MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of The Civil Commitment of:

P.P.,

Appellant-Respondent,

v.

Community Health Network, Inc.,

Appellee-Petitioner.

December 28, 2021

Court of Appeals Case No. 21A-MH-876

Appeal from the Marion Superior Court, Probate Division

The Honorable Steven R. Eichholtz, Judge

The Honorable Melanie Kendrick, Judge Pro Tempore

Trial Court Cause No. 49D08-2104-MH-14321

Tavitas, Judge.

Case Summary

[1] P.P. appeals the trial court's order committing her to Community Health Network, Inc. ("Community"). P.P. challenges the trial court's finding that she is gravely disabled as unsupported by clear and convincing evidence. Concluding that Community carried its burden of proof, we affirm.

Issue

[2] The sole issue on appeal is whether sufficient evidence supports the trial court's finding that P.P. is gravely disabled.

Facts

[3] In January and February 2020, and on April 18, 2021, P.P. was admitted into Community "for psychiatry reasons" in Causes 49D08-1601-MH-001231, 49D08-1903-MH-012625, and 49D08-2001-MH-2702. Tr. Vol. II p. 6. Again, on April 23, 2021, P.P. "presented [to Community] in a manic, psychotic state and was admitted on an emergency detention . . . ." *Id.* An attending physician conducted an independent medical assessment of P.P.; diagnosed her with Schizoaffective Disorder, bipolar type; and concluded P.P. was gravely disabled, dangerous to others, and required a regular commitment. The attending physician memorialized his conclusions in a report following emergency detention and a physician's statement ("the Report"). In pertinent part, the Report specifies that P.P. presents a substantial risk of harm to others.

See Report, P.P.'s App. Vol. II p. 31 ("[P.P.] has been agitated and threatening to harm other people. She attempted to strike the staff. She had to be placed in restraints for the safety of others.")

[4] On April 29, 2021, Community filed the Report with the trial court. On May 2, 2021, P.P. was involved in an altercation ("the May 2nd attack") with another person, whom P.P. believed to be Satan. P.P. "went after" the person, and the attack was only thwarted because nursing staff intervened. Tr. Vol. II p. 7.

[5] The trial court conducted a hearing on the Report on May 3, 2021. The trial court took judicial notice of the Report as well as P.P.'s prior temporary commitments in the above-cited Causes. The lone testifying witness was psychiatrist Syed Hasan ("Dr. Hasan"), who testified as follows: he previously treated P.P. for her "chronic history of psychosis[,] . . . . unstable mood[,] and working psychosis." *Id.* at 7. In his testimony, Dr. Hasan referred to P.P.'s prior psychiatric admittances to Community and based P.P.'s diagnosis on her extremely disorganized thinking, sleep deprivation, "unstable mood, breaks in thoughts[,]" "auditory hallucinations, paranoid thoughts, [her belief] [that] others [we]re Satan[,] . . . preoccup[ation], euphoric feelings, [ ] argument[iveness], irritab[ility] and [capacity to become] easily aggressive." *Id.*

[6] The following exchange occurred on direct examination:

> [Counsel for Community]: . . .[Y]ou just saw [P.P.] today. Is she still presenting some symptoms of schizoaffective disorder?

> [Dr. Hasan]: [ ] She still believes the end of the world is happening. She still believes [ ] others are Satan. And she actually told me that on the unit she went after another person because she thought that person was Satan and if the staff had not intervened, she would have actually hit that person. She continues to hear voices and she tells me [ ] what she hears is (inaudible), but she does not expand that. She still has fears of being easily agitated. She does not think [ ] she has an illness that needs to be treated. So she is still symptomatic and lacks insight.

Id. Dr. Hasan explained that, although P.P. was taking medication as prescribed, P.P. did not believe she has an illness that required treatment; took her medication only "[to] be a model for other people to take the medication"; and was unlikely to comply with treatment upon leaving the hospital. *Id*.

[7] Dr. Hasan also testified that P.P.'s mental illness impairs her ability to function independently such that P.P.: (1) is "very aggressive with others[,]" *id*. at 9; (2) has required "five seclusions[,]" *id*., and unscheduled administration of her medication on multiple occasions; (3) is "paranoid with the staff[,]" *id*.; (4) is "fixated on" a member of the nursing staff, whom she claims to have married, *id.*; (5) suffers from "an ongoing psychosis" that affects her behavior, *id*.; (6) believes that Satan is "around us and she has to protect" herself and/or others,

id. at 14; and (7) "hears God [sic] voices of war and that she has to carry on."[1] *Id*.

[8] Dr. Hasan requested a commitment of P.P. for a period longer than ninety days and cited the fact that P.P. was released from an April 18, 2021, temporary commitment mere days before she presented "back [in hospitalization]" at Community on April 23, 2021. *Id*. at 10. Dr. Hasan opined that longer-term hospitalization in a state hospital may be warranted if P.P.'s aggression persisted and her symptoms worsened. The following colloquy ensued between Dr. Hasan and the trial court:

> THE COURT: [ ] So you said you still believe [P.P.] is gravely disabled today and that is because you believe her judgement [sic] is so substantially impaired that it is effecting [sic] her ability to function. Correct?
>
> DR. HASAN: Yes, your honor.
>
> THE COURT: Okay. And so what she had explained to [about going after] somebody in the unit [the May 2nd attack], and then what you just said about Satan being around and God orders us to carry on and things like that – does that behavior play in to your conclusion that . . . her judgement [sic] is so impaired?

