Illinois Official Reports

Appellate Court

In re Megan G., 2015 IL App (2d) 140148

Appellate Court Caption	_In re_ MEGAN G., Alleged to Be a Person Subject to Involuntary Treatment (The People of the State of Illinois, Petitioner-Appellant, v. Megan G., Respondent-Appellee).–_In re_ MEGAN G., Alleged to Be a Person Subject to Involuntary Treatment (The People of the State of Illinois, Petitioner-Appellant, v. Megan G., Respondent-Appellee).–_In re_ MEGAN G., Alleged to Be a Person Subject to Involuntary Treatment (The People of the State of Illinois, Petitioner-Appellant, v. Megan G., Respondent-Appellee).
District & No.	Second District Docket Nos. 2-14-0148, 2-14-0149, 2-14-0183 cons.
Filed	November 17, 2015
Decision Under Review	Appeal from the Circuit Court of Lake County, Nos. 14-MH-01, 14-MH-04, 14-MH-05; the Hon. George D. Strickland and the Hon. John J. Scully, Judges, presiding.
Judgment	Affirmed.
Counsel on Appeal	Michael G. Nerheim, State's Attorney, of Waukegan (Stephen J. Rice, Assistant State's Attorney, of counsel), for the People. Veronique Baker, of Guardianship & Advocacy Commission, of Chicago, and Laurel Spahn, of Guardianship & Advocacy Commission, of Hines, for appellee.

Panel JUSTICE McLAREN delivered the judgment of the court, with opinion.
Justice Spence concurred in the judgment and opinion.
Justice Jorgensen specially concurred, with opinion.

OPINION

¶ 1 In these consolidated appeals, the State appeals the dismissals of two petitions for involuntary admission (Nos. 2-14-0148 and 2-14-0183) and one petition for involuntary administration of psychotropic medication (No. 2-14-0149), all naming Megan G. as respondent. The State argues that: (1) the appeals should not be dismissed as moot; (2) the trial court erred by dismissing the initial petition for involuntary admission and the petition for involuntary administration of psychotropic medication for lack of jurisdiction, because at the time of the hearing the felony charges against Megan had been nol-prossed; and (3) the trial court erred by dismissing the second petition for involuntary admission for the failure to file proof of service of the petition and a statement of rights, because respondent received actual notice of the petition. We affirm.

¶ 2 I. BACKGROUND

¶ 3 The following facts are taken from the bystander's report filed in accordance with Illinois Supreme Court Rule 323 (eff. Dec. 13, 2005) and the records on appeal. Megan was in the early stages of pregnancy in December 2013, when she stopped taking medication prescribed to her for bipolar disorder. Her condition deteriorated, and on December 27, 2013, she reportedly accused her husband, Chris G., of infidelity and pedophilia and chased him with a knife. Chris called the police and Megan was arrested and charged with two counts of a Class 2 felony, aggravated battery to a peace officer (720 ILCS 5/12-3.05(d)(4) (West 2012)).[1] Megan was jailed from December 27, 2013, until the morning of January 2, 2014, when she was released on a recognizance bond.

¶ 4 Immediately upon her release, the Lake County sheriff's office took Megan to Vista Medical Center West in Waukegan, where she was admitted to the psychiatric unit. Chris completed a "Petition for Involuntary/Judicial Admission," naming Megan as respondent. The petition was for emergency admission by certification, pursuant to section 3-600 of the Mental Health and Developmental Disabilities Code (Mental Health Code) (405 ILCS 5/3-600 (West 2014)), and it stated that Megan was currently detained and in need of immediate hospitalization for the prevention of serious harm due to mental illness. Specifically, "Megan stopped taking her meds at the end of November ***. Accused me of cheating and being a pedophile. On Dec. 27[, 2013,] chased me out of house with knife. I called police[.] She was arrested and brought to Lake County Jail."

¶ 5 The petition was filed on January 3, 2014, and the hearing on the petition was set for January 9.[2] On January 8, the trial court granted the State's motion to continue and set the

[1]Case No. 13-CF-3750.

[2]Case No. 14-MH-01.

hearing date for January 16. On January 9, Megan's psychiatrist filed a petition for involuntary administration of psychotropic medication,[3] and the hearing date was set for January 16, to be heard with the petition for involuntary admission.

