MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the
Civil Commitment of M.L.

M.L.,

Appellant-Respondent,

v.

Madison State Hospital,

Appellee-Petitioner.

September 20, 2022

Court of Appeals Case No.
22A-MH-778

Appeal from the
Elkhart Superior Court

The Honorable
Teresa L. Cataldo, Judge
The Honorable
Eric S. Ditton, Magistrate

Trial Court Cause No.
20D03-1807-MH-553

Bradford, Chief Judge.

Case Summary

[1] For at least six years, M.L. has been involuntarily committed at several mental health hospitals, including Madison State Hospital ("the Hospital"), where he now resides. In February 2022, the trial court renewed M.L.'s involuntary commitment for another year without holding a hearing. At M.L's request, the trial court later held a hearing, allowing M.L. to testify and eliciting testimony from a psychiatrist who was treating M.L. at the Hospital. The trial court affirmed the February 2022 order of involuntary commitment.

[2] On appeal, M.L. contends the trial court committed fundamental error by conducting the direct examination of the psychiatrist, which produced evidence the trial court relied on to continue M.L.'s involuntary commitment at the Hospital. M.L. argues this questioning violated his due process right to have a neutral judge determine whether his involuntary commitment should continue. We affirm.

Facts and Procedural History

[3] M.L. has a history of schizophrenia, schizoaffective disorder, delusions, aggression, and he has resisted medication and treatment. Since 2016, he has been involuntarily committed to mental health hospitals, and those

commitment orders have been renewed several times.[1] In February 2019, M.L. was placed in the Hospital, where he remains.

[4] On February 25, 2022, without holding a hearing, the trial court issued an order continuing M.L.'s involuntary commitment through February 28, 2023. On March 24, 2022, at M.L.'s request, the trial court held a review hearing of the February 25 order of continued commitment. M.L. was represented by counsel. The Hospital was not represented by counsel, but Dr. Ayobola Oloworaran, a psychiatrist who treated M.L., testified on behalf of the Hospital.

[5] The trial court asked M.L., "What is your reason for needing a status hearing today?" Tr. Vol. II at 18. M.L. responded, "Because I'd like to be discharged to Area 51, CIA Headquarters, in Langley, Virginia. And President Biden has told me, via broadcasting through the network TV, that he doesn't want me there." *Id.* M.L. explained that his release "would have to been done under the guidance of the Central Intelligence Agency, [of] which I am a member." *Id.* at 19. He also told the trial court he was "a commander in the United States Air Force and Star Force, and the New Star Force Program." *Id.*

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[1] M.L. appealed three of those orders, and we affirmed the trial court in each appeal. *See M.L. v. Oaklawn OSJ*, No. 18A-MH-1114, 2018 WL 5578872 (Ind. Ct. App. Oct. 30, 2018); *M.L. v. Oaklawn Psychiatric Servs.*, No. 19A-MH-392, 2019 WL 3771925 (Ind. Ct. App. Aug. 12, 2019), *trans. denied*; and *M.L. v. Madison State Hosp.*, No. 20A-MH-610, 2020 WL 5649403 (Ind. Ct. App. Sept. 23, 2020), *trans. denied.*

[6] The trial court then questioned Dr. Oloworaran, asking whether (1) M.L. was a danger to himself or others; (2) M.L. was gravely disabled; and (3) continued placement and treatment at the Hospital was appropriate. Dr. Oloworaran responded affirmatively to each question.

[7] M.L.'s counsel cross-examined Dr. Oloworaran, asking whether civil commitment was the least restrictive means for treating M.L. and whether M.L.'s medication was successfully treating M.L. Dr. Oloworaran testified that civil commitment was the least restrictive means to treat M.L. and that M.L.'s use of lithium was suspended, at M.L.'s insistence, but this led to an "uptick in [M.L.'s] violence," so M.L. was put back on lithium. *Id.* at 25. At the end of the hearing, the trial court found that since the February 25 order, there was no new "evidence that "[M.L's] mental health has improved to such an extent that he should be released . . . ." *Id.* at 34. Later that same day, the trial court issued its written order affirming M.L.'s continued involuntary commitment to the Hospital.

