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NO. 4-16-0184

FILED
April 25, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: DARIA B., a Person Found Subject to Involuntary Administration of Psychotropic Medication,	)	Appeal from Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Sangamon County
Petitioner-Appellee,	)	No. 15MH733
v.	)	
DARIA B.,	)	Honorable
Respondent-Appellant.	)	Esteban F. Sanchez,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Turner and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held*: Respondent's challenge to the trial court's order authorizing the involuntary administration of psychotropic medication is dismissed as moot.

¶ 2 In January 2016, the trial court ordered respondent, Daria B., subject to the involuntary administration of psychotropic medication. Respondent appeals, arguing the court's order should be reversed because (1) her guardian was not notified that a petition for involuntary administration of psychotropic medication had been filed; (2) the State's evidence was insufficient to show she suffered from a mental illness, mental illness affected her behavior, she lacked the capacity to refuse psychotropic medication, her condition was deteriorating as a result of mental illness, and the benefits of psychotropic medication outweighed the risks of such treatment; (3) the trial court failed to use the substituted judgment standard to allow her to refuse medication

based on her long-standing religious beliefs; and (4) the court's authorization of involuntary treatment violated section 2-102(b) of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-102(b) (West 2014)), permitting the refusal of medical treatment based on religious beliefs, by failing to give proper deference to her belief in spiritual healing. We dismiss respondent's appeal as moot.

¶ 3 I. BACKGROUND

¶ 4 The record indicates respondent was committed to the Andrew McFarland Mental Health Center (McFarland) after being found unfit to stand trial in criminal proceedings. In November 2015, Dr. Sreehari Patibandla, respondent's treating psychiatrist, filed a petition for the involuntary administration of psychotropic medication pursuant to section 2-107.1 of the Code (405 ILCS 5/2-107.1 (West 2014)).

¶ 5 In January 2016, the trial court conducted a hearing on the petition for the involuntary administration of psychotropic medication. The State presented the testimony of Dr. Patibandla and the parties stipulated to his qualifications as an expert in the field of psychiatry. Dr. Patibandla testified he was respondent's treating psychiatrist at McFarland. Respondent was admitted to McFarland on September 14, 2015, after being found unfit to stand trial on charges of felony intimidation and violation of an order of protection. Dr. Patibandla's testimony indicated respondent was involved in divorce proceedings, and the intimidation charged stemmed from a "statement" or "threat" respondent made to one of the attorneys who represented her during those proceedings. He testified the alleged violation of the order of protection was based on respondent "being in the same church with her children," who were protected parties under the order.

¶ 6 Dr. Patibandla diagnosed respondent with delusional disorder, noting respondent believed "supernatural powers" sent to her by a church organization called the Kingdom Sending Center were responsible for "the ills that she [was] going through" in her life, including her divorce. Respondent, who had been a member of the Kingdom Sending Center, believed the "whole [church] organization [was] against her" and that it was "destroying her marriage." Further, she believed "the judge in her case [was] corrupt" and she did not need to be at McFarland. Dr. Patibandla testified respondent carried a Bible with her and "concretely interpret[ed]" the information within. He stated respondent could not rationally explain how the church or its members were destroying her marriage.

¶ 7 Dr. Patibandla testified respondent refused treatment with psychotropic medication; however it was his opinion that she lacked the capacity to make such decisions. He stated respondent did not acknowledge or have an understanding of her mental illness, nor did she have any insight into her condition. He opined respondent's condition was deteriorating and noted respondent was unable to communicate in a coherent manner with attorneys who represented her in her legal proceedings. A guardian was appointed for respondent as a result of a court finding her "disabled." Dr. Patibandla stated respondent did not agree with the appointment and reported "she rescinded the guardian."

¶ 8 Dr. Patibandla further testified that McFarland was "asked to put several phone and mail restrictions on [respondent] by different individuals in the community," including judges presiding over her legal proceedings, the sheriff's office, respondent's in-laws, and an attorney's office. He stated respondent made excessive calls to the sheriff's office, demanding investigations into "certain things in regard to her case." However, the sheriff's office believed there

was nothing to investigate and wrote to McFarland "asking that [respondent] be not allowed to call their office." Additionally, respondent's guardian asked that all of respondent's outgoing mail be sent to his office "for appropriateness" because respondent "was writing to the judges involved in her case."