¶ 6 On January 15, 2014, the State sought another continuance of the hearings on both petitions, stating, "If the felony charges are not reduced prior to a hearing on this matter, the courts have held that the court lacks jurisdiction to enter an order of involuntary commitment. 405 ILCS 5/3-100; *In re Alex T.*, 375 Ill. App. 3d 758, 759 (2d Dist. 2007)." The State also explained that it was "attempting to work with [Megan's attorney] *** to reduce the charges from felonies to misdemeanors." Also, on January 15, Megan filed a motion to dismiss the petition for involuntary admission, pursuant to section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2014)). Megan asserted that the trial court lacked jurisdiction to grant the petition, because felony charges were pending against Megan. Megan cited section 3-100 of the Mental Health Code (405 ILCS 5/3-100 (West 2014)) to support her motion to dismiss.

¶ 7 On January 16, the State voluntarily dismissed, via *nolle prosequi*, the felony charges that had been pending against Megan. Later that day, during the proceedings on the petitions for involuntary admission and involuntary administration of psychotropic medication, the State sought a continuance. Megan argued that her motion to dismiss should be granted even though the felony charges had been dismissed, because the trial court had no authority to act when the proceedings began. The trial court, Judge George D. Strickland presiding, denied the State's motion for a continuance and dismissed the petitions, stating, "the Court lacks personal jurisdiction over the Respondent under 405 ILCS 5/3-100 because the Respondent was charged with a felony at the time proceedings on these matters (14 MH 01 and 14 MH 04) began ***. Because of the formerly pending felony matter, all orders entered to date in this matter are without effect."

¶ 8 Megan remained hospitalized and on the following day, January 17, 2014, Megan's therapist filed a second "Petition for Involuntary/Judicial Admission."[4] Megan moved to dismiss the second petition for involuntary admission, because the two final pages–proof of service of the petition and a statement of rights–were incomplete in violation of section 3-611 of the Mental Health Code (405 ILCS 5/3-611 (West 2014)). On January 21, 2014, the trial court, Judge John T. Scully, presiding, granted Megan's motion to dismiss.

¶ 9 A third petition for involuntary admission and a second petition for administration of psychotropic medication were filed but these petitions were voluntarily dismissed on January 27, 2014. On February 11, 2014, the State filed separate notices of appeal, appealing the trial court's January 16, 2014, order dismissing the first petition for involuntary admission and the petition for involuntary administration of psychotropic medication. On February 18, 2014, the State filed a notice of appeal of the trial court's January 21, 2014, order dismissing the second petition for involuntary admission.

¶ 10 This court takes judicial notice of the following. On March 25, 2014, a trial court in Cook County ordered Megan to undergo involuntary treatment (case No. 14-MH-578) for a period not to exceed 90 days. See *In re Riviere*, 183 Ill. App. 3d 456, 459 (1989) (taking judicial

[3]Case No. 14-MH-04.

[4]Case No. 14-MH-05.

notice of subsequent mental health orders). Subsequently, Megan was released from a Cook County hospital and gave birth to her baby in June 2014.

¶ 11 II. ANALYSIS

¶ 12 Initially, we note that the parties agree that, because Megan was ordered in March 2014 to take medication involuntarily, these consolidated appeals are moot. See *In re India B.*, 202 Ill. 2d 522, 542 (2002) ("A case on appeal is rendered moot where the issues that were presented in the trial court do not exist any longer because intervening events have rendered it impossible for the reviewing court to grant the complaining party effectual relief."). However, the State argues that this case requires review despite mootness. The State argues that two exceptions to the mootness doctrine apply to this case: (1) the public-interest exception and (2) the capable-of-repetition exception. See *In re Alfred H.H.*, 233 Ill. 2d 345, 355, 358 (2009). Whether an appeal should be dismissed as moot presents a question of law, which we review *de novo*. *In re James W.*, 2014 IL 114483, ¶ 18.

¶ 13 The public-interest exception permits review of an otherwise moot appeal when: (1) the issue is of a public nature; (2) an authoritative determination is required for the future guidance of public officers; and (3) there is a likelihood of future recurrences. *In re Andrew B.*, 237 Ill. 2d 340, 347 (2010). The exception is narrowly construed and is established by a clear showing of each criterion. *Id*. The State has made such a showing in this case.

