

REL: April 16, 2021

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# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2020-2021

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**Tammy P. Herring**

v.

**Craig Maddox, as court-liaison officer for East Central Mental  
Health Center**

**Appeal from Pike Probate Court  
(PC-20-186)**

FRIDY, Judge.

Tammy P. Herring ("Tammy") appeals from a judgment of the Pike Probate Court ("the probate court") involuntarily committing her to the

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custody of the Alabama Department of Mental Health ("the department") for inpatient mental-health treatment for a period of up to 150 days and providing that she would remain at Troy Regional Medical Center – Senior Behavioral Care Center ("Troy Medical Center") until a bed became available at one of the department's treatment facilities. We affirm.

### Background

Tammy is 57 years old and has a history of mental illness. In the mid-1990s, the Montgomery Probate Court appointed her father as her guardian, a role in which he continues presently. In November 2020, officers of the Montgomery Police Department picked up Tammy and transported her to Baptist Medical Center East in Montgomery for mental-health treatment; however, she was subsequently transferred to Troy Medical Center because the hospitals in Montgomery did not have room for her because of the COVID-19 pandemic. At Troy Medical Center, she was interviewed by Craig Maddox, who is a licensed professional counselor employed by East Central Mental Health Center and serves as a court-liaison officer. Maddox determined that Tammy was in need of inpatient mental-health treatment, but, because Tammy does not believe

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that she has a mental illness, she declined to be treated. Therefore, on November 24, 2020, Maddox filed a petition in the probate court seeking her involuntary commitment for inpatient mental-health treatment.

That same day, the probate court appointed an attorney to represent Maddox as the petitioner; appointed a guardian ad litem for Tammy; set a probable-cause hearing for December 1, 2020; entered an emergency order directing that Tammy continue to be held and treated until the probable-cause hearing; and ordered a psychiatric evaluation of Tammy. On December 1, 2020, the probate court held the probable-cause hearing by video conference. On December 3, 2020, the probate court entered an order determining that probable cause existed to hold Tammy pending a final hearing. On December 10, 2020, the probate court held a final hearing by video conference.

Before the probate court began receiving evidence at the final hearing, Tammy's guardian ad litem made an oral motion to dismiss the action based on his contention that the probate court did not have personal jurisdiction over Tammy because, the guardian ad litem said, she was not a resident of Pike County and had been involuntarily transported

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to Pike County. The probate court denied that motion and then proceeded to receive evidence ore tenus.

Dr. Saeed Shah, a psychiatrist, testified that Tammy suffers from chronic schizophrenia with acute psychosis, which is a treatable mental illness. Dr. Shah testified that Tammy's ability to function independently would continue to deteriorate if her mental illness was not treated, that Tammy lacked the ability to make an informed and rational decision regarding whether treatment for her mental illness would be desirable, that Tammy posed a real and present threat of substantial harm to herself and others, that he recommended inpatient mental-health treatment for Tammy, and that such treatment would be the least restrictive alternative available for treatment of Tammy's mental illness.

Maddox also testified that Tammy posed a real and substantial danger to herself and others and that she needed inpatient mental-health treatment. He further testified that the department did not then have a bed available for Tammy but that Troy Medical Center was willing to treat Tammy until a bed became available for her at one of the department's treatment facilities.

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Tammy's father testified that Tammy has had a long history of mental illness and that he had been appointed to serve as her guardian by the Montgomery Probate Court in 1995 because of her mental illness. He said that the Montgomery Probate Court had also involuntarily committed Tammy on several occasions, with the most recent commitment having been in the preceding year. He testified that Tammy does not believe that she has a mental illness and that, therefore, she will not voluntarily take her medication. He testified that when she does take her medication, she is able to function and lead a normal life.

Against the advice of the guardian ad litem, Tammy testified and did so in narrative form. Despite being directed by the probate court to testify regarding her mental health and the issue whether she should be involuntarily committed for treatment of her mental illness, she did not do so. Instead, she stated her various religious beliefs in a rambling manner.

On December 10, 2020, the probate court entered a judgment finding that clear and convincing evidence established (1) that Tammy was mentally ill, (2) that Tammy posed a real and present threat of substantial

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harm to herself and to others as a result of the mental illness, (3) that Tammy would continue to suffer mental distress and would continue to suffer deterioration of the ability to function independently if her mental illness was not treated, (4) that Tammy was unable to make a rational and informed decision regarding whether treatment was desirable, (5) that there was treatment available for Tammy's mental illness, and (6) that commitment to inpatient treatment was the least restrictive alternative available for treatment of Tammy's mental illness. Based on those findings, the judgment committed Tammy to the custody of the department for inpatient mental-health treatment for a period of up to 150 days and provided that she would remain at Troy Medical Center until a bed became available at one of the department's treatment facilities.

Tammy timely filed a postjudgment motion requesting that the probate court reconsider her motion to dismiss and reasserting that the probate court lacked personal jurisdiction over her. The probate court denied the motion, and Tammy timely appealed to this court. The probate judge for Pike County is a member of the Alabama State Bar; therefore,

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this court has jurisdiction over Tammy's appeal. See Ala. Code 1975, § 22-52-15 (providing that an appeal from a judgment involuntarily committing a person to the custody of the department for mental-health treatment "lies to the circuit court for trial de novo unless the probate judge who granted the petition was learned in the law, in which case the appeal lies to the Alabama Court of Civil Appeals on the record").

