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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Civil Commitment of E.F.,

Appellant-Respondent,

v.

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

Appellee-Petitioner.

August 18, 2022

Court of Appeals Case No. 21A-MH-1332

Appeal from the Marion Superior Court, Probate Division

The Honorable Steven R. Eichholtz, Judge

The Honorable Melanie L. Kendrick, Magistrate

Trial Court Cause No. 49D08-2106-MH-18950

Najam, Senior Judge.

Statement of the Case

[1] This case is before us on remand from the Indiana Supreme Court. After St. Vincent Hospital and Health Care Center, Inc. d/b/a St. Vincent Stress Center ("St. Vincent") filed a petition for the involuntary commitment of E.F., the court found E.F. mentally ill and gravely disabled and entered an involuntary temporary commitment order. E.F. appealed and argued that she was not provided the opportunity to agree to voluntary treatment, that a less-restrictive treatment was appropriate, and that there was insufficient evidence of grave disability. A divided panel of this Court issued a published opinion on November 30, 2021, and dismissed the appeal as moot, concluding that the trial court's commitment order had expired, that the Court was unable to provide relief to E.F., and that E.F. had failed to argue that any exception to the mootness doctrine applied. *Commitment of E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 179 N.E.3d 1017, 1020 (Ind. Ct. App. 2021) (Vaidik, J., dissenting) ("*E.F. I")*, *vacated sub nom*. *E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 188 N.E.3d 464 (Ind. 2022) ("*E.F. II").* Our Supreme Court granted E.F.'s petition to transfer and remanded the case to this Court to consider "any arguments the parties may have about mootness and the public-interest exception" that relate to reaching the merits of an appeal from an expired temporary civil commitment order. *E.F. II*, 188 N.E.3d at 468.

[2] Upon reconsideration with the assistance of the parties' supplemental briefs, we find that the issues E.F. raises involve questions of great public interest. Therefore, we review E.F.'s case on the merits. We hold that there is clear and

convincing evidence to support the trial court's determination that E.F. was gravely disabled and that the temporary commitment was appropriate.

[3] We affirm.

Facts and Procedural History

[4] E.F. has diabetes and a history of bipolar disorder. In March 2021, E.F.'s family became particularly concerned about her mental health. E.F. had traveled out of town to attend a wedding but did not bring her medications to treat her diabetes, bipolar, and other medical conditions. E.F. waited three days before she contacted her daughter and asked her to express-mail the medications. During the trip, E.F. was arrested and charged with shoplifting.

[5] After E.F. returned from her trip, her behavior became more erratic. E.F. purchased a car, returned it a few days after purchase, and demanded that the car she traded to the dealership be returned to her. A few days later, E.F. purchased a Mercedes without test driving it and had the car delivered to her home—despite a monthly income of $980. E.F. told her daughter that she planned to purchase a bar and move her tanning bed to the bar so that her daughter's newborn baby would have a place to sleep. On some days, E.F. would not return to her home, choosing instead to sleep overnight with a cat that she kept at one of her rental properties.

[6] E.F. had open wounds on her feet but failed to attend doctor's appointments for treatment. E.F.'s husband would clean and bandage her wounds on the days that E.F. chose to sleep at their home, but because E.F. experienced

incontinence, the bandages would become soaked in urine and blood would seep from the wounds. This resulted in the amputation of one of E.F.'s toes. While at the hospital for the amputation, E.F. became "disconnected from reality." Tr. Vol. 2 at 26. Despite the hospital staff's warnings that E.F. should stay in bed, E.F. walked around her room and left a trail of blood. She locked herself in the bathroom that was attached to her hospital room and called 9-1-1 because she was "scared for her life," and she believed a doctor was "making advances on her." *Id.* When E.F. became upset with her daughter's attempts to help her, E.F. told her daughter that she was "dead" to her. *Id.* On more than one occasion, E.F. told her daughter that she was going to seek custody of her daughter's newborn baby. And, several times, E.F. told her husband of forty-one years that she wanted to divorce him.