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[1] Additionally, regarding P.P.'s ability to meet her basic need for shelter, Dr. Hasan testified that, in a twenty-four-hour time span, P.P. gave differing accounts regarding where she was going to live. *See id.* at 8 ("So regarding the housing, yesterday she did not know where she was going to live. Today she says that she has a place but she does not want to give any details . . . . I believe she was living in a group home before she came to us.")

DR. HASAN: Yes. So the dangerousness comes from her delusions and that actually leads her to those behaviors. And because of her thoughts and how she is experiencing these symptoms and hallucinations, she has [sic] significantly impaired.

THE COURT: And how do you think this would affect her if she were released and not on medication . . . ?

DR. HASAN: I do not think she would be able to hold a job based on the symptoms . . . . For example, she believes she is the boss in the hospital. She believes that she can admit people in the hospital. These are the delusions . . . . So I do not think that that will allow her to be able to function. She believes she is [a] model for other people to take medication. She believes (inaudible). All[ ] of those things, like normal day living, lead[ ] to her inability to interact and function.

THE COURT: [ ] Are there any other specific delusions she has relayed that you can recall?

DR. HASAN: . . .[S]he has the delusion of getting – being pregnant. In the past, that she has been preoccupied with that too. And during this hospitalization, she has a lot [of] -- grandiose thoughts. [That] [s]he has followers, [ ] the ability to change things, [ ] has a Lord mission, and [ ] that she has to protect others or someone [ ] from Satan. [ ] And then she gets some kind of concept in her mind that she just got married to a person and has kids now with that person.

Id. at 14-16. On cross-examination of Dr. Hasan, counsel for P.P. elicited testimony that, at the time of the hearing, P.P. was taking the prescribed medications for her mental illness; was exhibiting more organized thought

processes; had a place to live; and received disability income. Dr. Hasan reported he did not witness the May 2nd attack.

[9] At the close of the hearing, the trial court found:

> . . . [P.P.] is suffering from schizoaffective disorder, which is a mental illness under Indiana law and is currently gravely disabled. The court will find that . . . a regular commitment to Community Health Network is the least restrictive option at this time. Court finds that a regular [commitment] is the least restrictive [option] due to the multiple temporary commitments in the past three years. Well, particularly in the past three years. This would be the third commitment, as well as a commitment prior to that. So the court will find that a regular [commitment] is the least restrictive option.

Id. at 19. The court's order of regular commitment provided in part as follows:

> 1. [P.P.] is suffering from schizoaffective disorder, bipolar, which is a mental illness as defined in I.C. 12-7-2-130.
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> ✓
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> 3. [P.P.] is in need of custody, care, and treatment at Community [ ] or other appropriate facility for a period of time expected to exceed ninety (90) days.
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> 4. Placement is determined to be the least restrictive environment suitable for treatment and stabilization as well as protecting [P.P.] while restricting [P.P.]'s liberty to the least degree possible.

> 5. That the treatment plan for [P.P.] has been fully evaluated, including alternate forms, and is believed to result in benefiting [P.P.] while outweighing any risk of harm.
>
> IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that [P.P.] is accordingly committed to the designated facility until discharged or until the Court terminates the commitment. . . .[2]

P.P.'s App. Vol. II pp. 9-10. P.P. now appeals.

Analysis

[10] P.P. contends that Community presented insufficient evidence to sustain the continuation of her involuntary commitment. P.P. does not dispute the trial court's finding that she is mentally ill; she challenges only the trial court's finding that she is gravely disabled pursuant to Indiana Code Section 12-7-2-96(2). In reviewing the sufficiency of the evidence supporting an involuntary commitment, we 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." *In re Commitment of T.K.*, 27 N.E.3d 271, 273 (Ind. 2015) (citation omitted). We look to the evidence most favorable

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[2] Additionally, the trial court imposed, as "special conditions[,]" requirements that P.P. should take all prescribed medications and attend all scheduled clinic sessions. P.P.'s App. Vol. II p. 10. The trial court also granted Community an order to treat P.P., subject to reevaluation by the Court, "unless [P.P.] does not substantially benefit from the medications." *Id.*

to the trial court's decision and draw all reasonable inferences therefrom. *In re Commitment of R.P.*, 26 N.E.3d 1032, 1035 (Ind. Ct. App. 2015).

