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Carla Bender
4th District Appellate
Court, IL

2018 IL App (4th) 160945-U

NOS. 4-16-0945, 4-17-0009 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re CYNTHIA M., a Person Found Subject to Involuntary Admission	)	Appeal from Circuit Court of Sangamon County
(The People of the State of Illinois, Petitioner-Appellee, v. (No. 4-17-0009) Cynthia M., Respondent-Appellant).	)	No. 16MH587
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In re CYNTHIA M., a Person Found Subject to Involuntary Medication	)	No. 16MH589
(The People of the State of Illinois, Petitioner-Appellee, v. (No. 4-16-0945) Cynthia M., Respondent-Appellant).	)	Honorable Esteban F. Sanchez, Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Harris and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court (1) granted respondent's counsel's motions to withdraw, concluding no meritorious issues can be raised on appeal; and (2) dismissed the appeal.

¶ 2 In November 2016, police officer Grant Peterson filed a petition for the emergency inpatient involuntary admission of respondent, Cynthia M., after she exhibited delusional behavior and assaulted Officer Peterson. The State thereafter filed a petition to involuntarily administer medication. Following hearings on both petitions, the trial court ordered

respondent involuntarily committed for a period not to exceed 90 days and ordered the involuntary administration of medication. Respondent filed notices of appeal in both cases.

¶ 3 Respondent's counsel has filed motions to withdraw in both cases, asserting the case presents no meritorious issues for review. For the following reasons, we grant respondent's counsel's motions to withdraw and dismiss the appeal.

¶ 4 I. BACKGROUND

¶ 5 In November 2016, Officer Peterson, an officer with the Riverton police department, responded to a domestic-violence dispute in which respondent allegedly threw a cup of coffee on her 34-year-old daughter, Holly M. When Officer Peterson arrived, respondent threw coffee on Officer Peterson and struck him numerous times. Respondent was also exhibiting delusional behavior.

¶ 6 As a result of his encounter with respondent, Officer Peterson filed a petition for the emergency inpatient involuntary admission of respondent, a person with a mental illness, alleging she (1) engaged in conduct placing herself or another person in physical harm or in reasonable expectation of being physically harmed; (2) was refusing or not adhering to treatment due to her failure to understand the need for treatment, and her failure to understand would lead to further mental or emotional deterioration if not treated on an inpatient basis; and (3) needed immediate hospitalization to prevent such harm. The State subsequently filed a petition for the involuntary administration of medication, asserting respondent was refusing to take medication to regulate her paranoid delusions and violent behaviors.

¶ 7 In December 2016, the trial court held separate hearings on the petitions and heard the following evidence.

¶ 8 A. Involuntary Admission

¶ 9 The trial court first considered the petition for involuntary admission. Officer Peterson testified, on November 29, 2016, he responded to a domestic dispute between respondent and Holly. When he arrived at the residence, respondent was standing outside and assured him everything was fine. Officer Peterson informed respondent that he needed to speak with Holly, as she was the person who called the police, but respondent refused to let Officer Peterson speak with Holly. When respondent tried to return inside the home, Officer Peterson stopped her from shutting the door and wedged himself through the opening. Respondent threw a cup of hot coffee on him, and then ran to a chair with two steak knives nearby. Alarmed at the presence of the knives, Officer Peterson removed respondent from the chair. Respondent began violently swinging her arms at him. At that time, Officer Peterson attempted to handcuff respondent for safety reasons. According to Officer Peterson, respondent began screaming she was pregnant with multiple babies and he was killing her babies. Respondent told Officer Peterson to disregard anything Holly said because Holly had a chromosome abnormality.

¶ 10 Once Officer Peterson secured respondent in handcuffs, he spoke with Holly, who had noticeable coffee stains on her pajamas. As a result of that conversation, he determined respondent needed a psychiatric evaluation rather than incarceration. Officer Peterson told respondent he was taking her to Memorial Medical Center (Memorial), but respondent told him she could not go to Memorial because they "destroyed her vagina."

