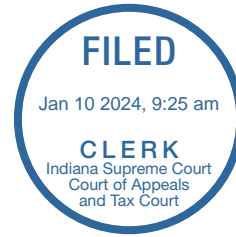


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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IN THE COURT OF APPEALS OF INDIANA

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

J.J.,

Appellant-Respondent,

v.

Richard L. Roudebush Veterans
Affairs Medical Center,

Appellee-Petitioner.

January 10, 2024

Court of Appeals Case No.
23A-MH-854

Appeal from the Marion Superior
Court

The Honorable David Certo, Judge

The Honorable Melanie Kendrick,
Magistrate

Trial Court Cause No.
49D08-2303-MH-011381

Memorandum Decision by Judge Felix
Judges Crone and Brown concur.

Felix, Judge.

Statement of the Case

- [1] After the doctors at Richard L. Roudebush Veterans Affairs Medical Center (the “Hospital”) became concerned about J.J.’s mental health, they sought an involuntary commitment. The trial court scheduled a virtual hearing. Neither party timely objected, and J.J. ultimately agreed to the hearing being conducted virtually. The trial court found that J.J. was gravely disabled and in need of continuing care and committed J.J. to the Hospital for no longer than 90 days. J.J. raises the following issue for our review: whether the trial court violated Interim Indiana Administrative Rule 14 (“Interim Rule 14”) when it set a remote hearing without showing good cause.
- [2] J.J.’s commitment has since expired, but we review this appeal under the public interest exception to the mootness doctrine. We hold that the trial court did not violate Interim Rule 14 and, we, therefore, affirm J.J.’s commitment.

Facts and Procedural History

- [3] On March 18, 2023, J.J. voluntarily admitted himself to the Hospital, where he was treated by Dr. Stephen Werner-Sleva. At the time, J.J. was acting very confused, showing signs of paranoia, and experiencing hallucinations. Dr. Werner-Sleva grew concerned about J.J.’s ability to provide himself adequate food and shelter. That evening, Dr. Werner-Sleva sent the trial court an application for the Emergency Detention of J.J.

[4] On March 22, 2023, Dr. Rachel Russell filed a Report Following Emergency Detention and accompanying physician’s statement with the trial court in which she recommended a temporary commitment of J.J. This recommendation was based in part on Dr. Russell’s belief that J.J. was suffering from schizoaffective disorder.

[5] Later that day, the trial court issued an order (the “Scheduling Order”) continuing J.J.’s detention and setting an evidentiary hearing for March 24, 2023, regarding the Hospital’s temporary commitment recommendation. The Scheduling Order provided in part:

An Evidentiary Hearing is set for the **24th of March, 2023** at **8:30 o’clock a.m.** in the MARION SUPERIOR COURTS–PROBATE DIVISION–COMMUNITY JUSTICE CENTER (OVER VIDEO).

Appellant’s App. Vol. II at 22. Late in the afternoon on March 23, 2023, J.J. filed an objection to the remote hearing, claiming that Interim Rule 14 required the hearing to be in-person, and he requested the March 24 hearing be changed to in-person. The same day, the trial court issued an order denying the request (the “Denial Order”) for the following reasons:

1.) Marion County Probate Court does not have an assigned courtroom. In order to receive a courtroom for the following day, a request for an in-person hearing must be scheduled in the system prior to 3:00pm the day before. This Court received the motion at 3:18pm the day before the hearing, after the deadline required.

2.) If the Court granted the motion, [the Hospital] would have approximately one hour of the Court’s business hours to receive the Order and notify all witnesses of the change, as well as set up transportation and traveling security for the patient.

3.) The Marion County Probate Court does not have assigned security. In order to have security at hearings, we must request security a reasonable amount of time in advance.

Appellant’s App. Vol. II at 31.

[6] On Friday, March 24, 2023, the hearing occurred remotely as originally scheduled. At the start of the proceedings, the trial court asked J.J. if he was willing to conduct the hearing remotely. The trial court explained that if J.J. was not willing to proceed remotely, the hearing could be conducted the following Monday. J.J. agreed to conduct the hearing remotely that day. At the conclusion of the hearing, the trial court found that J.J. required temporary commitment for mental health treatment. On June 22, 2023, J.J.’s commitment expired. J.J. now appeals.

Discussion and Decision

We address J.J.’s appeal under the public interest exception to the mootness doctrine

[7] The Hospital asks us to dismiss this appeal as moot because J.J.’s commitment has expired. Civil commitment appeals are commonly moot for this reason. *See E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 188 N.E.3d 464, 467 (Ind. 2022). “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.” *Id.* at 466. “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.’” *Id.* (quoting *In re Tina T.*, 579 N.E.2d 48, 54 (Ind. 1991)). When appellate courts invoke this exception, it results in decisions which “are, for all practical purposes, advisory opinions.” *Id.* at 467 (quoting *I.J. v. State*, 178 N.E.3d 798, 799 (Ind. 2022)).

