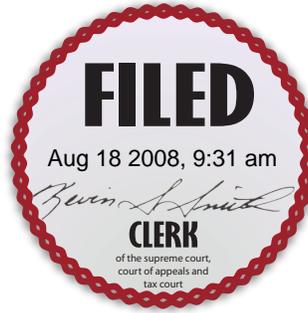


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN THE MATTER OF THE COMMITMENT )  
OF J.M., )  
 )  
Appellant-Respondent, )  
 )  
vs. )  
 )  
WISHARD HEALTH SERVICE/MIDTOWN )  
COMMUNITY MENTAL HEALTH CENTER, )  
 )  
Appellee-Petitioner. )

No. 49A04-0801-CV-23

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Charles J. Deiter, Judge  
Cause No. 49D08-0603-MH-10435

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**August 18, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**NAJAM, Judge**

## **STATEMENT OF THE CASE**

J.M. appeals from the trial court's order temporarily committing her to a mental institution. She raises a single issue, namely, whether the evidence was sufficient to show that she was gravely disabled as defined in Indiana Code Section 12-7-2-96.

We affirm.

## **FACTS AND PROCEDURAL HISTORY**

In March 2006, a physician at Community North Hospital filed a petition for involuntary commitment of J.M., an adult female. The petition alleged that J.M. was gravely disabled because she suffered from paranoid schizophrenia, was delusional, was refusing to take her medication, and was homeless. After a hearing, the trial court denied the petition for lack of evidence. On November 8, 2007, J.M.'s case manager, Diane James, filed an application for emergency detention of J.M. The application was later withdrawn after J.M. agreed to inpatient treatment at Wishard Hospital.

Less than one month later, members of J.M.'s treatment team from Midtown Mental Health visited J.M.'s apartment. The visit was prompted by several confusing voicemails that J.M. had left for the team members, which caused the team members to become concerned. When the team members arrived at the apartment, J.M. sat down on the floor and asked them to interrogate her. She also stated that she was not taking any medication because none had been prescribed for her.

The team members asked J.M. to go to the hospital for evaluation. As they were leaving the apartment, the doorknob fell off the door. J.M. became very angry and "[s]tarted yelling and screaming." Transcript at 6. The team then proceeded outside.

After J.M. was inside the car of Nicole Beerman, the clinical nurse specialist, Beerman began to feel unsafe with J.M. in the vehicle. As a result, Beerman phoned 911 to summon police. J.M. “got up in [Beerman’s] face and started screaming at the 911 operator for help, because she felt [Beerman] was trying to harm her.” Id. at 7. When police arrived, J.M. darted unexpectedly through traffic to the police officer responding to the 911 call. She was “very angry,” told him she was afraid of Beerman, and asked him to take her to the hospital to get away from Beerman. Id. at 9. J.M. agreed to be transported by ambulance to Wishard.

Dr. Jeffrey J. Kellams, J.M.’s physician, was on vacation so Dr. Kenneth Harvey examined her. Dr. Harvey determined that J.M. should be committed due to her failure to take her prescribed medication and resistance to treatment. On December 5, 2007, Lindsay Dings filed an application for emergency detention of J.M. arising from the team’s visit to J.M.’s apartment. On December 7, 2007, Mary Serna filed Dr. Harvey’s report following emergency detention. In the report, Dr. Harvey concluded that J.M. suffered from schizoaffective disorder and was dangerous or gravely disabled, and he recommended that J.M. be detained pending a hearing. The trial court agreed, ordered J.M.’s continued detention, and set the matter for hearing. Dr. Kellams examined J.M. upon his return from vacation and agreed with Dr. Harvey’s assessment.

On December 12, the trial court held a hearing regarding J.M.’s continued detention. Beerman testified that J.M. was extremely agitated when the team visited her and that J.M. had run into traffic. Dr. Kellams testified that J.M. does not feel she is ill or needs treatment, that she was noncompliant with medication before and after her

hospitalization, and that J.M. lacked reasonable judgment and, “as a result, expos[ed] herself to situations that could be detrimental to her.” Transcript at 15. The trial court also heard evidence that J.M. had been admitted five times to the psychiatric unit at Wishard Hospital in the second half of 2007. She was under the care of Dr. Kellams for three of those admissions, and each time her major diagnosis was bipolar disorder with psychotic features. After the hearing, the trial court entered an order of temporary commitment. J.M. now appeals.

