2012 IL App (4th) 120476-U

NO. 4-12-0476

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
December 3, 2012
Carla Bender
4th District Appellate
Court, IL

In re: KEYANA B., a Person Found Subject to the Administration of Psychotropic Medication,	)	Appeal from Circuit Court of Sangamon County
THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee,	)	No. 12MH402
v.	)	Honorable
KEYANA B., Respondent-Appellant	)	Esteban F. Sanchez, Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Steigmann and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court granted respondent's appellate counsel's motion to withdraw and dismiss respondent's appeal as moot.

¶ 2 This case comes to us on the motion of the Legal Advocacy Service, Illinois Guardianship and Advocacy Commission (Guardianship), to withdraw as counsel on appeal on the ground this case presents no justiciable issue for review. For the reasons that follow, we agree and grant Guardianship's motion to withdraw and find this case to be moot.

¶ 3 I. BACKGROUND

¶ 4 Respondent, Keyana B., is a 29-year-old woman who, on May 14, 2012, was named in a "Petition for Involuntary Administration of Psychotropic Medication" pursuant to section 2-107.1 of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-107.1 (West 2010)).

¶ 5 On May 18, 2012, the trial court held a hearing on the petition. Respondent's treating psychiatrist, Dr. Kasturi Kripakaran, testified respondent suffers from schizoaffective disorder. According to Dr. Kripakaran, respondent displayed disorganized though process, delusion, and hallucinations. Respondent believed she was the wife of Jesus Christ. Respondent exhibits episodes of agitation and aggression and threatened to kick a pregnant patient. Since beginning treatment in February 2012, respondent had shown some improvement. Respondent sporadically attended group therapy sessions and classes but these forms of treatment were inappropriate due to her mental illness. Respondent did not acknowledge having a mental illness or an understanding of her illness.

¶ 6 Dr. Kripakaran requested involuntary administration of risperidone, lorazepam, and dishenhydramine. As alternatives, she requested olanzapine, benztropine mesylate, and benztropine. Respondent was previously ordered to undergo involuntary administration of psychotropic medication on March 2, 2012. Respondent was currently being administered risperidone oral, resperidone consta (injection form), and lorazepam. Dr. Kripakaran testified as to each medication's treatment benefits and potential side effects. Respondent was not displaying any side effects from risperidone oral, resperidone consta, or lorazepam. According to Dr. Kripakaran, medication was the least restrictive alternative available for respondent. Dr. Kripakaran requested authorization to perform laboratory tests, such as a complete blood count, comprehensive metabolic panel, lipid profile, hemoglobin A1c, tardive dyskinesia screening, electrocardiogram, and AIM's examination, to ensure the safe and effective administration of the medication.

¶ 7 Respondent testified and denied suffering from schizophrenia or another mental

illness. She stated she would not take the medications because they made her feel "sick" and "faint." Respondent had taken Abilify, risperidone, and Ativan for "a few years," but these medications made her "feel bad." She complained that the olanzapine injection made her have slurred speech, blurred vision, and left her barely able to walk.

¶ 8 After the hearing, the trial court found respondent suffered from a mental illness and ordered she receive involuntary administration of medication for period not to exceed 90 days.

¶ 9 In August 2012, appointed counsel, Guardianship, moved to withdraw as counsel on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), *In re Keller*, 138 Ill. App. 3d 746, 486 N.E.2d 291 (1985), and *In re Juswick*, 237 Ill. App. 3d 102, 604 N.E.2d 528 (1992), asserting no justiciable issue warrants appeal. The record shows service of the motion on respondent. On our own motion, this court granted respondent leave to file additional points and authorities by September 21, 2012. She filed none. After examining the record in accordance with our duties under *Anders*, we grant Guardianship's motion to withdraw as counsel on appeal.