¶ 14 The State argues that the trial court erred by dismissing the initial petition for involuntary admission and the petition for involuntary administration of psychotropic medication, because the trial court misconstrued section 3-100 of the Mental Health Code. The State contends that the trial court erred by ruling that it lacked jurisdiction pursuant to section 3-100, because at the time of the hearing the felony charges had been nol-prossed. The State further asserts that the trial court erred by ruling that the second petition for involuntary admission was infirm pursuant to section 3-611, as the failure to file proof of service of the petition and the statement of rights was not cause for dismissal since respondent received actual notice of the petition. Therefore, at issue are the procedures that must be followed before a court may authorize involuntary admission and treatment of recipients of mental health services. These are matters of a public nature and of substantial public concern. See *In re James W.*, 2014 IL 114483, ¶¶ 21, 23 (holding that, although the appeal was moot, the public-interest exception applied because at issue were the procedures that must be followed for involuntary admission and treatment of respondents pursuant to section 3-813 of the Mental Health Code (quoting 405 ILCS 5/3-813(b) (West 2010))); see also *In re Andrew B.*, 237 Ill. 2d 340, 347 (2010); *In re Mary Ann P.*, 202 Ill. 2d 393, 402 (2002). Involuntary admission implicates substantial liberty interests, and, as this case reveals, there is uncertainty regarding the statutory authority of trial courts in involuntary admission cases; hence, providing authoritative guidance for public officers is clearly desirable. See *In re James W.*, 2014 IL 114483, ¶ 21. Accordingly, we consider these appeals under the public-interest exception to the mootness doctrine.

¶ 15 Appeal Nos. 2-14-0148 and 2-14-0149

¶ 16 The State contends that the trial court erred by dismissing the first petition for involuntary admission and the petition for involuntary administration of psychotropic medication for lack of jurisdiction pursuant to section 3-100 of the Mental Health Code, because at the time of

the hearing the felony charges had been nol-prossed. Section 3-100 states that "[t]he circuit court has jurisdiction under this Chapter over persons not charged with a felony who are subject to involuntary admission." 405 ILCS 5/3-100 (West 2014). Megan contends that in *Alex T.*, 375 Ill. App. 3d at 763, this court correctly determined section 3-100 to be an "appropriate limitation on the circuit court's jurisdiction."

¶ 17 When we interpret a statute, our primary objective is to determine and give effect to the legislature's intent. See *In re Lance H.*, 2014 IL 114899, ¶ 11. The most reliable indication of the legislature's intent is the plain language of the statute itself. *Id*. Where the language is plain and unambiguous, we apply the statute without resort to further aids of statutory construction. See *id*.

¶ 18 Jurisdiction is composed of two elements: subject matter jurisdiction and personal jurisdiction. *In re M.W.*, 232 Ill. 2d 408, 414 (2009). If a court lacks jurisdiction and enters an order, that order is void and may be attacked at any time. *Id*. However, if a court has acquired jurisdiction and enters an order in error, that order is voidable and is not subject to collateral attack. *Id*. at 415.

¶ 19 The State argues that the trial court did not lack personal jurisdiction pursuant to section 3-100 of the Mental Health Code. Personal jurisdiction is the court's power "to bring a person into its adjudicative process." Black's Law Dictionary 870 (8th ed. 2004). Although the language of section 3-100 indicates a limitation on personal jurisdiction, section 3-100 does not govern "modes of service or alternative methods for bringing a party into court." *Alex T.*, 375 Ill. App. 3d at 763. In this case, Megan did not contest personal jurisdiction, the record indicates that she received proper notice, and her appointed counsel was present at the hearing on her motion to dismiss. Therefore, the trial court had personal jurisdiction over Megan.

