Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

FILED
Nov 03 2009, 9:49 am
CLERK
of the supreme court, court of appeals and tax court

ATTORNEY FOR APPELLANT:

ANNA ONAITIS HOLDEN
Marion County Public Defender Agency
Indianapolis Indiana

ATTORNEYS FOR APPELLEE:

LIBBY Y. MOTE
MATTHEW C. BRANIC
Krieg DeVault LLP
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE COMMITMENT OF R.R.,	)	
Appellant,	)	
vs.	)	No. 49A05-0903-CV-155
BRANIGAN SUB-ACUTE UNIT OF ADULT & CHILD MENTAL HEALTH CENTER, INC.,	)	
Appellee.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Tanya Walton-Pratt, Judge
Cause No. 49D08-0311-MH-1452

November 3, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

R.R. appeals from the trial court's order involuntarily committing him to a mental health facility.

We affirm.

ISSUE

Whether sufficient evidence exists to support the involuntary commitment order.

FACTS

R.R. suffers from bipolar disorder, a serious mental illness, with obsessive-compulsive traits. He was a licensed physician until 2001, when his medical license was revoked by the state medical licensing board. In March of 2005, R.R.'s father and brothers filed an application for his emergency detention, wherein, they alleged that "if [R.R. was] not restrained immediately, . . . [he would] possibly become suicidal based on his non-compliance with medical treatment (medication and follow-up psychiatric appointments)." (App. 27). R.R. was subsequently admitted to a hospital and examined by a doctor, who concluded that R.R. was "gravely disabled" because he exhibited "disorganized thinking," "paranoid delusions," "suicidal ideations," "poor judgment," "had no insight into his illness," and had refused to begin voluntary treatment. (App. 35-36). On March 31, 2005, after a hearing, the trial court issued an order of regular commitment committing R.R. to a mental health facility.

For a period of approximately two years, R.R. lived independently and voluntarily received services from the Branigan Sub-Acute Unit of Adult and Child Mental Health

Center ("Adult and Child").[1] Subsequently, the underlying commitment proceedings were initiated after R.R. was inexplicably "locked out" of his apartment.[2] (Tr. 10). He was subsequently admitted to the hospital, then voluntarily remained[3] at Adult and Child.

R.R.'s psychiatrist, Dr. Andrew Morrison,[4] has prescribed for him two psychiatric medications, Geodon and Cymbalta, a mood stabilizer/anti-psychotic and an anti-depressant, respectively; however, R.R. refused to take Geodon, but took the Cymbalta.

On September 15, 2008, Wishard Hospital/Midtown Mental Health Center filed an application for emergency detention of R.R. (App. 125-126). On February 13, 2009, Adult and Child filed a petition for involuntary commitment, alleging that R.R. was gravely disabled. The trial court conducted a commitment hearing on February 23, 2009, and subsequently issued an order of regular commitment, wherein it stated, in pertinent part, the following:

> Upon evidence presented, the Court now finds by clear and convincing evidence:
>
> 1. [R.R.] suffers from bipolar disorder, which is a mental illness as defined in I.C. 12-7-2-130.
> 2. [R.R.] is gravely disabled as defined in I.C. 12-7-2-96.
> 3. [R.R.] is in need of care and treatment on an inpatient basis at the Branigan Sub-Acute Unit of Adult and Child Mental Health Center, Inc. or other designated facility for a period of time expected to exceed ninety (90) days.

---

[1] Adult and Child case managers helped R.R. to "obtain housing, medical care, food, [and] necessities." (App. 14).

[2] No additional details are known regarding how R.R. lost his accommodations, except that he believes that it was the result of a conspiracy against him.

[3] Branigan is "not a lock unit," and R.R. remained there voluntarily. (Tr. 16).

[4] Dr. Morrison was R.R.'s doctor for a period of approximately two years, during which time he had approximately fifteen to twenty consultations with R.R.

4. Placement is determined to be the least restrictive environment suitable for treatment and stabilization as well as protecting [R.R.] while restricting [his] liberty to the least degree possible.
5. That the treatment plan for [R.R.] has been fully evaluated, included alternate forms, and is believed to result in benefiting [R.R.] while outweighing any risk of harm.

(Order 1-2). R.R. now appeals.

Additional facts will be provided as necessary.

DECISION

In general, there are three types of commitments: emergency, temporary, and regular. *J.S. v. Ctr. for Behavioral Health*, 846 N.E.2d 1106, 1111 (Ind. Ct. App. 2006). At issue here is regular commitment, which is the most restrictive form of involuntary treatment and is proper for an individual whose commitment is expected to exceed ninety days. *Id.* In order to demonstrate that a person should be committed involuntarily, a petitioner must prove "by clear and convincing evidence that: (1) the individual is mentally ill and either dangerous or gravely disabled; and (2) detention or commitment of that individual is appropriate." Ind. Code § 12-26-2-5(e). In reviewing orders for commitment, we consider only the evidence favorable to the judgment and all reasonable inferences therefrom. *In re Commitment of Bradbury*, 845 N.E.2d 1063, 1065 (Ind. Ct. App. 2006). We will not reweigh the evidence or judge the witnesses' credibility. *Id.* "Where the evidence is in conflict, we are bound to view only that evidence that is most favorable to the trial court's judgment." *Id.* If the trial court's commitment order represents a conclusion that a reasonable person could have drawn, we must affirm the order, even if other reasonable conclusions are possible. *Id.*

R.R. contends that the evidence was insufficient to support the trial court's finding that he was gravely disabled and, therefore, should be involuntarily committed. R.R. argues that "[n]othing in the record suggests that [he] was unable to provide himself with food, refused to eat or was malnourished, was unable to provide himself with clothing, or dress himself." R.R.'s Br. at 7. He also argues that the evidence of his unexplained displacement from his apartment and his refusal to take prescribed medication does not constitute clear and convincing evidence that he was gravely disabled. We disagree.

