alternatives. We find that respondent satisfied the first criteria, but has not met the second criteria.

¶ 26 The capable of repetition yet avoiding review exception applies when: (1) the challenged action is of such short duration that it cannot be fully litigated prior to its cessation; and (2) there is a reasonable expectation that the complaining party would be subject to the same action again. *Alfred H.H.*, 233 Ill. 2d at 358. This exception must be narrowly construed and requires a clear showing of each criterion. *In re J.T.*, 221 Ill. 2d 338, 350 (2006).

¶ 27 The parties agree that the first criterion is satisfied because the commitment order expired after 90 days, and the medication order expired after 30 days. Therefore, the only issue is whether there is a reasonable expectation that respondent will be subject to the same action again. To establish this element, respondent must clearly show that there is a "substantial likelihood that the issue presented in the instant case, and any resolution thereof, would have some bearing on a similar issue presented in a subsequent case." *Alfred H.H.*, 233 Ill. 2d at 360.

¶ 28 Respondent has not established the second criterion of the capable of repetition yet avoiding review exception. Firstly, this exception is inapplicable to respondent's sufficiency of the evidence arguments. See *Alfred H.H.*, 233 Ill. 2d at 360 (finding a sufficiency of the evidence argument, in the absence of a constitutional or statutory interpretation challenge, was not subject to review under the capable of repetition yet avoiding review exception). Secondly, the determination of whether respondent's procedural rights were violated, and if the statutory requirements were satisfied are fact-based determinations that will not impact future litigation. As a result, the capable of repetition yet avoiding review exception does not apply in this case.

¶ 29 III. Public Interest

¶ 30 Respondent argues that the public interest exception applies because this case involves more than fact-driven, case-specific sufficiency of the evidence claims. Respondent contends that the statutory compliance issues require guidance for public officers and a ruling is necessary to prevent the recurrence of the purported deficiencies. We disagree.

¶ 31 The public interest exception requires a clear showing of each of the following criteria: (1) the question at issue is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) there is a likelihood of future recurrence of the question. *Rita P.*, 2014 IL 115798, ¶ 36 (citing *In re Shelby R.*, 2013 IL

114994, ¶ 16). The public interest exception must be " 'narrowly construed and requires a clear showing of each criterion.' " *Alfred H.H.*, 233 Ill. 2d at 355-56 (quoting *In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 292 (2005)).

¶ 32 Initially, we note that respondent's sufficiency of the evidence arguments are inherently case-specific and do not present an issue of broad public interest. *Rita P.*, 2014 IL 115798, ¶ 36; *Alfred H.H.*, 233 Ill. 2d at 356-57. Therefore, this issue is not of sufficient breadth and does not have a significant effect on the public so as to satisfy the substantial public nature criterion. *Id.* at 357; *Felzak v. Hruby*, 226 Ill. 2d 382, 393 (2007). However, respondent's statutory compliance arguments present an issue of broad public interest, and therefore, satisfy the first criteria. See *In re Connie G.*, 2011 IL App (3d) 100420, ¶ 16. Therefore, we must determine the need for an authoritative determination of the question and the state of the law as it relates to the moot question. *Rita P.*, 2014 IL 115798, ¶ 37.

¶ 33 Respondent specifically argues that the State failed to comply with sections 3-810 and 3-811 of the Code, and she was not provided with the section 2-102(a-5) written notice of side effects. Section 3-810 requires that the facility director or another individual prepare a written report on the appropriateness and availability of alternative treatment settings, a social investigation, a preliminary treatment plan, and any other information ordered by the court. 405 ILCS 5/3-810 (West 2014). Section 3-811 requires the court to consider alternative mental health facilities which are appropriate for and available to the respondent, including, but not limited to hospitalization. 405 ILCS 5/3-811(a) (West 2014). Section 2-102(a-5) requires that the treating physician advise the recipient of psychotropic medication, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, "to

the extent such advice is consistent with the recipient's ability to understand the information communicated." 405 ILCS 5/2-102(a-5) (West 2014).

¶ 34 An authoritative determination is not needed on these statutory compliance issues as they each have been addressed in prior appellate decisions. See *In re Daryll C.*, 401 Ill. App. 3d 748, 755-58 (2010) (addressing section 3-810 of the Code); *In re James H.*, 405 Ill. App. 3d 897, 905-07 (2010) (addressing section 3-811 of the Code); *In re Katarzyna G.*, 2013 IL App (2d) 120807, ¶¶ 15-24 (reviewing compliance with section 2-102(a-5) of the Code). Moreover, respondent does not argue that the law is in disarray regarding the statutory sections at issue, but contends that our analysis would guide and remind public officials of their statutory obligations. We conclude that an additional determination is not needed on these issues, and therefore, the public interest exception does not apply.

¶ 35 CONCLUSION

¶ 36 For the aforementioned reasons, we dismiss this consolidated appeal as moot.

¶ 37 Appeal dismissed.