¶ 20 The State argues that the trial court also had subject matter jurisdiction pursuant to section 3-100 of the Mental Health Code. Whether a circuit court has subject matter jurisdiction to entertain a claim presents a question of law which we review *de novo*. See *McCormick v. Robertson*, 2015 IL 118230, ¶ 18. Under section 9 of article VI of the Illinois Constitution, the jurisdiction of circuit courts extends to all "justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office." Ill. Const. 1970, art. VI, § 9. So long as a matter brought before the circuit court is justiciable and does not fall within the original and exclusive jurisdiction of the supreme court, the circuit court has subject matter jurisdiction to consider it. See *M.W.*, 232 Ill. 2d at 424. A matter is considered justiciable when it presents "a controversy appropriate for review by the court, in that it is definite and concrete, as opposed to hypothetical or moot, touching upon the legal relations of parties having adverse legal interests." *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 335 (2002).

¶ 21 Subject matter jurisdiction is defined as a court's power to hear and determine cases of the general class to which the proceeding in question belongs. *People v. Hughes*, 2012 IL 112817, ¶ 20; see also *In re Luis R.*, 239 Ill. 2d 295, 300 (2010). Regarding subject matter jurisdiction, the supreme court explained that "the *only* consideration is whether the alleged claim falls within the general class of cases that the court has the inherent power to hear and determine. If it does, then subject matter jurisdiction is present." (Emphasis in original.) *Luis R.*, 239 Ill. 2d at 301. Even a defectively stated claim is sufficient to establish a trial court's

subject matter jurisdiction if the claim falls within the general class of cases that the court has the inherent power to hear. *Id.*

¶ 22 In this case, the petition asserted a claim under section 3-600 of the Mental Health Code (405 ILCS 5/3-600 (West 2014)). That section authorizes a petition alleging that the respondent is subject to involuntary admission to a mental health facility, is 18 years or older, and is in need of immediate hospitalization. *Id.* Because the petition sets forth the required allegations on its face, the petition alleges the existence of a justiciable matter. See *Luis R.*, 239 Ill. 2d at 302-03. Accordingly, the trial court had subject matter jurisdiction. See *id.* at 303.

¶ 23 However, compliance with statutory requirements involves different issues from those involved in jurisdiction. *McCormick*, 2015 IL 118230, ¶ 22. As our supreme court pointed out in *McCormick*, "[a]dherence to statutory requirements is vital to the rule of law," and "the constitutional source of a circuit court's jurisdiction does not carry with it a license to disregard the language of a statute." (Internal quotation marks omitted.) *Id.* Therefore, a complaint may be dismissed as defective if the defendant is statutorily excluded from the class of persons against whom such a complaint may be filed. See *People v. Baum*, 2012 IL App (4th) 120285, ¶ 13.

¶ 24 We conclude that the term "jurisdiction" in section 3-100 of the Mental Health Code references a procedural limit on when the court may hear matters under the Mental Health Code, not a precondition to the exercise of the court's jurisdiction. See *McCormick*, 2015 IL 118230, ¶ 27. Thus, pursuant to section 3-100 of the Mental Health Code, trial courts are procedurally limited from hearing a petition for involuntary admission where a person is charged with a felony. See 405 ILCS 5/3-100 (West 2014).

¶ 25 In this case, the initial petition for involuntary admission was filed on January 3, 2014, while Megan was charged with two counts of a felony. Rather than voluntarily dismissing the felony charges to pursue the petition to involuntarily admit Megan, the State decided to move for continuances. The State explained in its motions to continue that it was "attempting to work with [Megan's attorney] in the felony proceeding *** to reduce the charges from felonies to misdemeanors." The State further stated, "[i]f the felony charges are not reduced prior to a hearing on this matter, the courts have held that the court lacks jurisdiction to enter an order of involuntary commitment." The State nol-prossed the felony charges the morning of January 16 and the trial court dismissed the petitions later that afternoon.

¶ 26 Because the trial court was procedurally limited from hearing this matter at any time while felony charges were pending, it properly dismissed the petition for involuntary admission pursuant to section 3-100 of the Mental Health Code. Dismissal was appropriate because Megan was a person "charged with a felony" when the petition was filed and when the trial court granted the State's numerous motions to continue. Although the trial court dismissed the petition for lack of jurisdiction, we may affirm the judgment of the trial court on any basis supported by the record, regardless of the trial court's reasoning. See *Garrido v. Arena*, 2013 IL App (1st) 120466, ¶ 36; see also *Baum*, 2012 IL App (4th) 120285, ¶ 13 (affirming the trial court's dismissal of the State's petition based on the lack of statutory authority, even though the trial court "inexactly uses [the term] 'jurisdiction' ").