[7] On June 3, 2021, E.F. was taken from Northwest Health-Porter, in Valparaiso, to St. Vincent because she was displaying symptoms of a manic episode of her bipolar disorder. On June 4, St. Vincent filed with the trial court an Application for Emergency Detention of Mentally Ill and Dangerous or Gravely Disabled Person alleging that E.F. was suffering from a psychiatric disorder that prevented her from being able to take care of herself. St. Vincent also filed a Petition for Involuntary Commitment, signed by a physician, stating that E.F. was manic and unable to control her diabetes, which resulted in gangrene and a toe amputation. Dr. Erika Cornett, the psychiatrist who examined E.F., stated that E.F. was "paranoid" and was "calling police," and she was "spending large sums of money." Appellant's App. Vol. 2 at 17.

Finally, the psychiatrist stated that E.F.'s family "does not feel they can keep her safe." *Id.*

[8] Following a hearing on June 9, the trial court found that E.F. was suffering from a psychiatric disorder and that she was gravely disabled. The court concluded that E.F. was in need of custody, care, and treatment at St. Vincent "for a period of time not to exceed ninety (90) days." *Id.* at 11. The court ordered that St. Vincent discharge E.F., at the latest, on September 7, 2021.

[9] E.F. appealed, and, while her appeal was pending, her commitment order expired. We dismissed the appeal as moot. Our Supreme Court granted transfer on E.F.'s petition and remanded for us to reexamine whether any exceptions to the mootness doctrine apply. We granted the parties leave to file supplemental briefs that addressed the issues of mootness and the public-interest exception. This appeal ensued.

Discussion and Decision

[10] E.F. contends that the trial court erred when it found that she was gravely disabled and that her temporary commitment to St. Vincent was appropriate. E.F. further argues that the mootness doctrine should not apply, despite the fact that the temporary commitment expired, because E.F. raises "novel issue[s] of great public importance likely to recur in an undeveloped area of civil commitment law." Appellant's Supp. Br. at 4. Alternatively, and in the event that this Court "does not apply the public-interest exception" advanced by E.F., E.F. asks this Court to find that "temporary commitments are never moot

because this Court can grant effective relief." *Id.* at 7. We first address the question of mootness.

Issue One: Mootness

[11] As our Supreme Court stated in *T.W. v. St. Vincent Hospital & Health Care Center, Inc.*, 121 N.E.3d 1039, 1042 (Ind. 2019),

> "[t]he long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court." *Matter of Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991). When the controversy at issue has been ended or settled, or somehow disposed of so as to render it unnecessary to decide the question involved, the case will be dismissed. *Id.* But "Indiana recognizes a public interest exception to the mootness doctrine, which may be invoked when the issue involves a question of great public importance which is likely to recur." *Matter of Tina T.*, 579 N.E.2d 48, 54 (Ind. 1991).

[12] In *E.F. II*, our Supreme Court explained that, "[b]ecause of the fundamental interests at stake in these cases, review of the issues presented is important, including the nuances of the sufficiency of the evidence to support a commitment." 188 N.E.3d at 467. The Court added that it is "especially appropriate" to "consider[] the merits of these cases[,] despite finding them moot[,]" where the appeal "address[es] novel issues, present[s] a close case, or develop[s] case law on a complicated topic." *Id.* (internal citations omitted). And, the Court reaffirmed that we may continue the "practice of considering many involuntary commitment appeals" that fall "under the public interest

exception[,]" but we are "not required to issue an opinion in every moot case." *Id.*

[13] While we cannot agree with E.F.'s contention that this case presents "*novel* issue[s] of great public importance" or that the case presents an opportunity to develop "an undeveloped area of civil commitment law[,]" Appellant's Supp. Br. at 4 (emphasis added), we, nevertheless, find that issues of great public interest are implicated by this case. As our Supreme Court opined, "[t]emporary civil commitments can often fit within this public interest exception to mootness because they are transitory in nature and require the delicate balancing of a person's fundamental liberty interest with the safety of individuals and the public." *E.F. II*, 188 N.E.3d at 465. And, "civil commitment for any purpose" has a "very significant impact on the individual" and "constitutes a significant deprivation of liberty that requires due process protection." *Id.* at 467 (quoting *Addington v. Texas*, 441 U.S. 418, 425-26 (1979)).

[14] As for E.F.'s request that this Court find that "temporary commitments are never moot because this Court can grant effective relief[,]" we decline to do so. Appellant's Supp. Br. at 7. In *E.F. II*, our Supreme Court held that the public-interest exception "should be applied on a case-by-case basis[,]" and that, while appellate courts "may" issue an opinion in a moot temporary commitment appeal, we are not required to do so in "every" case. 188 N.E.3d at 465, 466. In light of our Supreme Court's decision in *E.F. II.*, we review E.F.'s claims on the merits.