¶ 9 According to Dr. Patibandla, respondent was informed of the restrictions but did not agree with or understand them. He stated respondent believed "she had a right to call all these people in her defense" and, even after participating in group therapy, failed to understand that such communications were not helping her. He stated respondent accused him of "aiding and abetting the felons," noting "she characterized felons as being all the individuals that [were] involved in sending her [to McFarland] and being violent towards her and her children by preventing her phone calls and [keeping her at McFarland]." On two occasions at McFarland, emergency medication was administered to respondent after she became "really agitated" about her phone restrictions. Dr. Patibandla testified: "[Respondent] had severe agitation. She was threatening staff, yelling, and was very disruptive and was not redirectable verbally, and she was getting into personal space, com[ing] very close to [others] in an intimidating fashion."

¶ 10 Dr. Patibandla described the psychotropic medications he recommended for respondent, including benefits and potential side effects of those medications. He opined medication would benefit respondent by allowing her to achieve better control over her behavior and impulses. Dr. Patibandla opined respondent would be able to cooperate with her attorneys and "be able to get through her legal situation." He stated she "would not be engaging in this intimidating, threatening type of behaviors [*sic*]." Further, he testified the benefits of the proposed treatment outweighed any potential harm, stating as follows:

> "[Respondent] is currently in an inpatient setting unfit to stand trial ***, which could be extended at least [18] months or longer. Clearly her liberty is at stake ***, and less restrictive treatments that she engages in has not changed any of her behavior or thinking. I believe taking medicine would help her change her behavior and thinking to the extent that she would be able to go back to court, resolve most of her legal issues, if she's on medicine, and she can be monitored in an inpatient setting under psychiatric supervision."

¶ 11 Dr. Patibandla testified he discussed the benefits and side effects of the proposed medications with respondent and provided her with written information about the medications. Respondent understood that he "was proposing to give her anti-psychotic medicine." However, she denied that she was delusional or that she had a mental illness and stated "she [was] not going to take [Dr. Patibandla's] medication."

¶ 12 On cross-examination, Dr. Patibandla testified his religious background was Hinduism. He was aware that respondent's "beliefs" came from the Bible, stating she quoted scripture to him and literally interpreted the scriptures she quoted. Dr. Patibandla did not know how long respondent held her "beliefs" but stated it appeared "they were there these last three or four years." Further, he agreed that, within the Christian religion, there were denominations that do not believe in taking medication, as well as Christians who believe in a literal translation of the Bible. Dr. Patibandla did not remember respondent stating that she believed people could be healed by faith or that her belief system did not include medication.

¶ 13 During his cross-examination, Dr. Patibandla agreed that it was common for people to take sides in a divorce proceeding and become "polarized"; he did not know whether the

evidence resulting in the order of protection against respondent was entirely truthful; and a person who received a "negative" ruling from a judge might perceive himself or herself as a victim. However, despite these acknowledgements, he determined respondent suffered from delusional disorder based on her inability "to coherently keep her impulses under control," resulting in the criminal charges against her. His diagnosis was also based on what respondent verbalized "in the inpatient unit," stating as follows: "[W]e have a lot of difficulty in getting any type of cooperation from her in regard to these restrictions that are placed upon her in requests by others. She doesn't respect that she's not supposed to be calling these individuals that are saying, ['] please don't call us.[']"

¶ 14 Dr. Patibandla testified respondent had two children. Although she had not "seen her children for a while" due to the divorce proceeding and order of protection, she had previously been a stay-at-home mother. Dr. Patibandla stated respondent was not "dealing with [the physical separation from her children] well," and her actions were "doing her harm rather than benefit[ing] her."

¶ 15 Dr. Patibandla stated respondent had not previously taken the medications he was recommending. However, he was aware that she had been hospitalized within the last two or three years. Specifically, respondent reported that her husband "coerced her into getting help." She remained in the hospital "for a few days," but she checked herself out because her husband "didn't keep his bargain."

¶ 16 On redirect examination, Dr. Patibandla stated his opinion regarding respondent's mental-health diagnosis was not based solely on her religious views but on her behavior and statements. He testified respondent did not seem to understand how her continued behaviors

negatively affected her. On examination by the trial court, Dr. Patibandla testified he reviewed the psychological report prepared in connection with the fitness determination in respondent's criminal cases. He stated the doctor who prepared that report also diagnosed respondent with delusional disorder. Finally, on further inquiry by the court, Dr. Patibandla set forth the basis for his conclusion that respondent suffered from delusional disorder, stating: "[Respondent] stated to me that she [was] being abused in a supernatural warfare of some sort. She—she makes that statement and cannot rationally explain that. She also believed that [there was a] witchcraft curse on her family."