[8] J.J. does not challenge the trial court’s conclusion that there was sufficient evidence to warrant his temporary commitment. Rather, J.J. argues that the trial court violated Interim Rule 14 when it set his evidentiary hearing as a remote proceeding without a showing of good cause. Interim Rule 14 went into effect January 1, 2023. Because “remote proceedings are here to stay,” Interim Rule 14 issues are likely to recur. *B.N. v. Health and Hosp. Corp.*, 199 N.E.3d 360, 365 (Ind. 2022). Thus, we address J.J.’s appeal under the public interest exception.

The trial court was not required to show good cause because J.J. agreed to the hearing

[9] “Indiana Administrative Rule 14 explains when and how trial courts may conduct remote proceedings” *B.N.* 199 N.E.3d at 363. J.J. argues that the trial court violated Interim Rule 14 in setting a remote proceeding without showing good cause.

[10] In May 2020, our Supreme Court responded to the COVID-19 pandemic by “modifying Rule 14 to afford trial courts ‘broader authority to conduct court business remotely.’” *B.N.*, 199 N.E.3d at 363 (quoting *In re Admin. Rule 17 Emergency Relief for Ind. Trial Cts. Relating to the 2019 Novel Coronavirus (COVID-19)*, 144 N.E.3d 197, 197 (Ind. 2020)). Our Supreme Court extended the Emergency Rule through 2022, and Interim Rule 14 replaced the Emergency Rule on January 1, 2023. *B.N.*, 199 N.E.3d at 363.

[11] Interim Rule 14 provides in part:

A court must *conduct* all testimonial proceedings in person except that a court may conduct the proceedings remotely for all or some of the case participants for good cause shown or by agreement of the parties. Remote proceedings must comply with constitutional and statutory guarantees.

Ind. Administrative Rule 14(C) (emphasis added). Additionally, the commentary notes the parties’ ability to object to remote proceedings:

Case participants may object to a request for a remote proceeding or to a court’s order setting a remote proceeding. The Rule does not place any specific deadlines or set out any procedures for objections. Courts are expected to handle objections *in accordance with usual practice and procedure*.

Id. at cmt. ¶ 3 (emphasis added).

[12] To show good cause under Interim Rule 14, the trial court must provide “particularized and specific factual support” that includes “something specific to the moment, the case, the court, the parties, the subject matter, or other

relevant considerations.” *B.N.*, 199 N.E.3d at 364. In *B.N. v. Health and Hospital Corp.*, the trial court responded to an objection to a remote hearing by stating “we’re proceeding remotely due to the COVID-19 pandemic.” 199 N.E.3d at 362. Our Supreme Court determined this response was a “generic reference [that] does not amount to findings of good cause,” so the trial court violated the Emergency Rule. *Id.* at 364. The Court applied this good cause standard to the Emergency Rule but also held this standard would apply to the language of Interim Rule 14. *Id.*

[13] J.J. claims the Interim Rule requires the trial court to show good cause before *scheduling* a remote hearing; however, Interim Rule 14 only requires a good cause showing before *conducting* a remote proceeding. On March 22, 2023, the trial court issued the Scheduling Order and set the evidentiary hearing to occur “(OVER VIDEO).” Appellant’s App. Vol. II at 22. The following day, J.J. filed an objection to the Scheduling Order and requested the hearing be changed to an in-person proceeding. However, the objection was filed after the deadline that was part of the trial court’s usual practice and procedure to consider objections.

[14] That same day, the trial court issued the Denial Order and denied J.J.’s request to switch to an in-person hearing because of an inability to (1) find an available courtroom; (2) notify witnesses of the change; (3) provide security, and (4) provide transportation for J.J. The Denial Order notes that the trial court has a 3:00 pm deadline for a request to have an in-person hearing the following day. Here, J.J.’s counsel was aware of the 3:00 pm deadline but claimed, due to her

hectic schedule and difficulty communicating with J.J., that she was unable to file a timely objection.

[15] Because J.J. ultimately agreed to the remote hearing, the court was not required to articulate a good cause for conducting the hearing remotely. *See* Admin. R. 14(C). Had J.J. renewed his objection to the remote hearing and objected to a continuance of the hearing to Monday, the scheduling problems provided in the Denial Order would have been sufficient articulation of “particularized and specific factual support” needed to show good cause. *B.N.*, 199 N.E.3d at 364.

[16] J.J. argues that there was no agreement because he was faced with an “untenable choice” at the start of the hearing. Appellant’s Br. at 15. However, the trial court offered to continue the proceeding both in the Denial Order and at the hearing. At the start of the hearing, the trial court asked J.J. three separate times if he was willing to proceed that day. Each time, J.J. responded affirmatively and agreed to conduct the hearing remotely. We hold there was no violation of Interim Rule 14 and affirm J.J.’s commitment.

[17] Affirmed.

Crone, J., and Brown, J., concur.