Issue Two: Sufficiency of the Evidence

Standard of Review

[15] When reviewing a challenge to the sufficiency of the evidence with respect to commitment proceedings, we will only look to the evidence most favorable to the trial court's decision and all reasonable inferences drawn therefrom. *Golub v. Giles*, 814 N.E.2d 1034, 1038 (Ind. Ct. App. 2004), *trans. denied*. In reviewing the evidence supporting the judgment, we may neither reweigh the evidence nor judge the credibility of the witnesses. *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 will affirm the order even if other reasonable conclusions are possible. *Id.*

[16] However, civil commitment is a significant deprivation of liberty, and it requires due process protections. *C.J. v. Health and Hosp. Corp. of Marion Cty.*, 842 N.E.2d 407, 409 (Ind. Ct. App. 2006) (citation omitted). The petitioner must show "'that the individual suffers from something more serious than is demonstrated by idiosyncratic behavior.'" *In re Commitment of Bradbury*, 845 N.E.2d 1063, 1065 (Ind. Ct. App. 2006) (quoting *Addington*, 441 U.S. at 427). To obtain an involuntary commitment, the petitioner is "required to 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) (2022). Indiana Code Section 12-26-2-5(e) is written in the disjunctive, and therefore St. Vincent need

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

[17] E.F. does not challenge the trial court's finding that she is mentally ill. Instead, she argues that St. Vincent failed to prove by clear and convincing evidence that (1) she was given an opportunity to agree to voluntary treatment; (2) a less-restrictive treatment was appropriate; and (3) she was gravely disabled. We address each argument in the order presented.

Voluntary Treatment

[18] We first consider E.F.'s contention that St. Vincent failed to present clear and convincing evidence that she was provided an opportunity to agree to voluntary treatment. Specifically, E.F. argues that there is "no evidence in the record" that St. Vincent asked her if "she would be willing to agree to voluntary treatment." Appellant's Br. at 9, 13. We cannot agree. The physician's statement that is attached to St. Vincent's Petition for Involuntary Commitment indicates that the physician who examined E.F. "discussed with [her] the advisability of obtaining treatment on a voluntary basis, and [E.F.] . . . refused to begin voluntary treatment." Appellant's App. Vol. 2 at 20. In any event, to secure an involuntary commitment, St. Vincent was required to prove by clear and convincing evidence only that E.F. was mentally ill and either dangerous or gravely disabled, and that detention or commitment of E.F. was appropriate. *See* I.C. § 12-26-2-5(e). St. Vincent was not required to prove that E.F. was afforded an opportunity to agree to voluntary treatment.

Appropriateness of E.F.'s Commitment

[19] Next, E.F. contends that St. Vincent failed to prove by clear and convincing evidence that E.F.'s involuntary commitment was appropriate and that a "less restrictive means of treatment" at an outpatient care facility in Valparaiso, where E.F. resides, was not appropriate. Appellant's Br. at 14. In other words, according to E.F., St. Vincent failed to show that

> an involuntary commitment was necessary when [the hospital] could have (1) allowed voluntary treatment because E.F. was compliant with all prescribed treatment and willing to do anything for her health, and (2) ordered treatment in the less restrictive outpatient clinic in Valparaiso.

Id. at 16. We cannot agree.

[20] Dr. Erika Cornett, the psychiatrist who examined E.F.—and whom E.F. stipulated was an expert in psychiatry—testified about E.F.'s mental illness diagnosis and that E.F. was displaying symptoms of a hypomanic episode, specifically, "rapid and pressured speech, sexually inappropriate behavior, [and] impulsive behaviors[.]" Tr. Vol. 2 at 10. Dr. Cornett told the court about E.F.'s proposed treatment plan, which included psychiatric medications. The doctor testified that the medications were appropriate to treat E.F.'s illness and that, while E.F. was "responding well" and had "shown substantial improvement on the medications[,]" she continued to exhibit symptoms of her illness and was "still quite symptomatic." *Id.* at 11, 14.