¶ 27 The State urges this court to clarify our decision in *Alex T.*, 375 Ill. App. 3d 758, where we vacated an involuntary commitment order as void for lack of jurisdiction, based on section 3-100 of the Mental Health Code, because the trial court ordered the respondent's

involuntary commitment while felony charges were pending. *Id*. at 759, 763-64. The State contends that *Luis R.*, 239 Ill. 2d 295, "provides a better framework for how this court should analyze the circumstances [here]." This case is distinguishable from *Alex T*. In *Alex T.*, the respondent forfeited the issue by failing to raise the defect in the trial court, raising it for the first time on appeal. *Alex T.*, 375 Ill. App. 3d at 764. In order to grant relief to the respondent, this court determined that the order was void rather than voidable, a distinction the special concurrence fails to discern. *Id.* at 763. In this case we are *affirming* the trial court's dismissal of the petition based on a lack of statutory authority, not vacating an involuntary commitment order as void based on a lack of jurisdiction. Therefore, we need not clarify *Alex T.*, as it is procedurally distinguishable and any comment regarding it would be *dicta*. Further, our decision is consistent with *Luis R.*, 239 Ill. 2d 295, and its progeny, both procedurally and on the law. In *Luis R.*, the supreme court could have affirmed on any basis, including holding that the lack of statutory authority was a jurisdictional defect, as the special concurrence suggests we should hold here. But in *Luis R.*, the supreme court declined to recognize the lack of statutory authority as a jurisdictional defect. *Id.* at 301 (reasoning that "the *only* consideration [regarding subject matter jurisdiction] is whether the alleged claim falls within the general class of cases that the court has the inherent power to hear and determine" (emphasis in original)); see also *In re Luis R.*, 2013 IL App (2d) 120393, ¶¶ 16, 24 (after remand from the supreme court this court affirmed the dismissal of the State's juvenile delinquency petition, holding that the trial court had jurisdiction but that the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2006)) did not authorize the State to institute proceedings against a person 21 years of age or older).

¶ 28 Further, the trial court properly dismissed the petition for administration of psychotropic medication. See *In re John N.*, 364 Ill. App. 3d 996, 998 (2006) (holding that the dismissal of a petition for administration of psychotropic medication is warranted where such petition is dependent on a respondent receiving inpatient treatment and the order granting a petition for involuntary admission was improper).

¶ 29 Appeal No. 2-14-0150

¶ 30 The State also argues that the trial court erred by dismissing the second petition for involuntary admission pursuant to section 3-611 of the Mental Health Code (405 ILCS 5/3-611 (West 2014)), because a failure to file proof of service and the statement of rights does not warrant dismissal.

¶ 31 Section 3-611 provides in relevant part:

> "Within 24 hours, excluding Saturdays, Sundays and holidays, after the respondent's admission under this Article, the facility director of the facility shall file 2 copies of the petition, the first certificate, and proof of service of the petition and statement of rights upon the respondent with the court in the county in which the facility is located. Upon completion of the second certificate, the facility director shall promptly file it with the court and provide a copy to the respondent." *Id.*

¶ 32 In this case it is abundantly clear from the record that the second petition for involuntary admission was defective pursuant to section 3-611. Within 24 hours of the dismissal of the first petitions, the State filed a second petition for involuntary admission. However, the State failed to file the required proof of service and the statement of rights. Further, a perfected

petition was not filed within 24 hours. Therefore, the trial court properly dismissed the second petition for involuntary admission.

¶ 33 The State complained in the trial court that the dismissal would be "based on a technicality." We remind the State that, because involuntary commitment affects important liberty interests, those seeking to keep an individual confined must strictly comply with procedural safeguards included within the Mental Health Code. *In re Lance H.*, 402 Ill. App. 3d 382, 386 (2010). The procedures included in the Mental Health Code are not mere technicalities; rather, these essential tools safeguard the liberty interests of respondents in mental health cases. *Id*.