¶ 11 Dr. Rodica Brisan, a psychiatrist, testified she was treating respondent at Memorial. Dr. Brisan attempted to speak with respondent on multiple occasions; but outside a 10-minute conversation on the day she was admitted, respondent refused to speak with Dr. Brisan. After examining respondent and considering her extensive psychiatric history, which included numerous hospitalizations, Dr. Brisan diagnosed respondent with schizoaffective

disorder, bipolar type. Dr. Brisan noted respondent suffered from paranoid delusions consistent with this diagnosis, such as (1) she was pregnant with several babies; (2) Memorial and Andrew McFarland Mental Health Center (McFarland) injured her by breaking her bones and ripping her genitals apart; (3) prescribed medications injured her fetuses and gave her epilepsy; (4) past electroconvulsive therapy caused her brain to bleed; and (5) Dr. Brisan was evil and intended to harm her. Dr. Brisan clarified respondent is 59 years old and not pregnant. Although respondent had electroconvulsive therapy in the past, no medical evidence suggests any bleeding in her brain.

¶ 12 According to Dr. Brisan, there was a reasonable expectation respondent would harm others due to her mental illness. Dr. Brisan pointed to respondent's history of violence, which included (1) an attempt to set her daughter and her daughter's boyfriend on fire, (2) acting violently upon hospital admission, and (3) threatening to kill staff. Respondent also refused to take the prescribed psychiatric medications due to her paranoid delusions. Dr. Brisan's records indicated respondent was discharged from McFarland on October 15, 2016, and immediately stopped taking her medications.

¶ 13 Dr. Brisan opined, if not hospitalized, respondent was reasonably expected, based on her history of mental illness, to suffer mental or emotional deterioration and become a serious physical threat to herself or others. Moreover, her mental illness made her unable to understand the need for treatment. Thus, Dr. Brisan concluded respondent required in-patient treatment. In her current condition, Dr. Brisan opined respondent would be unable to live on her own, and her psychiatric symptoms and refusal to take medication precluded her from living in a nursing home. Thus, Dr. Brisan recommended respondent be involuntarily admitted to Memorial for a period not to exceed 90 days.

¶ 14 Following the presentation of evidence, the trial court found respondent was a person suffering from mental illness and, as a result, she was subject to hospitalization. The court noted respondent's long history of schizoaffective disorder, bipolar type, and her unwillingness to comply with treatment. The court found respondent was reasonably expected, unless treated on an inpatient basis, to engage in conduct placing her or another in physical harm or in reasonable expectation of physical harm. In support, the court highlighted respondent's violent behavior and threats toward others, including striking Officer Peterson, threatening Memorial staff, and throwing coffee on both Holly and Officer Peterson.

¶ 15 Additionally, the trial court found respondent was refusing treatment or not adhering adequately to that prescribed treatment and, if not treated on an inpatient basis, she was reasonably expected to suffer mental or emotional deterioration such that she would be reasonably expected to inflict serious physical harm to others. Accordingly, the court granted the petition and ordered respondent involuntarily committed to Memorial for a period not to exceed 90 days.

¶ 16 B. Involuntary Administration of Medication

¶ 17 The trial court subsequently heard evidence on the State's petition for the involuntary administration of medication. Notably, during the proceedings, respondent repeatedly caused interruptions before choosing to leave.

¶ 18 Dr. Brisan repeated her qualifications in psychiatry and that she had been treating respondent daily since her admission on November 29, 2016. Dr. Brisan diagnosed respondent with schizoaffective disorder, bipolar type, a diagnosis respondent initially received decades before. According to Dr. Brisan, respondent exhibited paranoid delusions, somatic delusions, and mood disturbances. The mood disturbances included anger, irritability, and crying spells.

Respondent's somatic delusions included beliefs that she was pregnant and bleeding from her brain.

