2015 IL App (5th) 130479-U

NO. 5-13-0479

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re T.B., Alleged to Be a Person Subject to Involuntary Admission	)	Appeal from the Circuit Court of Madison County.
(The People of the State of Illinois,	)	
Petitioner-Appellee,	)	
v.	)	No. 13-MH-126
T.B.,	)	Honorable Stephen A. Stobbs,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Presiding Justice Cates and Justice Stewart concurred in the judgment.

ORDER

¶ 1 *Held*: The appeal of the respondent's order for emergency involuntary commitment by certificate pursuant to section 3-600 of the Mental Health and Developmental Disabilities Code is dismissed as moot where the 90-day duration of her commitment order has passed and neither the "public interest" exception nor the "capable-of-repetition-yet-avoiding-review" exception to the mootness doctrine applies.

¶ 2 The respondent, T.B., appeals from the August 27, 2013, order of the circuit court of Madison County finding her to be a person subject to emergency involuntary admission in the Illinois Department of Human Services for a period not to exceed 90

days. The Legal Advocacy Service, a division of the Illinois Guardianship and Advocacy Commission, has been appointed to represent her. The respondent raises three arguments on appeal, which include the following: (1) the State failed to prove by clear and convincing evidence, through explicit medical opinion and factual evidence, that T.B., due to her mental illness, satisfied one of the three criteria for involuntary admission; (2) the petition for involuntary admission was defective pursuant to section 3-606 of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/3-606 (West 2010)); and (3) this appeal meets the recognized exceptions to the mootness doctrine. For the reasons that follow, we dismiss the appeal as moot, pursuant to Illinois Supreme Court Rule 23(c)(3) (eff. July 1, 2011).

¶ 3 On August 16, 2013, Amy Wunderlich filed a petition for involuntary admission, pursuant to section 3-600 of the Code, alleging that T.B., a patient at the Sparta Community Hospital, was a person in need of emergency inpatient admission. The petition alleged that because of her mental illness, T.B. (1) could reasonably be expected, unless treated on an inpatient basis, to engage in conduct placing herself or others in physical harm or in reasonable expectation of being harmed, (2) was unable to provide for her own basic physical needs so as to guard herself from serious harm without the assistance of family or others, (3) was unable to understand her need for treatment, and if not treated on an inpatient basis, was reasonably expected, based on her behavioral history, to suffer mental or emotional deterioration, and (4) was in need of immediate hospitalization for the prevention of such harm. The petition was accompanied by one inpatient certificate of examination.

¶ 4 A hearing on the petition was held on August 27, 2013. Sarah Brown Foiles (Foiles), a licensed clinical social worker assigned to T.B.'s treatment team at Alton Mental Health Center, testified as follows. On August 15, 2013, T.B. was transported to Sparta Community Hospital. On August 16, 2013, T.B. was transferred and admitted to Alton Mental Health Center. Prior to the hearing, Foiles worked directly with T.B. providing support counseling and discharge planning. Foiles reviewed T.B.'s clinical file and spoke directly with other staff members about her condition, which prompted the need for inpatient admission.

¶ 5 According to an intake assessment, T.B. was agitated and aggressive. T.B. suffers from schizoaffective disorder, bipolar type. T.B. exhibited psychotic and manic behaviors, as well as delusions, pressured speech, paranoia regarding the taking of medications, and illogical thoughts. In addition, T.B. was found to exhibit bizarre behaviors, such as "flapping her arms like a bird" and shouting "Tamara is free." Foiles testified that T.B. had never touched or injured any of the staff members, but had exhibited loud and aggressive verbal abuse. In her opinion, T.B. would be aggressive if discharged into the community. Although T.B. had shown to be stable in the community for 20 years since her last admission in 1994, she was found to lack understanding regarding the insight her medication could provide her, and was likely to engage in behavior that would place herself and others in harm.

¶ 6 T.B. testified that prior to her hospitalization, as long as her medication was available, she had always made an effort to take the medication. However, when the

medication ran out, it was difficult for her to renew her medications. As to her basic needs, she testified that she could take care of her own health and hygiene.

¶ 7 At the conclusion of the hearing, the circuit court found that T.B. was subject to involuntary admission in that she was:

> "[1] A person with mental illness who, because of 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;
>
> [2] A person with mental illness who, because of her illness is unable to provide for her basic physical needs so as to guard herself from serious harm, without the assistance of family or others, unless treated on an inpatient basis;
>
> [3] A person with mental illness who refuses treatment or is not adhering adequately to prescribed treatment because of the nature of her illness is unable to understand her need for treatment and if not treated on an inpatient basis, is reasonably expected based on her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph one or paragraph two above[.]"

The court entered an order committing T.B. for a period not to exceed 90 days. T.B. appeals.

