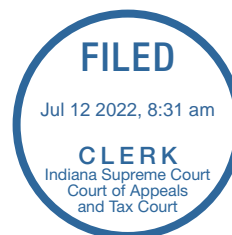


MEMORANDUM DECISION

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.



ATTORNEY FOR APPELLANT

Megan Shipley
Marion County Public Defender Agency
Appellate Division
Indianapolis, Indiana

ATTORNEY FOR APPELLEE

Jenny R. Buchheit
Sean T. Dewey
Ice Miller LLP
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In re: The Civil Commitment of
T.R.,

T.R.

Appellant-Respondent,

v.

Community Health Network,
Inc.,

Appellee-Petitioner.

July 12, 2022

Court of Appeals Case No.
22A-MH-46

Appeal from the Marion Superior
Court

The Honorable Steven R.
Eichholtz, Judge

The Honorable Melanie Kendrick,
Magistrate

Trial Court Cause No.
49D08-2109-MH-30506

Bradford, Chief Judge.

Case Summary

- [1] T.R. has a history of mental illness. On December 9, 2021, the trial court held a hearing on Community Health Network’s (“Community”) request for an extension of T.R.’s temporary commitment. At the conclusion of the hearing, the trial court entered an order of regular commitment. T.R. appeals, arguing that there was insufficient evidence for the trial court’s finding that he was gravely disabled. We affirm.

Facts and Procedural History

- [2] T.R. has been diagnosed with schizoaffective disorder, bipolar type, and cannabis use disorder. T.R. began a regular commitment in 2008, and started working with Dr. Douglas Cook, a psychiatrist with Community, in 2011. In 2017, the commitment was ended when T.R. moved with his mother and stepfather to Michigan. Shortly after the move to Michigan, T.R.’s mother died, and he moved back to Indiana and resumed treatment with Dr. Cook in 2018.
- [3] In September 2021, T.R. was admitted to the hospital following a period of not taking his medication. Community obtained a temporary commitment order on September 17, 2021, which was set to expire on December 16, 2021. Following the temporary commitment, T.R. had been consistently taking his prescribed injectable medication, but had refused to take his second prescribed medication, an oral medication.

[4] On November 22, 2021, Community filed a report requesting the extension of the temporary commitment. The trial court held a commitment hearing on December 9, 2021. The trial court heard evidence that T.R. was staying in an apartment procured for him by Gallahue Behavioral Health (“Gallahue”) but that “if he continues to use marijuana where he is, he certainly stands a chance of being kicked out of that and he will have no housing.” Tr. Vol. II p. 28. Aryn Payson, a life skills clinician at Gallahue, reported that while T.R. is “capable of some activities of daily living such as cooking for himself, dressing himself, he does rely heavily on staff for other things such as going to the food pantry weekly, grocery store uh, getting to and from appointments, things of that nature.” Tr. Vol. II p. 12. T.R. reported that he had been spending “at least two hundred, three hundred [dollars]” on marijuana each month, which is a significant portion of the \$714.00 he had been receiving each month in social-security payments. Tr. Vol. II p. 37.

[5] T.R.’s sister M.R., Dr. Cook, and Payson, all testified at the hearing that they supported continuing the commitment. Dr. Cook and M.R. both testified that, in general, when T.R. is not committed he does not take his medication, and his mental health deteriorates. Specifically, Dr. Cook noted that in the past when “the commitment has expired um he’s he makes it clear that, that he does not believe that medications are helpful, he believes they essentially poison his body so he stops them and we repeat the cycle of homelessness, lack of self-care, and you know, being exploited by others unfortunately.” Tr. Vol. II p. 23. M.R. testified that “[w]hen he gets off his meds it’s only a matter of time before he

starts becoming psychotic and texting me and my brother and my step-dad about a whole bunch of religious stuff and then it starts becoming like mean religious stuff like you guys are going to hell and you're going to burn in the lake of fire[.]” Tr. Vol. II p. 7.

- [6] Following the hearing, the trial court entered an order of regular commitment, finding “by clear and convincing evidence: [...] Respondent is [...] gravely disabled, as defined in [Indiana Code section] 12-7-2-96.” Appellant’s App. Vol. II p. 11.

Discussion and Decision

- [7] [T]he purpose of civil commitment proceedings is dual: to protect the public and to ensure the rights of the person whose liberty is at stake. The liberty interest at stake in a civil commitment proceeding goes beyond a loss of one’s physical freedom, and given the serious stigma and adverse social consequences that accompany such physical confinement, a proceeding for an involuntary civil commitment is subject to due process requirements.

In re Civil Commitment of T.K. v. Dep’t of Veteran Affairs, 27 N.E.3d 271, 273 (Ind. 2015) (internal quotations and citations omitted).

- [8] To obtain an involuntary commitment, the petitioner is “required to prove by clear and convincing evidence that the person is: (1) mentally ill and either dangerous or gravely disabled, and (2) detention or commitment of the person is appropriate.” Ind. Code § 12-26-2-5(e). Indiana Code section 12-26-2-5(e) is written in the disjunctive, and therefore Community need only prove that T.R.

was either dangerous or gravely disabled. *See M.Z. v. Clarian Health Partners*, 829 N.E.2d 634, 637 (Ind. Ct. App. 2005).

[9] Indiana Code section 12-7-2-96 defines being “gravely disabled” as 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.