We initially note that an individual's inability to provide for food, clothing, shelter, or other essential human needs is only one basis for finding that the individual is gravely disabled. *See Golub v. Giles*, 814 N.E.2d 1034, 1039 (Ind. Ct. App. 2004), *trans. denied*. A court may also determine that an individual is gravely disabled if it finds that he has a substantial impairment resulting in an inability to function independently without being in danger of coming to harm. See I.C. § 12-7-2-96(2). Specifically, Indiana Code Section 12-7-2-96 defines "gravely disabled," for purposes of civil commitment, as follows:

> a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:
> (1) Is unable to provide for that individual's food, clothing, shelter, or other essential human needs; or
> (2) Has a substantial impairment or an obvious deterioration of that individual's judgment, reasoning, or behavior that results in the individual's inability to function independently.

In *Golub*, respondent Golub appealed the trial court's order involuntarily committing him to a mental health facility. He argued, *inter alia*, that the petitioners had

failed to present sufficient evidence of a grave disability to satisfy the commitment requirements. In affirming the trial court's order, we stated,

> Contrary to Golub's argument, the trial court need not find that the person is incapable of providing himself with food or clothing, nor does it need to find that the person is dangerous, before it can conclude that the person is gravely disabled. *Rather, the plain language of the statute only requires the trial court to find . . . that the person has 'a substantial impairment or an obvious deterioration of that individual's judgment, reasoning, or behavior that results in the individual's inability to function independently*.'
>
> It was established at the hearing that Golub has a five-year history of mental illness requiring hospitalizations and causing paranoia, delusional thoughts, and threatening and destructive behavior. Dr. Giles testified that Golub would benefit from anti-psychotic drugs, but that he refused to cooperate with treatment. That said, the trial court -- as the fact finder -- could reasonably conclude from this evidence that Golub is gravely disabled and should be involuntarily committed.

Id. at 1039 (citations omitted) (emphasis added).

Here, at the commitment hearing, Dr. Morrison testified that R.R.'s Bipolar Disorder manifests itself in "mood swings with depression on the one pole and symptoms and signs of mania on the other pole[,] where he is loquacious and will go on and on in his verbalizations." (Tr. 9). He testified that he had prescribed an antidepressant as well as a mood stabilizer/anti-psychotic medication for R.R. because he had "strongly fe[lt]" that R.R. required the "essential" medical benefits of such a medication. (Tr. 17, 13). Dr. Morrison testified that although R.R. took the antidepressant as prescribed, R.R. has refused to take two different mood stabilizer/anti-psychotic medications that he had prescribed in succession. (Tr. 13, 17). He also testified that R.R. had complained of side effects, the existence of which was never substantiated and which, if they existed, were

likely not caused by[5] the prescribed medication. Dr. Morrison also testified that R.R. "change[s] his own medication dosages" and "make[s] . . . adjustments [to the treatment plan] on his own." (Tr. 17, 19).

In addition, Dr. Morrison testified that he was particularly concerned by R.R.'s "level of functioning," and that R.R.'s irrational beliefs and "far-fetched" paranoid delusions "very severely" affected his ability to function in society. (Tr. 11, 9). He testified as to the following examples of R.R.'s troubling paranoid delusional fixation on suicide: namely, (1) R.R.'s estrangement from his family members because he suspected that they were "out to try to get him to kill himself"; and (2) R.R.'s belief that he had been "locked out" of his apartment by people, including members of the medical licensing board, who "were part of a . . . conspiracy to -- to get him to kill himself." (Tr. 18, 11). Lastly, he testified that R.R.'s prognosis was "poor" absent a commitment, adding that "[R.R.]'s not in – in good enough mental health to really be in the community on his own yet." (Tr. 17, 16).

We find that there was clear and convincing evidence that R.R. was gravely disabled within the meaning of Indiana Code section 12-7-2-96. R.R., like Golub, has a documented history of mental illness/hospitalization, suffers from paranoid delusions, and would benefit considerably from the medications as prescribed by his psychiatrist, but has failed and/or refused to take them in the manner prescribed. In addition, for reasons likely attributable to his mental health problems, R.R. is apparently without

[5] At the commitment hearing, Dr. Morrison testified, "[I]t's very difficult to believe that the [medication] would have cause th[o]se side effects." (Tr. 20).

shelter. From the foregoing facts, a reasonable person could have concluded that R.R. "has a substantial impairment or an obvious deterioration of [his] judgment, reasoning, or behavior that results in [his] inability to function independently." I.C. § 12-7-2-96. Thus, the evidence is sufficient to support the trial court's finding that R.R. is gravely disabled as defined in Indiana Code section 12-7-2-96.

Affirmed.

ROBB, J., and MATHIAS, J., concur.