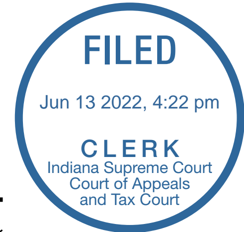

IN THE

Indiana Supreme Court

Supreme Court Case No. 22S-MH-194

E.F.

Appellant-Respondent

–v–

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

Appellee-Petitioner

Decided: June 13, 2022

Appeal from the Marion Superior Court
No. 49D08-2106-MH-18950
The Honorable Steven R. Eichholtz, Judge
The Honorable Melanie L. Kendrick, Magistrate

On Petition to Transfer from the Indiana Court of Appeals
No. 21A-MH-1332

Per Curiam Opinion

Chief Justice Rush and Justices David, Massa, and Goff concur.
Justice Slaughter dissents with separate opinion.

Per curiam.

Indiana's appellate courts have discretion to decide moot cases that present questions of great public importance likely to recur. For twenty years, the Court of Appeals has regularly applied this "public interest exception" to reach the merits of appeals from expired temporary civil commitment orders. But the panel here interpreted our decision in *T.W. v. St. Vincent Hospital and Healthcare Center, Inc.*, 121 N.E.3d 1039, 1042 (Ind. 2019), *reh'g denied*, as disfavoring this practice except in "rare circumstances." *T.W.* should not be read so broadly.

Temporary 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. But this exception should be applied on a case-by-case basis. In other words, appellate courts are not required to issue an opinion in every moot temporary commitment appeal, but they may readily do so to address novel issues or close calls, or to build the instructive body of law to help trial courts make these urgent and difficult decisions.

Since we decided *T.W.* in 2019, Court of Appeals panels, including this one, have disagreed about its impact on the review of temporary commitment cases. We grant transfer here to clarify *T.W.*'s effect and affirm the appellate courts' broad discretion to decide when the public interest exception to mootness applies.

Facts and Procedural History

E.F. was taken to St. Vincent Stress Center because she was displaying symptoms of a manic episode. St. Vincent applied for emergency detention of E.F. After a hearing, the trial court found E.F. gravely disabled and entered an involuntary temporary commitment order. E.F. appealed to the Court of Appeals, arguing that a less-restrictive treatment was appropriate and that there was insufficient evidence of grave disability. While her appeal was pending, E.F.'s commitment order expired. Relying on the Court of Appeals' regular practice of considering

the merits of most moot temporary commitment appeals, E.F. did not argue that her case was not moot or that an exception to mootness applied. Likewise, the appellee, St. Vincent, did not argue that E.F.'s appeal should be dismissed for mootness.

The Court of Appeals dismissed the appeal as moot, interpreting *T.W.* to create a rule that the merits of moot temporary commitment appeals should be reviewed only in "rare circumstances." *Commitment of E.F. v. St. Vincent Hospital and Health Care Center, Inc.*, 179 N.E.3d 1017, 1019 (Ind. Ct. App. 2021), *vacated*. The Court of Appeals concluded, "Nothing about the sufficiency of the evidence supporting any given temporary commitment is an out-of-the-ordinary issue in need of resolution under the great public importance exception." *Id.* at 1020. As discussed below, *T.W.* does not signal that appellate courts should rarely address the merits of appeals from expired temporary commitment orders.

Discussion and Decision

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. *T.W.*, 121 N.E.3d at 1042. 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).

In *T.W.*, we consolidated two temporary commitment appeals and applied the public-interest exception to answer a question of great public importance—whether the Marion County probate commissioner was authorized to enter civil commitment orders. 121 N.E.3d at 1042. Because the commissioner was not, the commitment orders were invalid. *Id.* at 1043. Having found the orders invalid under the applicable statutes, we chose not to address the other issues on transfer—sufficiency of the evidence to sustain the commitment and waiver by failure to timely object. *Id.* at 1044. We also did not remand the cases because the orders had expired and "remanding . . . to the trial court for its review serve[d] no purpose." *Id.* We left open the possibility that respondents in those

cases could seek relief from any collateral consequences caused by the invalid orders in the trial court. *Id.* at 1044, n.5.

Too much has been read into our narrow approach in *T.W.* Judicial opinions that invoke the public-interest exception "are, for all practical purposes, advisory opinions." *I.J. v. State*, 178 N.E.3d 798, 799 (Ind. 2022) (quoting *Mosley v. State*, 908 N.E.2d 599, 603 (Ind. 2009)). When an appellate court "elects to address an issue under the public interest exception, it need not 'address all of the issues in the case as presented by the parties.'" *T.W.*, 121 N.E.3d at 1042 (quoting *Matter of Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991)). Our decision to reach some, but not all, of the issues in *T.W.* should not be read to discourage merits consideration of appeals from expired temporary commitment orders.