¶ 19 In Dr. Brisan's opinion, respondent lacked the capacity to make reasoned decisions about her treatment, as her decisions were based on her delusions. Dr. Brisan testified respondent had no insight into her condition, and she exhibited deterioration in her ability to function. Specifically, the doctor highlighted the circumstances that brought respondent to the hospital—assaulting a police officer and throwing hot coffee on her daughter—as an example of respondent's deterioration that resulted from her refusal to take psychotropic medication. Further, Dr. Brisan testified respondent suffered from physical and emotional distress, and exhibited threatening behavior. For example, respondent recently threatened staff and Dr. Brisan and acted violently to the extent she had to be restrained.

¶ 20 To treat respondent, Dr. Brisan recommended several medications. Fluphenazine (2.5 to 40 milligrams daily) would stabilize respondent's mood and reduce her delusions. Side effects include symptoms similar to Parkinson's disease—tremors, rigidity, shuffled gait, and masked face—as well as tardive dyskinesia. Fluphenazine decanoate (up to 100 milligrams every three weeks) is a long-lasting injection that would also stabilize respondent's mood and reduce her delusions. Side effects include cardiac arrhythmia or affecting the eyes.

¶ 21 Dr. Brisan also recommended alternative treatments to fluphenazine and fluphenazine decanoate that would have the same benefits for respondent. Invega (6 to 12 milligrams daily), had the same side effects as fluphenazine, plus neuroleptic malignant syndrome and the possibility of affecting cholesterol or blood pressure. Invega sustenna (156 to 177 milligrams every four weeks) had the same side effects as fluphenazine decanoate. Dr. Brisan also recommended Haldol (2.2 to 10 milligrams daily), which had side effects of

symptoms like Parkinson's disease, tardive dyskinesia, and neuroleptic malignant syndrome. Finally, Haldol decanoate (50 to 100 milligrams every four weeks) had side effects similar to Haldol. According to Dr. Brisan, respondent had taken all of these medications at some point. Respondent improved after taking each of the medications and experienced no side effects. Dr. Brisan acknowledged one occasion in 1998 when respondent experienced some sedation after an increased dose of fluphenazine, but she recovered when the dose was readjusted. In addition to administering the medication, Dr. Brisan sought authority to supervise respondent's physical condition—blood sugar, cholesterol, heart, kidney function, *etcetera*—to monitor for adverse side effects.

¶ 22 Dr. Brisan testified that, on numerous occasions, she attempted to speak with respondent about the medications, including their benefits and side effects, but respondent refused to listen. The doctor also gave respondent written documentation of the benefits, risks, and side effects of the medication, but respondent destroyed the documents. According to Dr. Brisan, less-restrictive options, such as group therapy, were inappropriate due to respondent's mental state.

¶ 23 Following the presentation of evidence, the trial court found by clear and convincing evidence that respondent was a person suffering from a serious mental illness—schizoaffective disorder, bipolar type—who exhibited somatic and paranoid delusions. The court noted, "[s]he is clearly suffering a deterioration of her ability to function, and she's engaging in threatening and disruptive behavior." As a result, she could not understand the need for medication. The court found the benefit of the medication outweighed the risk of the side effects, particularly where she had previously taken all of the medications and experienced the benefits but not the adverse side effects.

¶ 24 The trial court determined, "I find [respondent] lacks the capacity to make reasoned decision[s] about her treatment. First, she does not believe that she is mentally ill. Second, she does not believe she needs treatment, but above all, her treatment decisions are being made for reasons other than the treatment of mental illness." The court also found less-restrictive forms of treatment, such as group therapy, were inappropriate due to respondent's mental state. Accordingly, the court granted the petition for the involuntary administration of medication.