#### Standard of Review

Tammy concedes that clear and convincing evidence established the elements that had to be proved to justify her involuntary commitment for inpatient mental-health treatment; however, she contends that the probate court lacked personal jurisdiction over her. An appellate court reviews de novo a trial court's ruling on a party's motion to dismiss for lack of personal jurisdiction. See Ex parte Maintenance Grp., Inc., 261 So. 3d 337, 344 (Ala. 2017).

#### Discussion

Tammy first argues that the probate court lacked personal jurisdiction over her because, she says, the Montgomery Probate Court had established its prior exclusive jurisdiction over her as a result of the

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proceeding in that court that resulted in the appointment of her father as her guardian in 1995 and as a result of that court's having involuntarily committed her to the custody of the department for mental-health treatment in the past. This is particularly so, Tammy says, because she is not a resident of Pike County and was involuntarily transported to Pike County. As legal authority for this argument, however, she cites only Ala. Code 1975, § 22-11A-33. That Code section pertains to commitments to the Alabama Department of Public Health of persons who have refused to be tested or treated for a communicable disease and has no application to a commitment to the department for treatment of a mental illness. Moreover, even if it applied, that Code section provides that the jurisdiction of the probate court that initially committed the person to the custody of the Alabama Department of Public Health is concurrent with the jurisdiction of "the probate court of the county in which the person is subsequently located ...."

On the other hand, Ala. Code 1975, § 22-52-1.2(a), the Code section governing the filing of a petition seeking the involuntary commitment of a person to the custody of the department for mental-health treatment



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and, therefore, the Code section clearly applicable in this case, provides that a petition seeking the involuntary commitment of a person to the custody of the department for mental-health treatment "shall be filed in the probate court of the county in which [that person] is located." It does not provide that such a petition shall be filed in the county where that person resides regardless of where he or she is physically located when the petition is filed. Moreover, it does not include a proviso that the person must voluntarily be located in a county in order for the probate court of that county to have jurisdiction. Furthermore, it does not contain an exception for persons who have been the subject of prior proceedings in the probate court of another county, and it does not contain a provision stating that a probate court that has previously committed the person has exclusive jurisdiction over all future petitions seeking involuntary commitment of that person.

"The fundamental rule of statutory construction is to ascertain and give effect to the intent of the legislature in enacting the statute." IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala. 1992). In ascertaining the intent of the legislature, the "[w]ords used in a statute

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must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used a court is bound to interpret that language to mean exactly what it says." Id. "If the language of the statute is unambiguous, then there is no room for judicial construction and the clearly expressed intent of the legislature must be given effect." Id. The natural, plain, ordinary, and commonly understood meaning of the place where a person is located is the place where that person is physically present. In this case, Tammy was physically present in Pike County when Maddox filed the petition seeking her commitment. Therefore, we conclude that the probate court properly exercised personal jurisdiction over Tammy.

Within her argument that the Montgomery Probate Court had prior exclusive jurisdiction over her, Tammy also argues that her father, who is her guardian, "testified that the guardianship was still in existence, so [Tammy] believes Montgomery County Probate [Court] should have been the proper place for a probable cause and final hearing to be held." We interpret that sentence as asserting that the Montgomery Probate Court, rather than the probate court, was the proper venue for this action.

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Pursuant to the language of § 22-52-1.2(a), however, the probate court was the only venue where the petition could have been filed because Pike County was the county in which Tammy was physically located when the petition was filed.

Tammy also argues that she does not have minimum contacts with Pike County and that, therefore, the probate court did not have personal jurisdiction over her. The requirement of minimum contacts is applicable to a state's exercising personal jurisdiction over an out-of-state resident. See Ex parte Duck Boo Int'l Co., 985 So. 2d 900, 908 (Ala. 2007) (" ' 'The Due Process Clause of the Fourteenth Amendment permits a forum state to subject a nonresident defendant to jurisdiction in its courts only when that defendant has had 'minimum contacts' with the forum state.' ' " (quoting Ex parte Bufkin, 936 So. 2d 1042, 1045 (Ala. 2006), quoting in turn Ex parte Full Circle Distrib., L.L.C., 883 So. 2d 638, 644 (Ala. 2003))). However, Tammy cites no law standing for the proposition that an in-state resident who is not a resident of a particular county within that state must have "minimum contacts" with that particular county in order for a court located in that particular county to exercise personal

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jurisdiction over the in-state resident. Indeed, Tammy supports this argument with caselaw standing only for the general proposition that a court has no power to act if it lacks jurisdiction over either the subject matter or the person. General propositions of law are not considered "supporting authority" under Rule 28(a)(10), Ala. R. App. P. Harris v. Owens, 105 So. 3d 430, 436 (Ala. 2012). When an appellant fails to cite "supporting authority" for an argument, as required by Rule 28(a)(10), that argument is waived. See White Sands Grp., L.L.C. v. PRS II, LLC, 998 So. 2d 1042, 1058 (Ala. 2008).

Because Tammy has not made a meritorious argument justifying reversal of the judgment of the probate court involuntarily committing her, we affirm that judgment.

AFFIRMED.

Thompson, P.J., and Moore, Edwards, and Hanson, JJ., concur.