

NOTICE

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2015 IL App (4th) 140444-U

NO. 4-14-0444

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 26, 2015

Carla Bender

4th District Appellate

Court, IL

In re: REBECCA H., a Person Found Subject to)	Appeal from
Involuntary Admission,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	Adams County
Petitioner-Appellee,)	No. 14MH60
v.)	
REBECCA H.,)	Honorable
Respondent-Appellant.)	John C. Wooleyhan,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Knecht and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* After applying the collateral consequences exception to the mootness doctrine, the appellate court affirmed the trial court's order, finding the petition for involuntary commitment was not defective.

¶ 2 Respondent, Rebecca H., appeals from the trial court's order of involuntary commitment pursuant to section 3-700 of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/3-700 (West 2012)). Respondent seeks reversal because she claims the petition for involuntary admission was defective for failure to name respondent's family members and include their contact information. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 5, 2014, respondent's friend, Valerie P. Howard, filed a petition for emergency involuntary admission as to respondent pursuant to section 3-601 of the Code (405 ILCS 5/3-601 (West 2012)). In the factual basis of the petition, Howard stated respondent

"showed up at [Howard's] apartment concerned for her safety! *** [s]he is *** not taking her meds! She is very paranoid! She has made threats to others of harm! *** She is sure she could be murdered." She considered suicide and asked Howard to stay with her to ensure she did not do so. Howard drove respondent to Blessing Hospital.

¶ 5 The petition alleged respondent was (1) mentally ill; (2) reasonably expected to inflict serious physical harm upon herself or another in the near future; (3) unable to provide for her basic physical needs so as to guard herself from serious harm with the assistance of family or outside help; (4) refusing or not cooperating with treatment; (5) developmentally disabled and, unless treated on an inpatient basis, was reasonably expected to inflict serious physical harm upon herself or others in the near future; and (6) in need of immediate hospitalization for the prevention of such harm.

¶ 6 In this appeal, respondent contests the lack of appropriate information in the field requesting next of kin information. The petition specifically stated as follows:

"Listed below are the names and addresses of the spouse, parent, guardian, or substitute decision maker, if any, and close relative or, if none, a friend of the respondent whom I have reason to believe may know or have any of the other names and addresses. If names and addresses are not listed below, I made a diligent inquiry to identify and locate these individuals and the following described the specific steps taken by me in making this inquiry."

The space provided includes a handwritten continuation of the factual basis, as well as Howard's physical address and phone number. A medical certificate was also filed by "C Huston,"

indicating respondent was subject to involuntary admission and in need of immediate hospitalization.

¶ 7 On May 9, 2014, respondent filed a motion to dismiss, alleging (1) C Huston's title was not listed on the medical certificate, (2) respondent's counsel did not receive a copy of the petition until two days after it was filed, and (3) respondent was the mother of three children and was separated from her husband, yet no next of kin was named in the petition. The court denied respondent's motion, finding Howard, the petitioner, was a friend of respondent's and thus, by providing her name and address on the petition, she had sufficiently complied with the statutory requirements set forth in section 3-601(b)(2) of the Code (405 ILCS 5/3-601(b)(2) (West 2012)).

¶ 8 On May 12, 2014, the trial court conducted a hearing at Blessing Hospital, where Dr. Salvadore Sanchez testified as the State's expert. He said he had been treating respondent for psychotic and manic symptoms since her admission on May 2, 2014. Respondent was suffering from significant paranoia. Dr. Johnson diagnosed respondent with "bipolar disorder, [and] mania, with psychotic features." The doctor opined respondent was unable to provide for her basic needs and required further inpatient treatment at Blessing Hospital or at another Illinois Department of Human Services facility. She was in need of "prolonged" inpatient hospitalization, as the current psychotropic medications have had little effect on her symptoms.

¶ 9 Dr. Sanchez was asked if he knew whether Joseph Mercurio, a therapist at Blessing Hospital, had at least one family session with respondent's adult children. Dr. Sanchez said he was aware of such a meeting. No other evidence was presented.

¶ 10 After considering the evidence and recommendations of counsel, the trial court stated:

"Based upon the evidence presented here today, the court would, first of all, find that it does have jurisdiction over the parties and the subject matter. The record shows that all of the procedural requirements have been complied with with regard to a verified petition being filed and also two certificates as directed by the statute.

The evidence today has shown that the respondent does currently suffer from a mental illness. That has been shown by the expert testimony of the witness called by the people and has not been rebutted by any other evidence. That witness testified as to the basis of his diagnosis of a mental illness and also those factors which were taken into consideration in reaching that diagnosis.

The verified petition that was filed in this proceeding, the allegations of which also have not been controverted by any other evidence, together with the sections of People's Exhibit No. 1, which the court is giving some weight to, which basically describe the observations of the expert witness in observing the respondent and being able to make his diagnosis based upon his observations, and also those things which are alleged in the petition show that the petition has been proven by clear and convincing evidence as required by the statute.