¶ 17 Respondent testified on her own behalf, stating she had always been a Christian and was raised in a Christian home. She believed in a literal interpretation of the Bible and that she could be healed without medication, stating medication controlled symptoms but did not heal. Respondent denied that she had a mental illness. Specifically, she did not believe she suffered from delusional disorder and was, instead, "grieving over facts." Respondent testified she was "grieving over daily violence committed against [her] and [her] children in divorce court and in criminal courts." She stated she was "intimidated" in divorce court, and she and her children suffered emotional abuse by being "forced apart without any legal right." Respondent asserted she was "being exploited without proper defense and protection under the law." She complained that she had not seen her children in over two years and that they were "being used to continue violence." Respondent also believed she suffered financial abuse.

¶ 18 Respondent testified she "suffered abuse and violence from [her husband]" and described the order of protection against her as "perjurious." She stated she received the assistance of "a deceptive lawyer who committed professional misconduct and lied under oath." Re-

spondent stated the attorney accused her of intimidation when it was the attorney who was "the intimidator."

¶ 19 Respondent testified she had been a stay-at-home mother. However, things changed a couple of years prior and her husband filed for divorce. Respondent asserted the Kingdom Sending Center had a destructive influence on her family, stating it "brought on conflict in [her] home that normally didn't happen." As a result, there was "a lot of violence." Respondent stated that she and her husband joined the Kingdom Sending Center together and were "deceived" by three leaders, who were "very destructive." She named six specific individuals, who she asserted got "something out of [her] being divorced." Respondent alleged those individuals "made agreements" with her husband that "if he would destroy [her] in divorce court and exploit [her], that they would support a plan that they have for the end times."

¶ 20 Respondent further testified that her husband was "involved with an old girlfriend to deceive." However, that person was not from the Kingdom Sending Center. Although respondent acknowledged that an order of protection was entered against her, she denied that it prohibited her from going to church or that she was ever told to stay away from her children in church. Additionally, she complained that her lawyers and a guardian *ad litem* involved in her legal proceedings ignored her phone calls or refused to return her calls.

¶ 21 Respondent denied that she needed to be in McFarland and stated she did not want to take the recommended medication due to her beliefs and because she was "spirit filled," stating it was "the Holy Spirit that heals, not medication." Respondent testified her beliefs came from experience and the Bible. Further, she asserted that medication could not "take away injustice." Respondent testified she was experiencing emotional pain and, for that to go away, she

needed the order of protection to expire, a "dishonest" judge and "felons" in her home to be arrested, and protection from the sheriff.

¶ 22 On cross-examination, respondent described the ways in which the Kingdom Sending Center would benefit from her divorce, stating as follows:

> "There is a singer who knows that if my husband takes the house and children are [*sic*] joint accounts with me, with the perjurious Order of Protection, she is the nanny of the lawyer Christine Gale that deceived me, so she's the one, Christine Gale, who put me under the Order of Protection. It's her nanny[,] Rachel[,] that expects to marry my husband when he totally exploits me, and Pam and Lex Magese (phonetic) also are going to be a part of their team for the end times plans that they have. So they are end times prophets that do not love me or my children, and they have been very deceptive and secretive and have used Christine Gale and perjury with the Order of Protection to exploit me in court, so Rachel can marry my husband ultimately."

¶ 23 At the conclusion of the hearing, the trial court granted the petition. It ordered respondent subject to involuntary treatment with psychotropic medication for a period of 90 days. Respondent filed a motion to reconsider, arguing the State failed to prove by clear and convincing evidence that she lacked the capacity to make a decision regarding the proposed treatment. Alternatively, she argued the court should have denied the petition for involuntary administration under the substituted judgment test.

¶ 24 In February 2016, the trial court conducted a hearing in the matter and denied respondent's motion to reconsider. In so holding, it noted that the substituted judgment test in-

volved consideration of an individual's wishes while competent when deciding whether to order involuntary treatment at a time when the individual lacks the capacity to make treatment decisions. The court found, in the case before it, respondent's wishes as to medication while competent had not been clearly proved, stating: "[T]his is what she is saying now, but there is no evidence that before she said, I believe in the power of prayer to heal mental illness for whatever reason, and if I ever become mentally ill, I do not want to be treated. I want to be treated by my own prayer and other peoples' prayer."