### **DISCUSSION AND DECISION**

A court may order an individual’s temporary commitment that continues for up to ninety days if the petitioner proves by clear and convincing evidence that the individual is mentally ill and either “dangerous” or “gravely disabled.” Ind. Code § 12-26-6-1. Civil commitment is a significant deprivation of liberty that requires the petitioner to show “that the individual suffers from something more serious than is demonstrated by idiosyncratic behavior.” Bradbury v. Comprehensive Mental Health Servs., 845 N.E.2d 1063, 1065 (Ind. Ct. App. 2006) (citing Addington v. Texas, 441 U.S. 418, 427, 99 S. Ct. 1804, 1810, 60 L. Ed. 2d 323, 331 (1979)). When we review an order for commitment, we consider only the evidence favorable to the judgment and all reasonable inferences therefrom. Id.; M.Z. v. Clarian Health Partners, 829 N.E.2d 634, 637 (Ind. Ct. App. 2005), trans. denied. We will not reweigh the evidence or judge the witnesses’ credibility. 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, the order must be affirmed, even if other reasonable conclusions are possible. Id.

J.M. contends that the evidence was insufficient to support the temporary commitment order. Specifically, J.M. argues that the evidence does not support a finding that she was gravely disabled as contemplated by Indiana Code Section 12-7-2-96. We cannot agree.

Indiana Code Section 12-7-2-96 defines “gravely disabled” for purposes of civil commitment as

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.

Dr. Kellams testified that J.M. did not believe that she was ill or that she needed treatment. As a result, she had refused medication, even while hospitalized, and had cycled in and out of hospitalization five times in the preceding six months. Dr. Kellams further testified that J.M.

is not able to maintain herself in a safe environment. There has been between the most recent two hospitalizations a sexual assault because of predicaments that she gets herself into that she would otherwise avoid, if she [were] able to use more reasonable judgment. She is not able to work, does not take her medications, does not keep her clinic appointments, does not work with the Act Team. And this all pre-exposes [sic] her to [im]pending doom.

Transcript at 15. We conclude that the evidence, when considered most favorably to the judgment, supports the conclusion that J.M. was gravely disabled. See Ind. Code § 12-7-2-96.

J.M. argues that the evidence shows she was able to provide for her food, clothing, shelter, and other essential human needs. In support she points to Dr. Kellams' testimony that she "is able to (meet her daily needs) without problem' and needs no prompting to do so." Appellant's Brief at 10 (citing Transcript at 14, 17). But that testimony related to J.M.'s ability to function in the hospital unit, not on her own

In any event, an individual's inability to provide for food, clothing, shelter, or other essential human needs is only one basis for finding the individual gravely disabled. A court may also determine that an individual is gravely disabled if it finds that she has a substantial impairment resulting in an inability to function independently without being in danger of coming to harm. See Ind. Code § 12-7-2-96(2). Here, there was evidence that J.M. does not believe that she is ill or needs treatment; that as a result of those beliefs she had refused treatment, even after her hospitalization; that she was sexually assaulted as a result of her poor judgment; and that she has lost a job and has difficulty finding a job because of her mental illness. Again, Dr. Kellams concluded that J.M. is not able to maintain herself in a safe environment due to her lack of insight into her condition and her irrational thought patterns. Such evidence supports a finding that J.M. was in danger of coming to harm because she has a substantial impairment.<sup>1</sup>

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<sup>1</sup> J.M. is correct that the trial court's order was not based on a finding that she was dangerous to herself or others. But such findings would have been based on Indiana Code Section 12-7-2-95. Here, the trial court found that J.M. was in danger of coming to harm under Section 12-7-2-96. The trial court

In support of her contention that the evidence is insufficient to support the finding that she is gravely disabled, J.M. relies on her own testimony that she is able to work, keeps appointments, voluntarily seeks medical treatment when needed, and is able to meet her basic needs living in her own apartment. J.M. also argues that the behaviors “which were challenged by Beerman and [Dr.] Kellams [were] legitimate responses to the difficult circumstances in which she was placed.” Appellant’s Brief at 12. But those arguments amount to a request that we reweigh the evidence, which we cannot do. Bradbury, 845 N.E.2d at 1065.

J.M. also argues that “no psychiatrist prescribed medication to her when she was in treatment at Midtown” and that she “did not even receive treatment from a psychiatrist at Midtown.” Appellant’s Brief at 13. But that is not the same as saying that she had not been prescribed medication during her preceding inpatient stay at Wishard and had failed to take such medication as prescribed. J.M. also disagrees with the doctors’ conclusions that she suffers from schizophrenia or bipolar disorder. But, again, J.M.’s challenge of the evidence admitted at the hearing, through Dr. Kellams’ testimony and through the written medical reports filed with the court, amounts to a request that we reweigh the evidence, which we will not do. See Bradbury, 845 N.E.2d at 1065. Notwithstanding J.M.’s contentions, the evidence is sufficient to support the trial court’s finding that J.M. is gravely disabled as defined in Indiana Code Section 12-7-2-96.

Affirmed.

MAY, J., and ROBB, J., concur.

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need not have found that J.M. was dangerous in order to find that she was in danger of coming to harm and, therefore, gravely disabled under Section 12-7-2-96.