¶ 8 There is no dispute that this appeal is moot. The commitment order was limited in duration to 90 days and that period has long since passed. See *In re Alfred H.H.*, 233 Ill. 2d 345, 350 (2009). "As a general rule, courts in Illinois do not decide moot questions,

render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *Alfred H.H.*, 233 Ill. 2d at 351. We may only consider T.B.'s claims if they fall within a recognized exception to the mootness doctrine. *Id.* There is no general exception for mental health cases, so this court must evaluate the applicable exceptions in light of the relevant facts and legal claims raised in this appeal. *Id.* at 364. T.B. argues that two exceptions to the mootness doctrine apply in this case: the "public interest" exception and the "capable-of-repetition-yet-avoiding-review" exception. We will consider each in turn.

¶ 9 The "public interest" exception to the mootness doctrine allows a court to consider an otherwise moot case when (1) the question presented 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. *Id.* at 355. The "public interest" exception is narrowly construed and requires a clear showing of each criterion. *Id.* at 355-56. Sufficiency of the evidence claims are inherently case-specific reviews that do not fit the "public interest" exception. *Id.* at 356. The respondent argues that there is a public interest given the "massive curtailment of liberty" at risk, but this argument only addresses the public nature of the class of cases; it does nothing to examine the public nature of the issues presented within this appeal. See *id.* at 357. We cannot conclude that the respondent's issues have such significant effect on the public as a whole to satisfy this first criterion.

¶ 10 Next, the respondent argues that the issues presented in this appeal are not solely claims based on the sufficiency of the evidence. Rather, the respondent contends that this

appeal is based in part on the State's behavior, namely whether the State complied with section 3-606 of the Code, as it relates to the claim that the petition is defective for its alleged failure to disclose the transporting officer's name, badge number, and employer. 405 ILCS 5/3-606 (West 2012). Further, the respondent argues that this appeal is necessary to determine what evidence is needed to commit someone under the "newest criteria" pursuant to section 1-119(3) of the Code (405 ILCS 5/1-119(3) (West 2012)).

¶ 11 The second criteria requires that the party asserting justiciability show that there is a "need to make an authoritative determination for future guidance of public officers." (Internal quotation marks omitted.) *Alfred H.H.*, 233 Ill. 2d at 357. The mere goal to set precedent or guide future litigation does not satisfy this criterion. *Id.* Instead, where the law is in disarray or there is conflicting precedent, this criterion will be satisfied. See *In re Rita P.*, 2014 IL 115798 ¶¶ 37-38 (Illinois Supreme Court reviewed a mental health case under the "public interest" exception because determination of whether section 3-816(a) of the Code was directory or mandatory was an issue of first impression, and had demonstrated conflicting precedent). Here, we do not have such a circumstance where the law is in disarray or conflicting precedent is in need of our determination concerning either section 3-606 or section 1-119(3). Further, we find it important to note that there is no evidence that the State was in violation of section 3-606, as the record affirmatively shows that the petition for admission refutes any officer involvement in transportation or custody of the respondent. For these reasons, we find that T.B.'s claims do not fit the "public interest" exception to the mootness doctrine.

¶ 12 We now consider the "capable-of-repetition-yet-avoiding-review" exception to the mootness doctrine in relation to the issues raised in this appeal. This exception has two elements. *Alfred H.H.*, 233 Ill. 2d at 358. First, the challenged action must be of a duration too short to be fully litigated prior to its cessation. *Id.* This element is clearly met in this case, as the order was limited to 90 days, and the respondent was released before that time expired. The second element is that there must be a reasonable expectation that the complaining party would be subjected to the same action again. *Id.* Our supreme court has interpreted this element to require "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" such that resolution of the issue could be of use to T.B. or another individual in future litigation. *Id.* at 360. Two of the respondent's arguments essentially relate to claims regarding the sufficiency of the evidence. As with the "public interest" exception, this element is not fulfilled when the issue on appeal is whether the circuit court lack sufficient evidence to order an involuntary commitment. The third issue, concerning section 3-606, is specific to the circumstances of this case, thus we do not find that resolution of this issue could be of use to T.B. in future litigation. After careful consideration, we decline to find that the "capable-of-repetition-yet-avoiding-review" exception applies to T.B.'s claims regarding the sufficiency of the evidence, as well as section 3-606 of the Code because we do not find that there is a substantial likelihood that the circumstances surrounding this issue will recur to T.B.

¶ 13 Under these circumstances, we conclude that the respondent has failed to establish

that the "public interest" exception and the "capable-of-repetition-yet-avoiding-review" exception apply in this case. Accordingly, we dismiss the respondent's appeal as moot.

¶ 14 Appeal dismissed.