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 Initially, the parties agree that respondent's appeal is moot. "An appeal is moot if no controversy exists or if events have occurred which foreclose the reviewing court from granting effectual relief to the complaining party." *In re Shelby R.*, 2013 IL 114994, ¶ 15, 995 N.E.2d 990. Here, the trial court's involuntary treatment order was entered on January 8, 2016, and effective for 90 days. That 90-day time period has expired and, as a result, this court can grant no effectual relief to respondent. Thus, we agree that respondent's appeal is moot.

¶ 28 "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." *In re Alfred H.H.*, 233 Ill. 2d 345, 351, 910 N.E.2d 74, 78 (2009). However, while "there is no *per se* exception to mootness that universally applies to mental health cases," there are "established mootness exceptions." *Id*. at 355, 910 N.E.2d at 80. Respondent argues two such exceptions apply in the instant case—the public-interest exception and the capable-of-repetition exception.

¶ 29 A. The Public-Interest Exception

¶ 30 The public-interest exception to the mootness doctrine must be narrowly construed and requires a clear showing that "(1) the question presented is of a public nature; (2) an authoritative determination of the question is desirable for the future guidance of public officers; and (3) the question is likely to recur." *Shelby R.*, 2013 IL 114994, ¶ 16, 995 N.E.2d 990. "With respect to the first criterion, case-specific inquiries, such as sufficiency of the evidence, do not present the kinds of broad public issues required for review under the public interest exception." *In re Rita P.*, 2014 IL 115798, ¶ 36, 10 N.E.3d 854. When considering the second criterion, it is important to examine the state of the law as it relates to the moot question. *Shelby R.*, 2013 IL 114994, ¶ 19, 995 N.E.2d 990. Where there are conflicting precedents or issues of first impression, review under the public-interest exception has been held appropriate. *Id*. ¶¶ 19-20.

¶ 31 In this case, respondent first challenges the trial court's involuntary treatment order on the basis that her guardian was not served with the petition for involuntary treatment and did not receive notice of the hearing on the petition as required by section 2-107.1(a-5)(1) of the Code (405 ILCS 5/2-107.1(a-5)(1) (West 2014)). Although the procedures which must be followed before involuntary treatment may be authorized have been deemed "matters of a public nature and of substantial concern" (*In re James W.*, 2014 IL 114483, ¶ 21, 10 N.E.3d 1224), we find respondent cannot satisfy the second criterion of the public-interest exception as to this issue. Specifically, an authoritative determination to guide public officers is unnecessary as the issue of the Code's notice requirements in involuntary commitment and treatment proceedings has been addressed on appellate review, and the standard under which such claims are evaluated is well settled. See *In re Todd K.*, 371 Ill. App. 3d 539, 541, 867 N.E.2d 1104, 1107 (2007) (ad-

dressing notice to the respondent's guardian in involuntary commitment proceedings); *In re Louis S.*, 361 Ill. App. 3d 763, 771, 838 N.E.2d 218, 224 (2005) (addressing notice to the respondent's guardian in involuntary commitment proceedings); *In re B.K.*, 362 Ill. App. 3d 324, 328, 839 N.E.2d 1111, 1114 (2005) (addressing notice to the respondent and her attorney in involuntary treatment proceedings); *In re Jill R.*, 336 Ill. App. 3d 956, 963-64, 785 N.E.2d 46, 52 (2003) (addressing notice to the respondent and her attorney in involuntary commitment proceedings); *In re Robinson*, 287 Ill. App. 3d 1088, 1095, 679 N.E.2d 818, 823 (1997) (addressing notice to the respondent in involuntary commitment proceedings); *In re C.E.*, 161 Ill. 2d 200, 225-27, 641 N.E.2d 345, 356-57 (1994) (addressing notice to the respondent and his attorney in involuntary treatment proceedings); *In re Nau*, 153 Ill. 2d 406, 418, 607 N.E.2d 134, 140 (1992) (addressing notice to the respondent in involuntary commitment proceedings). The public-interest exception does not apply to this issue.

¶ 32 On appeal, respondent further argues the State failed to prove by clear and convincing evidence that (1) she suffered from a mental illness, (2) mental illness affected her behavior, (3) she lacked the capacity to refuse treatment with psychotropic medication, (4) she was deteriorating as a result of suffering from delusional disorder, and (5) the potential benefits of the proposed treatment outweighed the potential risks. Each of these contentions challenges the sufficiency of the State's evidence. Thus, they are case-specific inquiries and do not present the kinds of broad public issues necessary for review under the public-interest exception.

