

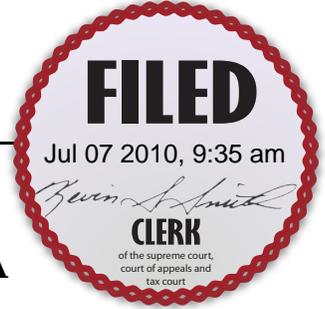
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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF THE CIVIL)
COMMITMENT OF R.C.,)

Appellant/Respondent,)

vs.)

No. 49A02-0912-CV-1229

COMMUNITY HOSPITAL NORTH/)
ADULT AND CHILD MENTAL HEALTH)
CENTER,)

Appellee/Petitioner.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Tanya Walton-Pratt, Judge
Cause No. 49D08-0911-MH-51958

July 7, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary and Issue

R.C. challenges the sufficiency of evidence to support a trial court order involuntarily committing him to the Community Hospital North Mental Health Center (“Community North”). We affirm.

Facts and Procedural History

In 2009, fifty-seven-year-old R.C. had been on prescription antidepressant medication for about five years following a family tragedy in which his brother, who suffered from bipolar disorder, murdered his mother, great aunt, and pastor and was killed in jail shortly thereafter. In the fall of 2009, R.C. ceased taking his medication, and his behavior became erratic and confrontational. He had confrontations with police and with a bank teller. His wife E.C. stated that he had become more angry and demanding and that he withdrew \$8000.00 from their joint bank account without her knowledge. Tr. at 29, 34.

On November 9, 2009, Community North mental health crisis therapist Joan Ryan filed an application for emergency detention, alleging that R.C. suffered from a psychiatric disorder and posed a danger to others. R.C. was admitted to Community North that day, and examining psychiatrist Jason Ehret diagnosed him with bipolar disorder. On November 12, 2009, Dr. Ehret filed a report alleging that R.C. was mentally ill and dangerous. On November 16, 2009, R.C. was transferred to the psychiatric intensive care unit and sedated after he exhibited strange and potentially threatening behavior during his late-night interaction with a female nurse. On November 17, 2009, the trial court held an evidentiary hearing and issued an order of temporary commitment, finding by clear and convincing

evidence that R.C. suffered from bipolar disorder and was mentally ill, and that he was dangerous to others and in need of custody, care, and treatment at Community North for a period not to exceed ninety days. Regarding the issue of R.C.'s dangerousness, the trial court stated that Community North

has met [its] burden with respect to danger to others. [R.C.] carries a—has been carrying his firearms and he does think that people are out to get him. And he has made threats ... based upon the doctor's observations of the aggression and threatening behavior in the hospital, the Court does believe they've met the burden of showing there is a significant possibility that he could cause harm to others[.]

Id. at 75. R.C. now appeals. Additional facts will be provided as necessary.

Discussion and Decision

R.C. challenges the sufficiency of evidence to support the trial court's civil commitment order. Our standard of review for civil commitment cases is well settled:¹

[W]e look only at the evidence and reasonable inferences ... most favorable to the trial court's judgment. We may not reweigh the evidence or judge the credibility of the witnesses. If the trial court's commitment order represents a conclusion that a reasonable person could have drawn, we will affirm the order even if other reasonable conclusions are possible.

In re Commitment of A.W.D., 861 N.E.2d 1260, 1264 (Ind. Ct. App. 2007) (citations and internal quotation marks omitted).

Indiana Code Section 12-26-2-5(e) states that "the petitioner [in a civil commitment proceeding] is required to prove by clear and convincing evidence that: (1) the individual is

¹ R.C. argues that because a person's substantial liberty is at stake in a civil commitment case, we should employ a de novo standard of review. However, we note that we review these cases under the same standard employed in criminal sufficiency cases and that it is difficult to imagine a scenario in which a person's liberty is more at stake than in a criminal prosecution. We decline R.C.'s invitation to change the standard of review.

mentally ill and either dangerous or gravely disabled; and (2) detention or commitment of that individual is appropriate.” At the outset, we note that although R.C. steadfastly asserted at the hearing that he was neither mentally ill nor in need of any medication, he does not now challenge the trial court’s finding that he suffers from bipolar disorder and is mentally ill. Instead, on appeal, he merely challenges the trial court’s finding that he is dangerous to others. Indiana Code Section 12-7-2-53 defines “dangerous” as “a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm [himself] or others.” “[A] trial court is not required to wait until harm has nearly or actually occurred before determining that an individual poses a substantial risk of harm to others.” *C.J. v. Health & Hospital Corp. of Marion County*, 842 N.E.2d 407, 410 (Ind. Ct. App. 2006).

The evidence most favorable to the trial court’s finding regarding R.C.’s dangerousness indicates that R.C. carried firearms, demonstrated increasingly confrontational behavior, and denied even having a problem for which he needed treatment. First, we agree with R.C. that his legal possession of firearms, standing alone, would not form a sufficient basis for a determination that he is dangerous. *M.Z. v. Clarian Health Partners*, 829 N.E.2d 634, 638 (Ind. Ct. App. 2005), *trans. denied*; *see also In re Commitment of Steinberg*, 821 N.E.2d 385, 389 (Ind. Ct. App. 2004) (finding insufficient evidence of dangerousness based solely on incident where individual pointed unloaded gun at people who threatened him).

R.C.’s behavior had become increasingly erratic and confrontational. For example, his wife testified that he had recently become more angry and demanding and had withdrawn

\$8000.00 from their joint account without her knowledge. Tr. at 34. Dr. Ehret described R.C.'s demeanor as threatening and confrontational. *Id.* at 4, 15. He stated that R.C. also exhibited sexual preoccupation and thought people were “out to kill him[.]” *Id.* at 9-11. He testified that R.C. was in a “manic episode” that negatively affects judgment and can last anywhere from weeks to years. *Id.* at 15, 17. The record also indicates that R.C. had more than one confrontation with law enforcement personnel, as well as a confrontation with a bank teller over his account balance. In addition, he had a strange and potentially threatening interchange with a female nurse in which he questioned whether it was safe for her to be working alone so late at night. The interchange was concerning enough to the Community North staff that they transferred him to psychiatric intensive care and medicated him.

Finally, R.C. denied that he had a problem that required medication. When the trial court asked him, “Do you think you need any medication[?]” he responded, “No, Ma’am.” *Id.* at 67, 68.² His wife testified that he had ceased taking his Lexapro, and he himself testified that he never actually took the Lexapro, but merely led his wife to believe that he was taking it. *Id.* at 34, 66.

In sum, R.C. suffered from mental illness, possessed firearms, exhibited confrontational behavior, and denied that he had any problem that required treatment. Thus,

² We note R.C.'s assertion that Community North improperly used his family history to establish R.C.'s dangerousness. Dr. Ehret testified that “[b]ipolar disorder has a strong family history component in—specifically, compared to other psychiatric illnesses, and he does have a significant family history of two brothers having bipolar disorder.” Tr. at 15. The record indicates that R.C.'s family history was relevant to the establishment of R.C.'s mental illness, which he denied having at the time but no longer challenges on appeal. Any tie to dangerousness would not lie in the fact of his or his brothers' diagnoses or the fact that one of them committed murder, but rather, in the fact that R.C. denied having any mental illness and would thus be less likely, absent involuntary commitment, to undergo treatments related to it.

the evidence most favorable to the trial court's order supports its finding that he was dangerous to others. Accordingly, we affirm.

Affirmed.

BAKER, C.J., and DARDEN, J., concur.