There's not enough evidence for the court to say that the respondent is going to harm herself or someone else or that she is unable to provide for her own needs, but there is enough evidence for the court to say that the respondent is a person with a mental illness, who is currently not adhering to—not adhering adequately to prescribed treatment and, because of the nature of the illness, is unable to understand the need for treatment, and if not treated on an inpatient basis, could reasonably be expected to suffer continued mental and/or emotional deterioration. Also, that the respondent is in need of hospitalization for the prevention of those harms.

The court would find that the least restrictive setting for the respondent would be in a facility of the Department of Human Services for a period of time not to exceed 90 days. That order will be entered today."

This appeal followed.

¶ 11

II. ANALYSIS

¶ 12

On appeal, respondent argues the trial court's order should be reversed because the petition for involuntary admission was defective because it did not list the names and addresses of respondent's family members or state that a diligent effort was made to determine that information. Before addressing the merits of respondent's appeal, we must determine whether there exists an applicable exception to the mootness doctrine that would allow us to review an otherwise moot appeal.

¶ 13

A. Mootness

¶ 14 Both parties agree the issues raised by respondent on appeal are moot. The commitment order, entered May 12, 2014, was limited in duration to 90 days. Because 90 days have passed, any challenge to the order is moot and any decision on the merits would result in an advisory opinion. This court will not render advisory opinions or decide moot questions. *In re Barbara H.*, 183 Ill. 2d 482, 491 (1998).

¶ 15 However, an issue raised in an otherwise moot appeal may be reviewed when (1) addressing the issues involved is in the public interest; (2) the case is capable of repetition, yet evades review; or (3) the respondent will potentially suffer collateral consequences as a result of the trial court's judgment. *In re Alfred H.H.*, 233 Ill. 2d 345, 355-63 (2009).

¶ 16 Respondent argues, and the State agrees, the collateral-consequences exception applies to respondent's appeal. This exception applies when a respondent has suffered, or is threatened with, an actual injury traceable to the petition which would likely be redressed by a favorable judicial decision. *Alfred H.H.*, 233 Ill. 2d at 361. In this case, the trial court ordered the clerk of the court to notify the Illinois State Police, Firearm Owners Identification Department, that respondent has been adjudicated a "mental defective" as defined in section 1.1 of the Firearm Owner's Identification Card Act (430 ILCS 65/1.1 (West 2012)). Because the propriety of the order of involuntary admission could have collateral consequences for respondent, that exception applies to allow for our review. See *People v. Holt*, 2013 IL App (2d) 120476, ¶ 4 (the denial of a right to own firearms could be an adverse legal consequence from a determination that a person has been a patient in a mental-health facility (see 430 ILCS 65/8(e) (West 2012))). We accept the State's concession and agree with both parties that the collateral consequences exception applies to this appeal.

¶ 17 B. Strict Compliance With Section 3-601(b)(2) of the Code

¶ 18 Section 3-601(b)(2) of the Code requires a petition for involuntary admission to include the following:

"The name and address of the spouse, parent, guardian, substitute decision maker, if any, and close relative, or if none, the name and address of any known friend of the respondent whom the petitioner has reason to believe may know or have any of the other names and addresses. If the petitioner is unable to supply any such names and addresses, the petitioner shall state that diligent inquiry was made to learn this information and specify the steps taken." 405 ILCS 5/3-601(b)(2) (West 2012).

¶ 19 Although strict compliance is generally required in involuntary-commitment proceedings, reversal is not required unless a respondent can demonstrate prejudice. *In re James H.*, 405 Ill. App. 3d 897, 904-05 (2010). Compliance with section 3-601(b)(2) is no different. *James H.*, 405 Ill. App. 3d at 905. Whether a respondent's procedural rights were violated is a question of law and our review is *de novo*. *In re Shirley M.*, 368 Ill. App. 3d 1187, 1190 (2006).

¶ 20 The section of the petition at issue in this appeal included Howard's name and address. Howard was admittedly respondent's friend, neighbor, and the individual who drove respondent to the hospital. The statute specifically provides that if no "spouse, parent, guardian, substitute decision marker [or] close relative" is listed in the petition, then it is sufficient to include "the name and address of any known friend of respondent" who may know of contact information of any family members. See 405 ILCS 5/3-601(b)(2) (West 2012). The trial court

specifically found the inclusion of Howard's name and address complied with the statutory requirements. We agree.

¶ 21 Further, we conclude respondent cannot demonstrate prejudice because the testimony indicated respondent's family members met with Mercurio, the therapist at Blessing Hospital. Dr. Sanchez testified he was aware that Mercurio had a family session with respondent's adult children and had been in "constant contact" with her family. Therefore, the outcome of the case would not have been any different had the petition included the names and addresses of respondent's family members.

¶ 22 III. CONCLUSION

¶ 23 For the reasons stated, we affirm the trial court's judgment.

¶ 24 Affirmed.