¶ 34 III. CONCLUSION

¶ 35 For the reasons stated, we affirm the trial court's orders.

¶ 36 Affirmed.

¶ 37 JUSTICE JORGENSEN, specially concurring.

¶ 38 I agree with the majority's holding, in appeal Nos. 2-14-0148 and 2-14-0149, that the dismissals of the State's petitions were proper. However, the majority reasons that the dismissals were proper because, although the trial court had "jurisdiction" over the State's commitment action, the court lacked "statutory authority" over it. In doing so, despite the majority's insistence to the contrary, the majority departs from our holding in *Alex T.*, where we ruled that in this context, jurisdiction and statutory authority are one and the same. I would follow *Alex T.* and hold that the trial court did lack jurisdiction. Alternatively, I would hold that the trial court lacked statutory authority and would not address whether the court also lacked jurisdiction. In either case, however, I would not depart from *Alex T.*

¶ 39 I begin by acknowledging that the trial court did lack statutory authority over the State's commitment action. When the State filed that action, respondent was facing felony charges. Although the State points out that it had dropped those charges by the time of the hearing, it offers no authority for its contention that respondent could be made a valid respondent to the action after the action was filed. *Cf. Deutsche Bank National Trust Co. v. Gilbert*, 2012 IL App (2d) 120164, ¶ 15 ("A party's standing to sue must be determined as of the time the suit is filed."). Thus, I agree that the trial court properly dismissed the action for lack of statutory authority. See 405 ILCS 5/3-100 (West 2014).[5]

¶ 40 The majority, however, goes farther. Contrary to *Alex T.*, the majority states that the trial court's lack of statutory authority did not amount to a lack of jurisdiction. I would not go that far. In my view, *Alex T.* is sound, at least under the supreme court's jurisprudence as it presently stands, and the ramifications of the majority's departure from it are dangerous.

¶ 41 In *Alex T.*, we acknowledged that in a series of cases beginning with *Steinbrecher v. Steinbrecher*, 197 Ill. 2d 514 (2001), the supreme court had established that, pursuant to the Illinois Constitution, " 'a circuit court is a court of general jurisdiction, which need not look

[5]Arguably, the trial court's lack of statutory authority supported the dismissals only under section 2-619 of the Code (735 ILCS 5/2-619 (West 2014)), not section 2-615. However, any error on this point caused no prejudice here. See *Indesco Products, Inc. v. Novak*, 316 Ill. App. 3d 53, 55-56 (2000).

to [a] statute for its jurisdictional authority.' " *Alex T.*, 375 Ill. App. 3d at 761 (quoting *Steinbrecher*, 197 Ill. 2d at 530). And indeed, the supreme court has gone on to articulate this concept in impressively absolute terms. See *Luis R.*, 239 Ill. 2d at 301 ("[T]he *only* consideration is whether the alleged claim falls within the general class of cases that the court has the inherent power to hear and determine. If it does, then subject matter jurisdiction is present." (Emphasis in original.)). But as we pointed out in *Alex T.*, the supreme court has not applied this concept to all cases. Rather, the supreme court has applied it "in the general run of civil cases" (*Alex T.*, 375 Ill. App. 3d at 762), but not–or at least not consistently–in criminal cases. In criminal cases, the supreme court has repeatedly stated both that (1) "[w]hether a judgment is void or [merely] voidable presents a question of jurisdiction" (*People v. Davis*, 156 Ill. 2d 149, 155 (1993)) and that (2) a judgment (specifically, a sentence) "that is not authorized by statute is void" (*People v. Donelson*, 2013 IL 113603, ¶ 15). The supreme court's conclusion is inescapable. If a criminal judgment is void only if the court lacks jurisdiction, and if a criminal judgment that is unauthorized by statute is void, then the court lacks jurisdiction to enter a criminal judgment that is unauthorized by statute.