[21] Dr. Cornett emphasized that E.F.'s improvement was "a direct result of the medications" that she had been prescribed during her commitment at St. Vincent but added that E.F. had a "history of noncompliance" with taking medication. *Id.* at 15, 16. Dr. Cornett explained that, when E.F. was at home in Valparaiso, she had not been consistent with taking the medications that had been prescribed to treat her numerous health issues. And the doctor testified that she was "concern[ed]" that, "if [E.F. was] not compliant with [her psychiatric] medication when she left [St. Vincent], we would see her rapidly decompensate." *Id.* at 14. Dr. Cornett added that she was concerned that E.F. would deteriorate both physically and psychiatrically if E.F. failed to take her medications and that she had considered prescribing E.F. a "long-acting injectable" drug, which would take "four days to initiate." *Id.* at 13, 18.

[22] When asked on direct examination whether the doctor believed an alternative treatment plan was appropriate, the doctor answered, "No, other than a potential discussion around the long-acting injectable" drug. *Id.* Dr. Cornett further testified that the benefits of the treatment plan outweighed any potential harm to E.F. When Dr. Cornett was asked if she believed that "anything less than inpatient treatment would be appropriate for . . . E.F.[,]" the doctor answered, "Not at this time." *Id.* at 15. Dr. Cornett told the court that E.F. was not "ready to leave the hospital" because E.F. was not "sufficiently stabilized[.]" *Id.* It was the doctor's opinion that E.F. would not be able to comply with her prescribed inpatient treatment plan in an outpatient setting and that "continued care as an inpatient at [St. Vincent was] in . . . E.F.'s best

interest." *Id.* at 17. The doctor anticipated that E.F. would need to remain at St. Vincent "approximately four to five days" before being released to an outpatient care facility near E.F.'s home. *Id.* at 16.

[23] Based on Dr. Cornett's testimony, we conclude that the State provided clear and convincing evidence to support the trial court's finding that E.F.'s commitment was appropriate. E.F.'s arguments are nothing more than a request to reweigh the evidence, which we cannot do. *Golub*, 814 N.E.2d at 1038.

Gravely Disabled

[24] Finally, E.F. contends that the State failed to prove by clear and convincing evidence that she is gravely disabled. "Gravely disabled" means 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.

I.C. § 12-7-2-96. As this Court has noted, because this statute is written in the disjunctive, a trial court's finding of grave disability survives if we find that there was sufficient evidence to prove either that the individual is unable to provide for her basic needs or that her judgment, reasoning, or behavior is so

impaired or deteriorated that it results in her inability to function independently. *See Civ. Commitment of W.S. v. Eskenazi Health, Midtown Cmty. Mental Health*, 23 N.E.3d 29, 34 (Ind. Ct. App. 2014), *trans. denied*.

[25] E.F. asserts that St. Vincent has not shown that, "*at the time of [the commitment] hearing*, E.F. was in danger of coming to harm or unable to function independently as required by the statute." Appellant's Br. at 21 (emphasis in original). However, Dr. Cornett testified that E.F. had been diagnosed with mania and bipolar disorder and, even after being prescribed medication, still exhibited symptoms of the condition, including inappropriate sexual behavior. The doctor further testified that E.F. had only "[m]inimal[]" insight into her diagnoses and offered "alternative explanation[s] for [her] . . . impulsive behaviors and decision-making[.]" Tr. Vol. 2 at 15. Dr. Cornett was concerned about E.F.'s history of not taking her medications and believed that, if E.F. did not continue taking all of her medications, E.F. would deteriorate physically and mentally. The doctor believed that, if E.F.'s mental and physical illnesses went untreated, it would "result in a very bad, even fatal outcome[.]" *Id.* at 16. Dr. Cornett also testified that she considered E.F. gravely disabled. And, regarding whether E.F. was able to demonstrate proper judgment, reasoning, or behavior and function independently, the doctor told the court, "Not at this time." *Id.* at 15.

[26] The evidence clearly and convincingly demonstrates that E.F. is in danger of coming to harm because she suffers from a substantial impairment of her judgment, reasoning, and behavior. The evidence further demonstrates that, in

light of this impairment, E.F. is unable to function independently. Therefore, the court did not err when it found that E.F. is gravely disabled.

Conclusion

[27] We conclude that this appeal is not moot, and we hold that St. Vincent presented sufficient evidence to support the trial court's order of temporary involuntary commitment. The court's involuntary commitment order represents a conclusion that a reasonable person could have drawn. The judgment of the court is affirmed.

[28] Affirmed.

Vaidik, J., and Weissmann, J., concur.