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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Civil Commitment of: CD

C.D.,

Appellant-Respondent,

v.

St. Vincent Hospital and Health Center, Inc. d/b/a St. Vincent Stress Center,

Appellee-Petitioner

February 20, 2023

Court of Appeals Case No. 22A-MH-2013

Appeal from the Marion Superior Court

The Honorable Steven Eichholtz, Judge

The Honorable Melanie Kendrick, Magistrate

Trial Court Cause No. 49D08-2208-MH-27275

Opinion by Judge Vaidik
Judge Bailey concurs.
Judge Riley dissents and votes to dismiss as moot.

Vaidik, Judge.

Case Summary

[1] C.D. appeals the trial court's order involuntarily committing her to St. Vincent Hospital and Health Center, Inc. ("Hospital"), contending the commitment is not supported by sufficient evidence. We agree, reverse, and remand for the order to be vacated.

Facts and Procedural History

[2] In April 2022, C.D. began exhibiting "concerning" behavior. Tr. Vol. II p. 6. She accused her husband K.D. of being a pedophile and "molesting her and [their] children's minds," would "scream at the top of her lungs" and speak inappropriately in front of their three young children, and once swung her arm at her husband in anger, missing and hitting their child. *Id.* at 7. Additionally, she told her husband that she heard voices telling her "he's evil." *Id.* at 8. In May, she saw a psychiatrist, but refused to attend any follow-up appointments or take the prescribed medication. On August 11, after C.D. "yell[ed] at him at the top of her lungs," K.D. called police for a wellness check, and police took

C.D. to the Hospital, where she was placed under emergency detainment.[1] *Id.* at 6.

[3] Dr. Erica Cornett, a psychiatrist at the Hospital, examined C.D. but could not fully evaluate her because C.D. refused to speak with her and stated she would only speak with her attorney. C.D. also refused to take any medication. Based on her observations of C.D. and information relayed by K.D., Dr. Cornett determined that C.D. was suffering from an "unspecified" psychiatric disorder and filed a report with the court requesting temporary involuntary commitment (up to ninety days) of C.D. *Id.* at 17.

[4] An evidentiary hearing was held on August 16. K.D. testified and confirmed C.D. eats, showers, and can care for their children "to a certain extent," including preparing them food. *Id.* at 9. When asked if C.D. could "exist independently," K.D. stated she could not because she was "distracted" and "not fully present" and he'd "been doing a lot more of the cooking and caring for the kids." *Id.* at 8-10. Dr. Cornett similarly testified that she believed C.D.

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[1] In Indiana, an adult may be civilly committed either voluntarily or involuntarily. Involuntary civil commitment may occur under four circumstances if certain statutorily regulated conditions are satisfied: (1) "Immediate Detention" by law enforcement for up to 24 hours, *see* Ind. Code ch. 12-26-4; (2) "Emergency Detention" for up to 72 hours, *see* I.C. ch. 12-26-5; (3) "Temporary Commitment" for up to ninety days, *see* I.C. ch. 12-26-6; and (4) "Regular Commitment" for an indefinite period of time that may exceed ninety days, *see* I.C. ch. 12-26-7. Where, as here, an individual is held as an emergency detainee, before the end of the detention period the applicant must file a report with the court requesting the individual be discharged or asserting there is cause for a temporary or regular commitment. I.C. §§ 12-26-5-5, -6.

was gravely disabled and unable to exercise reasonable judgment because she would not cooperate with the doctors at the Hospital.

[5] After the hearing, the trial court entered an order of temporary commitment not to exceed ninety days.

[6] C.D. now appeals.

Discussion and Decision

[7] C.D. argues the evidence is insufficient to support her involuntary commitment.[2] Civil commitment proceedings have two purposes—to protect both the public and the rights of the person for whom involuntary commitment is sought. *A.S. v. Ind. Univ. Health Bloomington Hosp.*, 148 N.E.3d 1135, 1138 (Ind. Ct. App. 2020). The liberty interest at stake in a civil-commitment proceeding goes beyond a loss of one's physical freedom because commitment is accompanied by serious stigma and adverse social consequences. *Id.* Accordingly, proceedings for civil commitment are subject to the requirements of the Due Process Clause. *Id.*

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[2] C.D. notes that her temporary commitment expired in November 2022, and thus this case is arguably moot. A case is moot when the controversy at issue has been ended, settled, or otherwise disposed of so that the court can give the parties no effective relief. *E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 188 N.E.3d 464, 466 (Ind. 2022). However, the Hospital does not argue that the mootness doctrine applies. And even if it did, because of "the unique circumstances and issues presented by involuntary commitments," we "routinely [consider] the merits of these cases despite finding them moot." *Id.* at 467.

