NO. 5-07-0566

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re CAROL K., Alleged to Be a Person Subject to Involuntary Administration of Psychotropic Medication (The People of the State of Illinois, Petitioner-Appellee, v. Carol K., Respondent-Appellant).	)	Appeal from the Circuit Court of Madison County. No. 07-MH-131 Honorable Nelson Metz, Judge, presiding.

JUSTICE GOLDENHERSH delivered the judgment of the court.
Justices Welch and Spomer concurred in the judgment.

R U L E 2 3 O R D E R

Held: In proceedings for the involuntary administration of psychotropic medication concluding with an order without findings of fact and/or conclusions of law, respondent-appellant met the public-interest exception and the need-to-make-an-authoritative-determination-for-the-guidance-of-public-officials exception to the mootness doctrine pursuant to *In re Alfred H.H.*, 233 Ill. 2d 345 (2009).

Pursuant to a petition, the circuit court of Madison County entered an order for the involuntary administration of psychotropic medication to respondent, Carol K. See 405 ILCS 5/2-107.1 (West 2006). On appeal, respondent raises numerous issues. We dismissed the appeal as moot.

The Illinois Supreme Court, by supervisory order, directed us to vacate our previous disposition and consider this appeal in light of *In re Alfred H.H.*, 233 Ill. 2d 345 (2009). *In re Carol K.*, 233 Ill. 2d 557 (2009). Accordingly, we vacate our prior disposition and reverse the order of the circuit court for the reasons stated below.

FACTS

On July 20, 2007, Arif Habib, M.D., and Seth Tilzer, M.D., both of whom were psychiatrists at Gateway Regional Medical Center, filed a petition in the circuit court of

Madison County for the involuntary administration of nonemergency psychotropic medication to respondent. On July 31, 2007, Dr. Habib filed an amended petition.

The amended petition stated that respondent suffered from chronic paranoid schizophrenia and alcohol abuse. The petition stated that respondent had multiple psychiatric hospitalizations at Malcom Bliss Hospital in St. Louis, Missouri, in the 1970s and 1980s and had been receiving outpatient care for many years. The petition noted that, with stable medication, respondent had maintained herself in the community at large for 20 years without hospitalization but that after three months without medications, she required hospitalization for her own safety. The petition concluded that respondent could resume living safely in the community if she resumes taking her medication.

The petition was called to a hearing on July 31, 2007. Dr. Habib presented respondent's relevant medical history and opined that respondent suffers from schizophrenia. Dr. Habib testified that respondent had a history of controlling her condition through psychotropic medication. Dr. Habib testified that at the time of the hearing respondent was not taking her medications and, instead, was drinking alcohol and showing signs of paranoia. Dr. Habib testified that because of her paranoia, respondent did not have the capacity to make a reasoned and informed decision regarding her medication. Dr. Habib requested the approval of an involuntary daily administration of Navane and the approval of Risperdal as a secondary medication.

Respondent testified on her own behalf. She described her practice of taking medications. Respondent stated that she was able to perform daily functions without assistance and that she had no desire to harm herself or others. Respondent testified that she was willing to take Navane but that she was hesitant to take Risperdal because of side effects.

At the conclusion of the hearing on July 31, 2007, the court entered an order for the involuntary administration of psychotropic medication (405 ILCS 5/2-107.1 (West 2006)),

specifically, the administration of doses of Navane orally or, in the alternative, Risperdal orally, for a period not to exceed 90 days. The order entered was a form order that did not provide for and did not include findings of fact by the court. On August 10, 2007, respondent was discharged from Gateway Regional Medical Center.

On August 24, 2007, a motion to reconsider was filed on behalf of respondent, which was denied. This appeal ensued.

ANALYSIS

This appeal is moot. Respondent has been discharged from Gateway Regional Medical Center, and the order for the administration of psychotropic medication has expired. See *In re Robert S.*, 213 Ill. 2d 30, 46 (2004). An appeal is moot when an actual controversy no longer exists or the issues involved in the order under review have expired so that it is impossible to grant effectual relief to the complaining party. *In re J.T.*, 221 Ill. 2d 338, 349-50 (2006) This court will neither render decisions on moot questions nor issue advisory opinions. *In re J.T.*, 221 Ill. 2d at 349.

Respondent admits that the appeal is technically moot, but she contends that the issues fall within two prominent exceptions to the doctrine. An appeal that would otherwise be dismissed as moot will be heard if the case presents an issue of public interest that warrants review or if the case is capable of repetition yet evading review. *In re J.T.*, 221 Ill. 2d at 350.

The Illinois Supreme Court in *In re Alfred H.H.* stated that a viable exception to the mootness doctrine is the public-interest exception, which "allows a court to consider an otherwise moot case when (1) the question presented is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) there is a likelihood of future recurrence of the question." *In re Alfred H.H.*, 233 Ill. 2d at 355.

In the instant case, we find the basis to invoke the public-interest exception described in *In re Alfred H. H.* As noted above, the order entered by the circuit court did not contain

findings of fact and conclusions of law. Pursuant to the Mental Health and Developmental Disabilities Code (405 ILCS 5/3-816(a) (West 2006)), "Every final order entered by the court under this Act shall be in writing and shall be accompanied by a statement on the record of the court's findings of fact and conclusions of law."

Clearly, a violation of a statutory mandate in proceedings that involve a person's liberty interest constitutes a question of a public nature. It constitutes what the court in *In re Alfred H.H.* characterized as a broad public-interest issue. Given the recurrence of this situation, as shown in the opinion cited below, we find a need for " 'an authoritative determination for future guidance of public officers.' " *In re Alfred H.H.*, 233 Ill. 2d at 357-58 (quoting *In re Adoption of Walgreen*, 186 Ill. 2d 362, 365 (1999)).

We have found that the failure to make the above-noted findings constitutes reversible error that comes under the public-interest exception. *In re Lance H.*, 402 Ill. App. 3d 382 (2009). We have also found this omission to be reversible error when the issue is the involuntary administration of psychotropic medication. *In re Joseph M.*, 398 Ill. App. 3d 1086 (2010).

Given the lack of compliance with a statutory directive, the recurrence of this situation, and the liberty interest involved in this type of litigation, we conclude that the requirements of the public-interest exception have been met. We further conclude that there exists a need to make an authoritative determination for the guidance of public officers so this situation will no longer recur.

Accordingly, we reverse the order of the circuit court of Madison County.

Reversed.