¶ 10 II. ANALYSIS

¶ 11 Guardianship contends the case presents no justiciable issue on appeal because the appeal is moot and the State presented sufficient evidence to prove each element under section 2-107.1(a-5)(4) of the Code (405 ILCS 5/2-107.1(a-5)(4) (West 2010)). Specifically, Guardianship contends this case is moot because of respondent's previous mental health treatment, and the evidence showed (1) respondent suffers from schizoaffective disorder, a serious mental illness; (2) respondent has threatened others and suffered from continuing delusions and episodic agitation; (3) based on her training and experience, Dr. Kripakaran

believed the benefits of the treatment outweighed the harm; (4) respondent lacked the capacity to make a reasoned decision about the treatment as evidenced by her continued denial of suffering from a mental illness and lack of understanding or insight into her illness; (5) less restrictive services were inappropriate; and (6) testing was essential for the safe and effective administration of the treatment. We agree the appeal is moot and dismiss.

¶ 12 Respondent's involuntary administration order was entered May 18, 2012, and limited in duration to 90 days. As that 90-day period has expired this appeal is moot. Generally, courts of review do not decide moot questions. *In re Alfred H.H.*, 233 Ill. 2d 345, 351, 910 N.E.2d 74, 78 (2009). "An appeal is considered moot where it presents no actual controversy or where the issues involved in the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant effectual relief to the complaining party." *In re J.T.*, 221 Ill. 2d 338, 349-50, 851 N.E.2d 1, 7-8 (2006). Reviewing courts, however, recognize exceptions to the mootness doctrine, such as (1) the public-interest exception, applicable where the case presents a question of public importance that will likely recur and whose answer will guide public officers in the performance of their duties; (2) the capable-of-repetition exception, applicable to cases involving events of short duration that are capable of repetition, yet evading review; and (3) the collateral-consequences exception, applicable where the involuntary treatment order could return to plague the respondent in some future proceedings or could affect other aspects of the respondent's life. *In re Wendy T.*, 406 Ill. App. 3d 185, 189, 940 N.E.2d 237, 241 (2010) (citing *Alfred H.H.*, 233 Ill. 2d at 355-62, 910 N.E.2d at 80-84).

¶ 13 Sufficiency-of-the-evidence claims are inherently case-specific reviews that do not present broad public-interest issues, and the challenge in an underlying appeal of the

sufficiency of the evidence does not meet the public-interest exception. *Alfred H. H.*, 233 Ill. 2d at 356-57, 910 N.E.2d at 81; *In re James H.*, 405 Ill. App. 3d 897, 904, 943 N.E.2d 743, 749-50 (2010). Therefore, the public-interest exception does not apply.

¶ 14 The capable-of-repetition exception applies when (1) the challenged action is of such a duration that it may not 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." (Internal quotation marks omitted.) *In re Charles K.*, 405 Ill. App. 3d 1152, 1161-62, 943 N.E.2d 1, 9 (2010) (quoting *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82). Where a case is merely challenging the sufficiency of the particular evidence presented, the issue is not one that could arise in a later mental-health case brought against the respondent. *James H.*, 405 Ill. App. 3d at 902, 943 N.E.2d at 748.

¶ 15 Here, respondent challenges the sufficiency of the evidence presented at the hearing, which is not an issue that can arise in a later mental-health case brought against respondent. Therefore, here, the capable-of-repetition exception does not apply.

¶ 16 The collateral-consequences exception to the mootness doctrine "applies where the respondent could be plagued in the future by the adjudication at issue." *In re Joseph P.*, 406 Ill. App. 3d 341, 346, 943 N.E.2d 715, 720 (2010). "The collateral-consequences exception applies to a first involuntary-treatment order." *Id.* However, collateral consequences have already attached where the respondent was previously involuntarily committed, forcibly medicated or convicted of a felony. *Alfred H.H.*, 233 Ill. 2d at 362-63, 910 N.E.2d at 84; *Joseph P.*, 406 Ill. App. 3d at 347, 943 N.E.2d at 720.

¶ 17 Our review of the record indicates respondent was subject to an order for

involuntary administration of medication on March 2, 2012. Respondent did not appeal this order. All of the adverse consequences resulting from the instant order have already attached as a result of the March 2012 involuntary administration order. On the basis of the record before us, the collateral-consequences exception does not apply and as this case is moot we do not address the merits of this appeal.

¶ 18 III. CONCLUSION

¶ 19 We grant Guardianship's motion for leave to withdraw and dismiss respondent's appeal as moot.

¶ 20 Appeal dismissed.