Because Indiana Code section 12-7-2-96 is also written in the disjunctive, Community need only prove one of the sections in order to prove that T.R. was gravely disabled. *See Civil Commitment of W.S. v. Eskenazi Health, Midtown Cmty. Mental Health*, 23 N.E.3d 29, 34 (Ind. Ct. App. 2014), *trans. denied*.

[10] T.R. does not dispute that he has a mental illness, only that Community presented insufficient evidence to prove that he was gravely disabled at the time of the commitment hearing. In fact, there was clear and convincing evidence that T.R. was gravely disabled. T.R. has a long history of mental illness and has been diagnosed with schizoaffective disorder, bipolar type, and cannabis use disorder. T.R. had been under a regular commitment from 2008 to 2017, which commitment only ended because of T.R.’s move to Michigan with his family. Dr. Cook testified that “[h]ad [T.R.] stayed in Indiana we would have continued to renew [the regular commitment.]” Tr. Vol. II p. 20.

[11] The trial court heard substantial evidence that T.R.’s mental illness, refusal to comply with medication, and cannabis use disorder have resulted in T.R.’s inability to meet his own needs. M.R., Dr. Cook, and Payson all testified in support of T.R.’s commitment and believe he would be incapable of maintaining his current housing and care for his needs if he was not committed. M.R., who is a psychiatric nurse herself, and Dr. Cook, who has treated T.R. off and on for more than ten years, both testified that T.R. is unwilling to comply with his prescribed medications when he is not under a court order to do so. M.R. testified that “[w]hen he gets off his meds it’s only a matter of time before he starts becoming psychotic and texting me and my brother and my step-dad about a whole bunch of religious stuff and then it starts becoming like mean religious stuff like you guys are going to hell and you’re going to burn in the lake of fire[.]” Tr. Vol. II p. 7.

[12] Though T.R. argues that he is fully capable of taking care of himself and functioning independently, that is contrary to the evidence. T.R. has a history of being incapable of maintaining housing, refusing to take his medication when not committed, and then devolving into psychotic and risky behavior. Further, to the extent that T.R. relies on cases in which other panels of this court have ruled that individuals who had been receiving assistance were still capable of living independently such that they were not gravely disabled, the cases are distinguishable. For instance, in *Commitment of B.J. v. Eskenazi Hospital/Midtown CMHC*, we held that there was insufficient evidence to prove that B.J. was gravely disabled, in part because he had “gained and maintained

employment at a job that required him to work seventy hours a week and travel frequently” and because “B.J. testified that he was able to dress himself, shower, work, and act as a normal, productive member of society.” 67 N.E.3d 1034, 1040 (Ind. Ct. App. 2016). In *K.F. v. St. Vincent Hospital & Health Care Center*, to which T.R. also cites, we held that K.F.’s erratic behavior indicating bipolar disorder, increase in spending, and alcohol consumption were “too slender a thread to support an involuntary commitment.” 909 N.E.2d 1063, 1067 (Ind. Ct. App. 2009) (internal quotation omitted) (*disapproved by T.K. v. Dep’t of Veterans Affairs*, 27 N.E.3d 271 (Ind. 2015)). While both of the individuals in these cases had been receiving help from family members, even if all of T.R.’s assistance were to continue, he would still be incapable of meeting his own needs.

[13] Specifically, T.R. has not displayed a significant level of competence and his behavior is erratic and concerning. Payson reported that while T.R. is “capable of some activities of daily living such as cooking for himself, dressing himself, he does rely heavily on staff for other things such as going to the food pantry weekly, grocery store uh, getting to and from appointments, things of that nature.” Tr. Vol. II p. 12. Payson further reported that the day before the commitment hearing when she visited T.R.’s apartment the main space was “fairly kept but the kitchen was not.” Tr. Vol. II p. 16. The trial court heard evidence that T.R. was staying in an apartment procured for him by Gallahue but that “if he continues to use marijuana where he is, he certainly stands a chance of being kicked out of that and he will have no housing.” Tr. Vol. II p.

28. T.R. reported that he had been spending “at least two hundred, three hundred [dollars]” on marijuana each month, which is a significant portion of the \$714.00 he had been receiving each month in social-security payments. Tr. Vol. II p. 37. T.R. has an extreme obsession with and addiction to marijuana and has reported that he “has no intention of quitting” marijuana, Tr. Vol. II p. 9, despite concerns from Dr. Cook that “over the last five, ten years, potency [of marijuana] has greatly increased[,]” and “[m]edications have been less effective over time[.]” Tr. Vol. II p. 29. T.R. is also unwilling to comply with his prescribed medications when he is not under a court order to do so and would have repeated “the cycle of homelessness, lack of self-care, and [...] being exploited by others unfortunately[,]” if he remained uncommitted. Tr. Vol. II p. 23. Though T.R. analogizes his situation to cases where others were receiving relatively minor amounts of assistance, the evidence supports the trial court’s determination that were T.R. to have remained uncommitted he would have been incapable of meeting his own needs.

[14] The trial court relied on clear and convincing evidence in finding that T.R. was incapable of meeting his own needs. Consequently, because, as mentioned, Indiana Code section 12-7-2-96 is written in the disjunctive, we need not determine whether there was evidence to support that there had been a substantial impairment or an obvious deterioration in T.R.’s judgment and reasoning preventing him from functioning independently.

[15] The judgment of the trial court is affirmed.

Najam, J., and Bailey, J., concur.