[8] To satisfy due process, a person may not be committed without clear and convincing evidence in support. *Id.* at 1139. The clear-and-convincing-evidence standard is "an intermediate standard of proof greater than a preponderance of the evidence and less than proof beyond a reasonable doubt." *B.J. v. Eskenazi Hosp./Midtown CMHC*, 67 N.E.3d 1034, 1038 (Ind. Ct. App. 2016). Under this standard, "we affirm if, considering only the probative evidence and the reasonable inferences supporting it, without weighing evidence or assessing witness credibility, a reasonable trier of fact could find the necessary elements proven by clear and convincing evidence." *A.S.*, 148 N.E.3d at 1139 (quotation omitted).

[9] To obtain an involuntary commitment, the petitioner is required to prove by clear and convincing evidence that (1) the person is 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). C.D. makes several challenges under the statute, one of which we find dispositive: whether the Hospital showed by clear and convincing evidence that she was gravely disabled.

[10] We first note that, while Section 12-26-2-5(e)(1) is disjunctive ("either dangerous or gravely disabled"), the Hospital did not argue at the hearing, nor does it now contend, that C.D. was dangerous. Instead, it argues only that she was gravely disabled. "Gravely disabled" is defined as a condition that causes an individual to (1) be unable to meet their basic food, clothing, and shelter needs or (2) be so obviously impaired in judgment, reasoning, or behavior that such individual cannot function independently. I.C. § 12-7-2-96.

[11] C.D. argues that "[a]t no point did the Hospital prove that [she] was unable to provide for her essential human needs or function independently." Appellant's Br. p. 23. We agree that, given the clear-and-convincing-evidence standard, the Hospital failed to do so. The Hospital points to various concerning behaviors exhibited by C.D.—hearing voices, yelling, swinging her arm at her husband, and accusing him of molesting their children. But these do not show that she cannot meet her needs or function independently. To the contrary, the record shows that C.D. cooks, eats, showers, and cares for her children. And while both Dr. Cornett and K.D. testified that C.D. cannot function independently, neither supported these conclusory statements. When asked about C.D.'s ability to function, K.D. testified only that she was distracted, causing him to have to do more work around the home, and Dr. Cornett testified that C.D. was uncooperative with hospital staff. We do not agree that these behaviors show an inability to provide for essential human needs or function independently.

[12] The Hospital also argues that C.D. is gravely disabled because her "mental illness was impacting her ability to understand her diagnosis and take part in her treatment." Appellee's Br. p. 13. To support this proposition, the Hospital emphasizes that C.D. did not follow up with her psychiatrist and refused to take prescribed medication or speak with medical staff at the Hospital. But in *T.K. v. Department of Veterans Affairs*, 27 N.E.3d 271, 276 (Ind. 2015), our Supreme Court held "denial of illness and refusal to medicate, standing alone, are insufficient to establish grave disability because they do not establish, by clear and convincing evidence, that such behavior 'results in the individual's inability

to function independently.'" There, the patient suffered from paranoid schizophrenia and exhibited behaviors like C.D.—yelling in public, threatening family members, accusing acquaintances of sexual crimes, and refusing to take medication. The Court, while noting it did "not condone" T.K.'s behavior, found no evidence any of it made him unable to function independently. *Id.* at 277. The same can be said here. The Hospital presented evidence C.D. is suffering from a mental illness and exhibiting concerning behavior. But it is not apparent from this evidence that she cannot function independently.

[13] Finding insufficient evidence to support C.D.'s involuntary commitment, we reverse the trial court's decision and remand for the court to vacate the commitment order.

[14] Reversed and remanded.

Bailey, J., concurs.
Riley, J., dissents and votes to dismiss as moot.