[11] "'[T]he purpose of civil commitment proceedings is dual: to protect the public and to ensure the rights of the person whose liberty is at stake.'" *T.K.*, 27 N.E.3d at 273 (quoting *In re Commitment of Roberts*, 723 N.E.2d 474, 476 (Ind. Ct. App. 2000)). "The liberty interest at stake in a civil commitment proceeding goes beyond a loss of one's physical freedom, and given the serious stigma and adverse social consequences that accompany such physical confinement, a proceeding for an involuntary civil commitment is subject to due process requirements." *Id.* (citing *Addington v. Texas*, 441 U.S. 418, 425-26, 99 S.Ct. 1804, (1979)). To satisfy due process, the facts justifying an involuntary commitment must be proved by clear and convincing evidence.[3] *In re Commitment of G.M.*, 743 N.E.2d 1148, 1151 (Ind. Ct. App. 2001). In order to be clear and convincing, the existence of a fact must be highly probable. *T.D. v. Eskenazi Midtown Cmty. Mental Health Ctr.*, 40 N.E.3d 507, 510 (Ind. Ct. App. 2015).

[12] The petitioner in a mental health commitment proceeding must "prove by clear and convincing evidence that: (1) the individual is mentally ill and either

[3] 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).

dangerous or gravely disabled; and (2) detention or commitment of the individual is appropriate." Ind. Code § 12-26-2-5(e). Grave disability refers to:

> 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[4]
>
> (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. 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 was unable to provide for his or her basic needs *or* that his or her judgment, reasoning, or behavior was so impaired or deteriorated that it resulted in his or her inability to function independently. *Commitment of B.J. v. Eskenazi Hosp./Midtown CMHC*, 67 N.E.3d 1034, 1039 (Ind. Ct. App. 2016).

[13] Our Supreme Court has previously held that a denial of one's mental illness and refusal to medicate, standing alone, are insufficient to establish grave disability

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[4] Because this definition is written in the disjunctive, it is not necessary to prove both prongs to establish grave disability. *W.S. v. Eskenazi Health, Midtown Cmty. Mental Health*, 23 N.E.3d 29, 34 (Ind. Ct. App. 2014), *trans. denied*.

because they do not establish by clear and convincing evidence that the individual is unable to function independently. *See T.K.*, 27 N.E.3d at 276. The United States Supreme Court has also held that, because everyone exhibits some abnormal conduct at one time or another, "loss of liberty [through a commitment] calls for a showing that the individual suffers from something more serious than is demonstrated by idiosyncratic behavior." *Addington*, 441 U.S. at 426-27, 99 S. Ct. at 1810.

[14] In support of her contention that Community failed to prove that she was gravely disabled, P.P. relies upon *P.B. v. Evansville State Hosp.*, 90 N.E.3d 1199 (Ind. Ct. App. 2017); however, that case is readily distinguishable. In *P.B.,* this Court reversed a trial court's order of commitment where the hospital's evidence was "based on the [respondent's] unpleasantness[,] inability to get along with other people, her paranoid delusions, and her failure to fully cooperate with treatment." 90 N.E.3d at 1204-05. Absent evidence that "[the respondent]'s delusions caused her to destroy property or actually cause harm to herself or any other person[,]" and given the key witness' testimony that he "did not think [the respondent] was . . . a threat to herself or others," *id*. at 1204, our Court found that the order of regular commitment was unsupported by sufficient evidence. P.P.'s reliance on *P.B.* is misplaced.

[15] Here, Community presented evidence that P.P. can be untethered from reality, (i.e., fixating on a nursing staffer or believing herself to be pregnant), and easily becomes aggressive with others. *See* Report, P.P.'s App. Vol. II p. 31 ("She has been agitated and threatening to harm other people. She attempted to strike the

staff. She had to be placed in restraints for the safety of others."). The record reveals that, although P.P. rejects her diagnosis, she does suffer from Schizoaffective disorder and is unlikely to continue to take her medication upon being released from the hospital. As a result of her condition, P.P. operates under grandiose delusions that: (1) she is on a mission from God; (2) she has a cadre of followers; (3) certain people in her orbit are Satan; and (4) she is empowered to protect herself and others from those people. *See* Tr. Vol. II p. 15 (Dr. Hasan's testimony that "the dangerousness comes from [P.P.'s] delusions and that actually leads her to those behaviors. And because of her thoughts and how she is experiencing these symptoms and hallucinations, she [i]s significantly impaired"). Community's evidence also included Dr. Hasan's testimony regarding P.P.'s self-reported May 2nd attack, which occurred one day before the underlying hearing and while P.P. was taking her prescribed medication. In the May 2nd attack, P.P. "went after another person[,]" whom she believed was Satan, and the attack was only thwarted because nursing staff intervened. *See id.* at 7.

[16] Based upon the probative evidence and reasonable inferences therefrom, we conclude that a reasonable trier of fact could find that Community proved by clear and convincing evidence that P.P.'s judgment, reasoning, or behavior was so impaired or deteriorated that it resulted in her inability to function independently. Community, therefore, carried its burden to prove that P.P. suffered from a grave disability. The trial court's order of regular commitment was supported by sufficient evidence.

Conclusion

[17] The order of commitment was supported by sufficient evidence. We affirm.

[18] Affirmed.

Bradford, C.J., and Crone, J., concur.