2012 IL App (4th) 120302-U

NO. 4-12-0302

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 29, 2012
Carla Bender
4th District Appellate
Court, IL

In re: CATHERINE S., a Person Found Subject to Involuntary Admission,	)	Appeal from Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Sangamon County
Petitioner-Appellee,	)	No. 12MH216
v.	)	
CATHERINE S.,	)	Honorable
Respondent-Appellant.	)	April Troemper,
	)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Justices Pope and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: As no meritorious issues can be raised on direct appeal, we grant the Guardianship and Advocacy Commission's motion to withdraw as respondent's counsel on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), and affirm.

¶ 2 This case comes to us on the motion of the Guardianship and Advocacy Commission to withdraw as counsel on appeal on the ground that no meritorious issues can be raised in this case. For the reasons that follow, we agree.

¶ 3 I. BACKGROUND

¶ 4 Leading up to relevant events, respondent Catherine S., aged 72, was a resident of the supervised housing program at Chestnut Health System (Chestnut), a mental health facility outside of Belleville. There, she lived alone in her own apartment where she was responsible for paying her own bills, feeding herself, taking her own medicine, making and keeping doctor's

appointments, keeping the quarters clean, and other basic tasks.

¶ 5 Until October or November 2011, respondent regularly took psychotropic medicines prescribed to treat her mental illness. Around that time, respondent developed tardive dyskinesia, a condition caused by her particular psychotropic medicine. Respondent's psychiatrist prescribed a different medicine to treat her mental illness while relieving the tardive dyskinesia. However, due to either a mix-up between respondent's doctor and Chestnut or respondent's refusal, respondent did not begin taking the new medicine and discontinued using the old medicine.

¶ 6 After she stopped taking medicine to treat her mental illness, respondent's lifestyle became disrupted as she was increasingly affected by disordered, delusional, and irrational thinking. Respondent's caseworker at Chestnut noted that her apartment became disheveled, whereas it had usually been ordered. Further, respondent's telephone service was disconnected due to nonpayment.

¶ 7 On March 15, 2012, respondent wandered from the Chestnut grounds to a Belleville restaurant, where she appeared disoriented and confused. Restaurant employees called the police. Respondent was eventually taken to Belleville Memorial Hospital, where she was involuntarily admitted. Workers at Belleville Memorial completed a petition for involuntary inpatient admission. See 405 ILCS 5/3-600 (West 2010). The next day, respondent was transferred to St. John's Hospital in Springfield.

¶ 8 On March 30, 2012, the trial court held a hearing on the involuntary admission petition. A written report consisting of (1) a March 16, 2012, health history and physical examination, (2) a March 20, 2012, social work consultation and mental health assessment, and

(3) a master treatment plan was filed that day and considered as evidence. While it initially listed March 26, 2012, as respondent's expected discharge date, the treatment plan was amended before the hearing to reflect an expected discharge date of April 2, 2012.

¶ 9 Dr. Khondakar Hasanat testified for the State, as follows. Respondent suffered from paranoid schizophrenia. As a result of that illness, she had been involuntarily treated in mental health facilities on at least two separate occasions in the six or seven months before March 2012. Respondent had wandered off the Chestnut grounds before, requiring assistance from police. Her schizophrenia, when untreated, disrupted her ability to plan for the future and tend to her basic personal needs. When interviewed, respondent was unable to answer responsively to questions about how she would care for herself and what she planned to do when released from St. John's. She refused to discuss personal matters, such as her mental illness and her family, with caseworkers or treatment providers. Whereas, while under supervision and care at St. John's, respondent was able to eat and tend to her hygiene sufficiently, Dr. Hasanat believed respondent's condition with respect to her ability to care for herself would deteriorate if she were released without having first been stabilized by medication. He opined that, if her condition deteriorated, respondent posed a risk to herself and others, although she had made no threats while under supervision.

¶ 10 Dr. Hasanat recommended that respondent be involuntarily committed for a period not to exceed 90 days. He testified that a hospital such as St. John's or a state-run mental health facility would be the least restrictive option for respondent, as her refusal to take prescribed psychotropic medicines would disqualify her from living in a nursing home or group home.

¶ 11 At the close of the State's case, respondent moved for directed verdict, arguing that the State failed to show she posed a threat to herself or others or was unable to care for her basic needs. The trial court denied her motion. After respondent rested without presenting any evidence or testimony, the court found "that by clear and convincing evidence [respondent] suffers from a mental illness and that due to the mental illness, she is unable at this time to provide for her basic physical needs so as to guard herself against serious harm without the assistance of family or outside help." The court further noted "that the mental illness may continue to deteriorate also causing harm to the patient." Accordingly, the court granted the State's motion to have respondent involuntarily committed for a period not to exceed 90 days.

¶ 12 Respondent caused a notice of appeal to be filed, and the trial court appointed the Guardianship and Advocacy Commission to serve as her attorney on appeal. In September 2012, the Guardianship and Advocacy Commission moved to withdraw, attaching to its motion a brief in conformity with the requirements of *Anders v. California*, 386 U.S. 738 (1967). The record shows service of the motion on respondent. On its own motion, this court granted respondent leave to file additional points and authorities by October 25, 2012, but respondent has not done so. After examining the record and executing our duties in accordance with *Anders*, we grant the Guardianship and Advocacy Commission's motion and affirm the court's judgment.