Discussion and Decision

[8] M.L. contends the trial court violated his right to due process when it questioned Dr. Oloworaran and elicited testimony that M.L.'s mental illnesses justified continuation of M.L.'s involuntary commitment. In doing so, M.L. claims, the trial court functioned as the Hospital's advocate. M.L. admits he failed to object to the trial court's questioning of Dr. Oloworaran, so he claims the trial court's actions constituted fundamental error. Review for fundamental

error "is extremely narrow and 'available only when the record reveals a clearly blatant violation of basic and elementary principles, where the harm or potential for harm cannot be denied, and which violation is so prejudicial to the rights of the defendant as to make a fair trial impossible.'" *Matter of Eq.W.*, 124 N.E.3d 1201, 1214–15 (Ind. 2019) (quoting *Jewell v. State*, 887 N.E.2d 939, 942 (Ind. 2008)).

[9] Civil commitment proceedings have two purposes: protect the public and ensure the rights of the person whose liberty is at stake. *Civ. Commitment of T.K. v. Dep't of Veterans Affs.*, 27 N.E.3d 271, 273 (Ind. 2015). A proceeding for an involuntary civil commitment must satisfy due process requirements. *Id.*; *see also Addington v. Texas,* 441 U.S. 418, 430–33 (1979). Due process requires a neutral, impartial adjudicator. *In re Dixon*, 994 N.E.2d 1129, 1138 (Ind. 2013); *Rynerson v. City of Franklin*, 669 N.E.2d 964, 967 (Ind. 1996).

[10] But due process is a flexible standard that "cannot be divorced from the nature of the ultimate decision that is being made." *Jones v. State*, 477 N.E.2d 353, 360 (Ind. Ct. App. 1985) (quoting *Parham v. J.R.*, 442 U.S. 584, 608 (1979)), *trans. denied*. Thus, in cases involving involuntary civil commitment, "[w]hat is important is not so much the manner of presenting evidence as is the determination by the trial judge of the need for treatment." *In re Commitment of A.W.D.*, 861 N.E.2d 1260, 1263 (Ind. Ct. App. 2007)*, trans. denied.* Moreover, most restrictions on a trial court's power to examine witnesses are relaxed in trials to the court. *A.W.D.*, 861 N.E.2d at 1263; *see also* Ind. Evidence Rule 614(B) ("The court may question a witness regardless of who calls the

witness."). Thus, we cannot assume the trial court was biased against M.L. simply because it questioned Dr. Oloworaran.

[11] Furthermore, a trial court's power to examine witnesses is implicit in civil commitment proceedings because of its duty to determine whether the allegedly mentally ill person is either gravely disabled or dangerous. *In re Commitment of Roberts*, 723 N.E.2d 474, 475 (Ind. Ct. App. 2000); *Jones*, 477 N.E.2d at 359. To that end, "the judge may intervene in the fact-finding process and question witnesses . . . to promote clarity or dispel obscurity. The purpose of allowing the judge to question witnesses is to permit the court to develop the truth or obtain facts which may have been overlooked by the parties." *A.W.D.*, 861 N.E.2d at 1264 (quoting *Griffin v. State*, 698 N.E.2d 1261, 1265 (Ind. Ct. App. 1998), *trans. denied* (internal citations omitted)).

[12] The trial court did not violate M.L.'s right to due process. In questioning Dr. Oloworaran, it was fulfilling its duty to determine whether M.L. was gravely disabled or a danger to himself or others. *See Roberts*, 723 N.E.2d at 475. As was true in *A.W.D.*, the way the evidence was produced at M.L.'s hearing was less important than what the evidence helped the trial court decide—whether M.L.'s involuntary commitment should continue. *See A.W.D.*, 861 N.E.2d at 1263. Therefore, it was appropriate for the trial to intervene in the fact-finding process by questioning Dr. Oloworaran to "develop the truth or obtain facts which may have been overlooked by the parties." *Id*. at 1264. The trial court's questions did not go beyond that task.

[13] The need for the trial court to question Dr. Oloworaran was even more pressing because the Hospital was not represented by counsel at the commitment hearing, as is permissible under Indiana Code section 12-26-2-5(d). Because M.L.'s counsel could not be expected to elicit testimony that would support a continuation of M.L.'s involuntary commitment, the trial court could fulfill its duty to assess the severity of M.L.'s mental illnesses only by questioning Dr. Oloworaran.

[14] In sum, the trial court's questioning of Dr. Oloworaran showed no bias and did not violate M.L.'s right to due process. Accordingly, the trial court committed no error, fundamental or otherwise.

[15] Affirmed.

Vaidik, J., and Pyle, J., concur.