¶ 25 C. The Appeal

¶ 26 Respondent filed timely notices of appeal. On the court's own motion, we have consolidated these cases for appeal. We have docketed the involuntary admission case (Sangamon County case No. 16-MH-587) as No. 4-17-0009 and the involuntary administration of medication case (Sangamon County case No. 16-MH-589) as No. 4-16-0945.

¶ 27 In May 2017, respondent's appellate counsel filed briefs in both cases alleging no meritorious issues could be raised on appeal, which we characterized as motions to withdraw consistent with the requirements set forth in *Anders v. California*, 386 U.S. 738 (1967). This court forwarded copies of counsel's briefs to respondent and allowed respondent leave to file additional points and authorities by February 15, 2018. Respondent has not done so. After examining the record and the possible issues on appeal, we grant respondent's counsel's motions to withdraw and dismiss the appeal.

¶ 28 II. ANALYSIS

¶ 29 Counsel for respondent asserts no meritorious argument can be made on appeal to support the contentions that (1) respondent's claims should be reviewed under an exception to the

mootness doctrine, and (2) the trial court's decisions were against the manifest weight of the evidence. We turn first to the issue of mootness.

¶ 30 Respondent's 90-day commitment and involuntary-medication orders expired on their own terms in March 2017. 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, respondent's cases do 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 *id*. This court considers these exceptions on a case-by-case basis. *Id.* at 354, 910 N.E.2d at 79.

¶ 31 A. Collateral-Consequences Exception

¶ 32 In analyzing the collateral-consequences exception, we must engage in a case-by-case analysis of the relevant facts and legal issues to determine whether application of the exception is warranted. *In re Rita P.*, 2014 IL 115798, ¶ 34, 10 N.E.3d 854. "Collateral consequences must be identified that 'could stem solely from the present adjudication.' " *Id*. (quoting *Alfred H.H.*, 233 Ill. 2d at 364, 910 N.E.2d at 84).

¶ 33 In this case, respondent fails to identify any collateral consequences that stemmed solely from these adjudications. Additionally, we note respondent has been involuntarily admitted and involuntary medicated on previous occasions throughout her struggle with mental illness. See, *e.g.*, *In re Cynthia M.*, 2017 IL App (4th) 160739-U (dismissing as moot the trial court's order for involuntary admission); *In re Cynthia M.*, 2017 IL App (4th) 160580-U

(dismissing as moot the court's order for the involuntary administration of medication). Thus, the trial court's orders do not merit application of this exception.

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

¶ 35 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 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, 910 N.E.2d at 83. 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. *Id.* at 358-60, 910 N.E.2d at 82-83.

¶ 36 Due to respondent's history of mental illness, resulting in numerous involuntary commitments and orders for the involuntary administration of 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 2014)). However, the ruling in this case was based on a unique set of facts—respondent's violence against Officer Peterson and Holly, her threats against Memorial staff, and her delusions resulting from her failure to take her medication—presented to the trial court during the December 2016 proceedings; any future court ruling must be based on the unique set of facts presented to the court on that future occasion. *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82. Respondent has not asserted the trial court made any statutory or constitutional errors. Thus, we conclude the capable-of-repetition-yet-evading-review exception to the mootness doctrine does not apply in this instance.

¶ 37 C. Public-Interest Exception

¶ 38 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 a 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. *Id.* 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 a 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.

¶ 39 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 court during the December 2016 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.

¶ 40 Because we have concluded none of the exceptions to the mootness doctrine are applicable to the present case, we grant respondent's counsel's motions to withdraw because no meritorious issues can be raised on appeal and dismiss the appeal. However, we note for future proceedings when there are no meritorious issues for appeal, the appropriate procedure for

counsel is to file a motion to withdraw consistent with the requirements set forth in *Anders*, 386 U.S. 738, rather than an appellant's brief conceding the issues.

¶ 41 III. CONCLUSION

¶ 42 Based on the foregoing, we grant respondent's counsel's motions to withdraw and dismiss this appeal.

¶ 43 Dismissed.