Courts have long recognized the unique circumstances and issues presented by involuntary commitments. *See In re Commitment of J.B.*, 766 N.E.2d 795, 798 (Ind. Ct. App. 2002) ("The question of how persons subject to involuntary commitment are treated by our trial courts is one of great public importance to society"). "[C]ivil commitment for any purpose" has a "very significant impact on the individual" and "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425–26, 99 S.Ct. 1804, 1809, 60 L.Ed.2d 323 (1979). Because 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. *See Civil Commitment of T.K. v. Department of Veterans Affairs*, 27 N.E.3d 271, 273–74 (Ind. 2015) (clarifying the high standard of review for sufficiency of the evidence supporting commitment determinations).

For several decades, the Court of Appeals has routinely considered the merits of these cases despite finding them moot. *See, e.g., In re Commitment of M.Z.*, 829 N.E.2d 634, 637 (Ind. Ct. App. 2005); *M.L. v. Eskenazi Health/Midtown Mental Health CMHC*, 80 N.E.3d 219, 222 (Ind. Ct. App. 2017). This is especially appropriate in appeals that address novel issues, *see In re J.B.*, 766 N.E.2d at 798 (addressing "when doctors may forcibly administer medication to a person who refuses to take them"), present a close case, *see In re M.Z.*, 829 N.E.2d at 637 ("we choose to address this

case on the merits because it is a close case"), or develop case law on a complicated topic, *see M.L.*, 80 N.E.3d at 222 (addressing the proof necessary to impose special conditions upon attaining outpatient status because "Indiana case law is practically undeveloped" on the issue).

In the three cases cited above, the Court of Appeals acknowledged that it "may" consider moot cases under the public interest exception and chose to do so. *See In re J.B.*, 766 N.E.2d at 798; *In re M.Z.*, 829 N.E.2d at 637; *M.L.*, 80 N.E.3d at 222. Inasmuch as the Court of Appeals has adopted a practice of considering many involuntary commitment appeals over the last 20 years, we do not disapprove of such practice. That is within its discretion. But because one of the hallmarks of a moot case is the court's inability to provide effective relief, *see T.W.*, 121 N.E.3d at 1042, appellate courts are not required to issue an opinion in every moot case. *See Snyder v. King*, 958 N.E.2d 764, 786 (Ind. 2011) (holding that courts should avoid issuing advisory opinions).

In an appeal from an expired temporary commitment order, the appellate court should thoughtfully and thoroughly consider whether the case is moot and whether the public-interest exception to mootness should apply. Parties appealing in those cases should avail themselves of the opportunity to raise relevant issues, including any reasonable challenge to mootness or argument that an exception to mootness applies. Here, finding that E.F. should have the opportunity to make these arguments before the Court of Appeals, we remand for the Court of Appeals to consider any arguments the parties may have about mootness and the public-interest exception.

Rush, C.J., and David, Massa, and Goff, JJ., concur.
Slaughter, J., dissents with separate opinion.

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Slaughter, J., dissenting.

Involuntary civil commitments deprive persons of their liberty but are often so limited in duration that they expire before an appellate court can review their legality. That is what happened here. The trial court found E.F. was gravely disabled due to a psychiatric disorder; needed custody, care, and treatment; and should be committed to St. Vincent's Stress Center for a period not to exceed ninety days. On appeal, because her commitment had already expired, the court of appeals dismissed her case as moot. On transfer, the Court today holds that our decision in *T.W. v. St. Vincent Hospital and Health Care Center, Inc.*, 121 N.E.3d 1039 (Ind. 2019), confers broad discretion on our appellate court to decide whether to reach the merits of an otherwise moot civil-commitment case under our "public-interest" exception. The Court also remands the case so the appellate court can decide whether E.F's case is moot or whether a mootness exception applies here to salvage her claims.

I respectfully dissent, believing we should either deny transfer or summarily affirm the court of appeals' dismissal of E.F.'s appeal. The problem with our disposition today is that the Court applies a broader mootness exception than I believe is consistent with our constitution's structural limits on judicial power. As I wrote separately in *Seo v. State*, 148 N.E.3d 952 (Ind. 2020), our prevailing mootness doctrine, with its expansive "public-interest" exception, cannot be squared with the judiciary's limited role under separation of powers, see Ind. Const. art. 3, § 1. "[T]he only mootness standard consistent with our constitution's requirement of distributed governmental powers is one requiring an actual, ongoing controversy between adverse parties." *Seo*, 148 N.E.3d at 970 (Slaughter, J., dissenting). In other words, unless the party seeking judicial relief can show the same issue will likely recur between the same parties, "there is no actual dispute, and any adjudication exceeds the judicial power." *Ibid*. A court decree issued after a case has become moot is merely an advisory opinion, providing no meaningful relief to the prevailing party. By then, the damage has already occurred, and any decree gives the prevailing party nothing but bragging rights in the form of an "I-told-you-so" judgment with no tangible legal benefit.

Unlike the Court, I would adopt the bright-line rule that a court can decide an expired commitment case only if the patient shows an actual controversy remains—because, for instance, specific adverse consequences arising from the commitment are likely to affect the patient in the future. On this record, E.F. failed to make that case. Thus, I would either deny transfer or summarily affirm the panel opinion dismissing her appeal.