¶ 42 Confronted with the essence of this dichotomy, the *Steinbrecher* court explained that " '[c]riminal proceedings that involve the power to render judgments or sentences address a separate set of concerns not at issue in the present matter.' " *Alex T.*, 375 Ill. App. 3d at 762 (quoting *Steinbrecher*, 197 Ill. 2d at 532). Although the *Steinbrecher* court did not specify those concerns, there was little doubt that the concerns at issue in a criminal case, and not at issue in a general civil case, are liberty concerns. Hence the supreme court's holding, before *Steinbrecher* but after the adoption of our present constitution, that " 'an order *significantly restricting the liberty of a defendant* must have statutory authorization and is a nullity otherwise.' " (Emphasis in original.) *Id.* at 763 (quoting *People v. McCarty*, 94 Ill. 2d 28, 37 (1983)). Since civil-commitment proceedings obviously implicate liberty concerns as much as criminal-commitment proceedings do, in *Alex T.* we held that likewise, "[a]ny involuntary admission order entered against a person charged with a felony is thus an order entered by a court that lacks jurisdiction." *Id.* More broadly, a trial court lacks jurisdiction over an involuntary-admission action filed against a person charged with a felony. Thus, in holding that the trial court here had jurisdiction (though no statutory authority) over the action filed against respondent, the majority departs from *Alex T.*, without any discussion of the jurisdictional distinction that underlay it.[6]

¶ 43 I sympathize with the criticism that the distinction "has no legal basis" insofar as it lacks any apparent basis in our present constitution. See Kristopher N. Classen & Jack O'Malley, *Filling the Void: The Case for Repudiating and Replacing Illinois' Void Sentence Rule*, 42 Loy. U. Chi. L.J. 427, 455 (2011). However, at least for our purposes, the "legal basis" for the distinction, if it is not our present constitution, is the supreme court's jurisprudence. To be sure, "the Illinois Supreme Court has stated [even] in criminal cases the same jurisdictional principles of general circuit court jurisdiction that it explained in [*Steinbrecher* and] *Belleville Toyota*." *Id.* at 454 & n.164 (citing *People v. P.H.*, 145 Ill. 2d 209, 221 (1991), and *Luis R.*, 239 Ill. 2d at 300-05). Yet when push has come to shove, the Illinois

[6]In fairness to the majority, we did much the same in *In re Andrew B.*, 386 Ill. App. 3d 337, 345-46 (2008), where we held, again without any discussion of the distinction, that a statutory violation in an involuntary-admission context has no jurisdictional significance.

Supreme Court has maintained that, in a criminal case, a circuit court lacks jurisdiction to enter a judgment that is not statutorily authorized. Until the supreme court repudiates the distinction,[7] the distinction is part of Illinois law, based on the liberty concerns that are involved in criminal cases. See *McCarty*, 94 Ill. 2d at 37. And again, since those concerns are equally involved in civil-commitment cases, the distinction must equally apply. See *Alex T.*, 375 Ill. App. 3d at 763.

¶ 44 Thus, to depart from *Alex T.* is to depart from the distinction itself. I decline to join in this departure for two reasons. First, no matter how much we might question the supreme court's jurisprudence–on jurisdiction or anything else–we lack any power to depart from it. Second, to depart from it here is to open the door to a departure in a criminal case, such as one involving a statutorily unauthorized judgment. And the consequences of doing so would be intolerable. Indeed, if a statutorily unauthorized sentence is merely voidable–because, after all, a criminal case is "within the general class of cases that the court has the inherent power to hear and determine" (*Luis R.*, 239 Ill. 2d at 301)–then a criminal defendant serving such a sentence will be strictly limited in his ability to obtain relief from it. See *Beacham v. Walker*, 231 Ill. 2d 51, 58-59 (2008) ("Although a void order or judgment may be attacked 'at any time or in any court, either directly or collaterally' [citation], including a *habeas* proceeding [citations], the remedy of *habeas corpus* is not available to review errors which only render a judgment voidable and are of a nonjurisdictional nature. [Citation.]"). That is, we will have criminal defendants unlawfully imprisoned, and our courts will be powerless to do anything about it. As I said, intolerable.

¶ 45 I acknowledge that these consequences might be preventable by means that are more legally palatable. Until such means are adopted, though, the supreme court's jurisdictional distinction is the law, that law applies here, and it dictates that, contrary to the majority's view, the trial court lacked jurisdiction over the State's commitment action.

[7]The supreme court has been invited to do so in *People v. Castleberry*, No. 116916 (Ill. Jan. 29, 2014), which is presently pending.