¶ 33 Finally, on appeal, respondent maintains the trial court erred in failing to "utilize a substituted judgment standard" when determining whether to authorize involuntary treatment. She cites section 2-102(b) of the Code (405 ILCS 5/2-102(b) (West 2014)), which "authorizes

the withholding of generally accepted medical treatment where necessary to respect the [mental health] recipient's religious beliefs" (*C.E.*, 161 Ill. 2d at 224, 641 N.E.2d at 356). Respondent argues that, because section 2-102(b) would allow her to refuse psychotropic medication if competent, it should also "apply under the substituted judgment standard if she was not [competent]."

¶ 34 First, respondent cannot meet the second criterion of the public-interest exception. In connection with this issue, respondent argues her appeal raises an issue with respect to "the role of substituted judgment in deciding whether involuntary treatment is appropriate." However, as the State points out, the supreme court has addressed the role of substituted judgment in the context of involuntary treatment. *Id*. at 221, 641 N.E.2d at 355 (concluding "that section 2-107.1 permits the court's consideration of the 'substituted judgment' of the mental health recipient, and that the court respect the wishes expressed by the mental health patient when the patient was capable of making rational treatment decisions in his own behalf"). It similarly found section 2-102(b) applicable in such cases. *Id*. at 224, 641 N.E.2d at 356 (finding there was "nothing to indicate that [section 2-102(b) of the] Code would not be applicable to a person who, although falling within the purview of section 2-107.1, nevertheless chose to refuse psychotropic medication for religious reasons"). Thus, an authoritative determination regarding "the role" of substituted judgment in involuntary administration cases—particularly as it applies to someone who would refuse treatment based on religious beliefs—has been made, and this court is bound to follow the supreme court's decision on the issue.

¶ 35 Second, we find this issue also presents a case-specific inquiry, to which the public-interest exception is inapplicable. In asserting the public-interest exception applies, respondent maintains she has raised a question of statutory interpretation. In reality, however, respond-

ent's claim turns on the specific facts presented in the underlying proceeding. Before the trial court, respondent argued that the substituted judgment standard should apply to her case because she had long-standing religious beliefs that favored spiritual healing rather than pharmaceutical intervention. The record reflects the court considered respondent's claim but rejected it on the basis that there was no clear evidence before it that she expressed such beliefs at a time when she was competent to make treatment decisions on her own behalf. Therefore, the court based its decision on the specific facts of the case before it and not on any statutory or constitutional concerns. Because this issue also involved a case-specific inquiry and would not have a broad application to involuntary administration cases, we find the public-interest exception does not apply.

¶ 36 B. The Capable-of-Repetition Exception

¶ 37 The capable-of-repetition exception has two elements, requiring that (1) "the challenged action must be of a duration too short to be fully litigated prior to its cessation," and (2) "there must be a reasonable expectation that 'the same complaining party would be subjected to the same action again.' " *Alfred H.H.*, 233 Ill. 2d 345, 358, 910 N.E.2d 74, 82 (2009) (quoting *In re Barbara H.*, 183 Ill. 2d 482, 491, 702 N.E.2d 555, 559 (1998)). With respect to the second element, "there must be 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." *Id.* at 360, 910 N.E.2d at 83. Issues involving a constitutional argument or challenge to the interpretation of a statute may have some bearing on a later case, while a sufficiency-of-the-evidence question is unlikely to be useful in future litigation. *Id.*

¶ 38 Here, there is no dispute that the first element of the capable-of-repetition excep-

tion has been met. The trial court's involuntary treatment order expired after 90 days and could not be fully litigated within that time. Therefore, whether the capable-of-repetition exception applies turns on the second element and whether there is a reasonable expectation that respondent would be subjected to the same action again. In this instance, each of the issues raised by respondent on appeal presented a case-specific inquiry and involved fact-based determinations by the trial court. They do not present a constitutional argument or challenge the interpretation of a statute, *i.e.*, a claim likely to have an impact on future litigation. Thus, under the circumstances presented, we find the capable-of-repetition exception is inapplicable.

¶ 39 III. CONCLUSION

¶ 40 For the reasons stated, we dismiss respondent's appeal as moot.

¶ 41 Dismissed.