¶ 13 II. ANALYSIS

¶ 14 The Guardianship and Advocacy Commission contends the record shows no meritorious issues that can be raised on appeal and any appeal would be frivolous. It identifies two potential issues arising from the trial proceedings but asserts neither of these presents a possibly meritorious claim on appeal. We agree with the Guardianship and Advocacy

Commission.

¶ 15 Initially, we note that this appeal, if it were prosecuted, could be moot as the trial court's involuntary admission order expired June 27, 2012. In its *Anders* brief, the Guardianship and Advocacy Commission discusses the possibility that at least one of the exceptions to the mootness doctrine applies. Although a meritorious, or at least colorable, argument could *possibly* be made that this appeal should survive a review for mootness, we need not decide this issue because the potential substantive arguments that the Guardianship and Advocacy Commission identifies would lack merit if raised on appeal.

¶ 16 First, the Guardianship and Advocacy Commission identifies a possible argument that the State failed to provide an adequate written report prior to disposition. See 405 ILCS 5/3-810 (West 2010). Such a report must include "information on the appropriateness and availability of alternative treatment settings, a social investigation of the respondent, a preliminary treatment plan, and any other information which the court may order." 405 ILCS 5/3-810 (West 2010). A treatment plan consists of "the respondent's problems and needs, the treatment goals, the proposed treatment methods, and a projected timetable for their attainment." 405 ILCS 5/3-810 (West 2010). The report is to be considered in reaching a disposition if the trial court finds the respondent is subject to involuntary admission. 405 ILCS 5/3-810 (West 2010). Where a respondent fails to object to the absence of a written report, oral testimony containing the information required by statute can be an adequate substitute for a formal predisposition report where the legislative intent of providing care for those who are unable to care for themselves or protecting society from dangerous mentally ill persons can be achieved. *In re Robinson*, 151 Ill. 2d 126, 134, 601 N.E.2d 712, 717 (1992).

¶ 17 In this case, the State satisfied the statutory standard. The written report included information on respondent's history with respect to mental illness, other health concerns, and family and community involvement. It included a treatment plan describing respondent's problems and needs and proposing that she be kept in inpatient care until her mood stabilized and she resumed taking her medication. In addition, Dr. Hasanat's testimony covered much of the relevant information required of the written report, adding a discussion of alternative treatment settings. Accordingly, we agree with the Guardianship and Advocacy Commission that respondent could not colorably argue the State failed to comply with the statute requiring a predisposition report, such that the trial court's involuntary admission order should be reversed.

¶ 18 Second, the Guardianship and Advocacy Commission identifies a possible argument that the State inadequately showed respondent was subject to involuntary admission. The State must show by clear and convincing evidence that a respondent meets one of the statutory criteria for involuntary admission. 405 ILCS 5/3-808 (West 2010). The criterion for involuntary admission at issue in this case was whether respondent was "[a] person with mental illness who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient basis[.]" 405 ILCS 5/1-119(2) (West 2010). Factors relevant to such a determination include "whether a person (1) can obtain her own food, shelter, or necessary medical care; (2) has a place to live or a family to assist [her]; (3) is able to function in society; and (4) has an understanding of money or a concern for it as a means of sustenance." *In re Tuman*, 268 Ill. App. 3d 106, 112, 644 N.E.2d 56, 60 (1994).

¶ 19 In this case, the State presented clear and convincing evidence that respondent

was incapable of providing for her basic needs without assistance so as to guard herself from serious harm. Her delusional and disordered thinking resulting from her paranoid schizophrenia exposed her to serious harm, as when she strayed from Chestnut, where she was reasonably safe, without any idea of where she was going or her purpose in going there, requiring protective intervention by police officers. When unmedicated, as from about November 2011 through March 2012, respondent could not be expected to remember basic requirements of independent living, such as paying bills on time. Respondent demonstrated she would, if left unattended, continue to avoid taking prescribed psychotropic medicines, leaving her mental health to deteriorate, threatening further harm to herself and those around her. Further, Dr. Hasanat's testimony established that respondent would not qualify for treatment in a setting such as a group home or a nursing home unless she first stabilized her mental illness with medicine, which she refused to do on her own. Because the State so clearly and convincingly established respondent's inability to take care of herself without inpatient admission at a mental health facility, we agree with the Guardianship and Advocacy Commission that respondent could not reasonably argue the trial court's order should be reversed due to insufficiency of the evidence.

¶ 20 Finally, we note a perceived discrepancy, identified by the Guardianship and Advocacy Commission, between the treatment plan's projected release date of April 2, 2012, and the trial court's March 30, 2012, order, which committed respondent for up to 90 days. The Guardianship and Advocacy Commission asserts that the discrepancy does not affect the order's validity, but asks us to note it in our disposition. We disagree that the order is inconsistent with the projected release date. Rather, the order gave treatment providers some flexibility in determining when respondent was ready to resume caring for herself—a valuable trait, in light of

the possibility that respondent's needs may not have been met by the projected release date. The court's allowance of up to 90 days to treat respondent was not improper in this case.

¶ 21 III. CONCLUSION

¶ 22 Our review of the record shows that no meritorious issues could be raised on appeal. Accordingly, we grant the Guardianship and Advocacy Commission's motion to withdraw and affirm the trial court's judgment.

¶ 23 Affirmed.