MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Sarah Medlin
Marion County Public Defender Agency
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

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

IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Civil Commitment of B.J.,

Appellant-Respondent,

v.

Community Health Network, Inc.,

Appellee-Petitioner

February 24, 2023

Court of Appeals Case No. 22A-MH-2402

Appeal from the Marion Superior Court

The Honorable Amy Jones, Special Judge

Trial Court Cause No. 49D08-2209-MH-30308

Memorandum Decision by Judge Crone
Judges Robb and Kenworthy concur.

Crone, Judge.

Case Summary

[1] B.J. appeals his regular involuntary commitment to Community Health Network, Inc. (Community), asserting that Community failed to present clear and convincing evidence that he is either dangerous to others or gravely disabled. Finding the evidence as to dangerousness sufficient, we affirm.

Facts and Procedural History

[2] B.J. was born in 1980 and has a history of commitments due to chronic mental illness. On August 30, 2022, B.J. was admitted to Community pursuant to an application for emergency detention and was examined by Dr. Kanwaldeep Sidhu. In his physician's statement, Dr. Sidhu opined that B.J. was suffering from schizoaffective disorder, bipolar type, and was both dangerous to others ("Displaying agitation and aggression") and gravely disabled ("Poor insight, poor judgment, not able to support self without help, unable to understand need for treatment"). Appellant's App. Vol. 2 at 19. Dr. Sidhu requested a regular commitment, i.e., one "reasonably expected to require custody, care, or treatment in a facility for more than ninety (90) days." Ind. Code § 12-26-7-1.

[3] On September 12, 2022, the trial court held a commitment hearing at which Community presented the testimony of B.J.'s father (Father) and Dr. Syed Hasan. B.J. testified on his own behalf. After the hearing, the trial court entered an order finding that B.J. was suffering from a mental illness, was both dangerous to others and gravely disabled, and was in need of a regular

commitment to Community. B.J. now appeals. Additional facts will be provided below.

Discussion and Decision

[4] B.J. challenges the sufficiency of the evidence supporting the trial court's order. 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).[1] Clear and convincing evidence "is defined as an intermediate standard of proof greater than a preponderance of the evidence and less than proof beyond a reasonable doubt." *T.D. v. Eskenazi Midtown Cmty. Mental Health Ctr.*, 40 N.E.3d 507, 510 (Ind. Ct. App. 2015). To be clear and convincing, the existence of a fact must be highly probable. *Id*. In reviewing the sufficiency of the evidence supporting a decision in a civil commitment proceeding, "an appellate court will 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.'" *Civil Commitment of T.K. v. Dep't of Veterans Aff.*, 27

[1] Indiana Code Section 12-7-2-130 defines "mental illness" in pertinent part as "a psychiatric disorder that: (A) substantially disturbs an individual's thinking, feeling, or behavior; and (B) impairs the individual's ability to function."

N.E.3d 271, 273 (Ind. 2015) (alteration in *T.K.*) (quoting *Bud Wolf Chevrolet, Inc. v. Robertson*, 519 N.E.2d 135, 137 (Ind. 1988)).

[5] B.J. does not dispute that he is mentally ill, but he does contend that Community failed to establish that he is either dangerous to others or gravely disabled. To carry its burden of proof, Community had to prove only that B.J. "was either gravely disabled *or* dangerous. It did not have to prove both of these elements." *M.Z. v. Clarian Health Partners*, 829 N.E.2d 634, 637 (Ind. Ct. App. 2005), *trans. denied*. Indiana Code Section 12-7-2-53 defines "dangerous" as "a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm the individual or others." "A trial court … is not required to wait until a physical act is visited upon an individual before determining that an individual poses a substantial risk of harm to others." *M.Z.*, 829 N.E.2d at 638.

[6] At the hearing, Father testified that when he visited B.J. at Community the week before, B.J. said that "if he ever got extended, he was going to put a bullet in people[']s head and he's gonna murder some people …." Tr. Vol. 2 at 11.[2] Father further stated, "In my heart I don't think [B.J.] would hurt himself or others but then again, he's so delusional he thinks the F.B.I. is you know … so we don't know." *Id.*[3] Father also testified that B.J. was living with him and his

---

[2] Community presumes that "extended" refers to "the granting or extending of an involuntary commitment." Appellee's Br. at 8 n.2. We find this presumption reasonable.

[3] B.J. quotes only part of this statement in his reply brief, omitting everything after "others." Reply Br. at 5.

wife and was currently under "house arrest" due to a felony conviction for a battery that occurred approximately one year before the commitment hearing.[4] *Id*. at 10. Father described B.J.'s version of the battery incident as follows:

> Well, he's explained to me that uh, he originally thought the water at our house here was salt water, so we started buying him bottled water and then he decided that the bottle water was salt water and he wanted to go and find water. So, he walked from here to Meijer on Keystone to find water and he found a lady who was getting in the car, and he went to take her purse and keys to go find water. That's when he was tackled by people in the parking lot and was picked up by the police.

Id. at 10-11.

[7] Dr. Hasan testified that B.J. told him that if he gets "committed in the hospital, he will put his mother in jail[.]" *Id*. at 20. Dr. Hasan also stated that B.J. talked "about a lot of things" that were "concerning to me which relates to his delusional thoughts regarding the robots and cyanide in his body put by the fed [sic] and the C.I.A. uh if he kills somebody, C.I.A. is going to kill him." *Id*. Dr. Hasan further testified that B.J. "talks about a lot of delusional stuff, implanted and being tracked and he is very paranoid with his parents that they are ruining

---

[4] The record does not indicate precisely when the battery occurred. Father testified that B.J. was "put in jail in August of 2021[,]" Tr. Vol. 2 at 14, and B.J. testified that he was "in jail for a year[.]" *Id*. at 32. In his brief, B.J. asserts that "a year had elapsed between the battery and the time of the commitment hearing." Appellant's Br. at 6. B.J. suggests that the battery incident was too remote in time to be relevant. But he cites no authority for the proposition that the court was categorically prohibited from considering his relatively recent aggressive behavior, for which he was still serving his sentence, in determining whether it is highly probable that he presents a substantial risk of harm to others as a result of his mental illness.

his life and his finances." *Id*. Dr. Hasan was "concerned about aggression based on" B.J.'s thoughts and on the battery incident described in Father's testimony. *Id*. Both Father and Dr. Hasan testified that B.J. does not believe that he has a mental illness and that he would not voluntarily take any medication. According to Dr. Hasan, B.J.'s prognosis with treatment is "guarded[,]" and his prognosis without treatment is "poor." *Id*. at 22.

[8] At the close of his case-in-chief, B.J. stated,

> I'm not harming anybody and that's my promise. I'll never harm anybody. I have SWAT team accessible capabilities to handle evils when my earbuds operate. I'm a good cop with a spinner in my bicep to kill me is what they did, surgeons and doctors because I'm a good cop. Not delusional, thank you.

Id. at 33.

[9] The trial court took judicial notice of Dr. Sidhu's physician's statement and observed that B.J. had "displayed […] some agitation […] towards questions from his lawyer, as well as some from cross examination[,]" and "some […] directed […] towards his father as well." *Id*. at 38. The court ultimately concluded that "there is adequate evidence that's been presented here today to meet that clear and convincing standard" with respect to B.J. being a danger to others. *Id*. Based on the foregoing probative evidence and the reasonable inferences supporting it, we agree. Consequently, we need not address B.J.'s argument regarding the finding that he is also gravely disabled. The trial court's commitment order is affirmed.

[10] Affirmed.

Robb, J., and Kenworthy, J., concur.