

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



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FILED: 03/25/2010
PHILIP G. URRY, CLERK
BY: GH

IN RE MH 2009-000662) No. 1 CA-MH 09-0032
)
) DEPARTMENT D
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 28, Arizona Rules of
) Civil Appellate Procedure)

Appeal from the Superior Court of Maricopa County

Cause No. MH 2009-000662

The Honorable Patricia Arnold, Judge Pro Tem

AFFIRMED

Andrew P. Thomas, Maricopa County Attorney Phoenix
By Anne C. Longo, Deputy County Attorney
and Bruce P. White, Deputy County Attorney
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Kathryn L. Petroff, Deputy Public Defender
Attorneys for Appellant

T H O M P S O N, Judge

¶1 Appellant appeals from the trial court's order for
involuntary treatment. For the following reasons, we affirm.

¶2 Appellant raises one issue on appeal: whether the trial court erred in finding that she was persistently and acutely disabled because there was not substantial and competent evidence that she was suffering from a mental disorder.

¶3 The state filed a petition for involuntary treatment alleging that appellant was persistently and acutely disabled and a danger to self. The state later moved to dismiss the danger to self allegation and the trial court dismissed that allegation. At the involuntary treatment hearing, both sides stipulated to the admission of the affidavits of Dr. Brennan and Dr. Merrill in lieu of their live testimony. Additionally, the state presented the testimony of J.T. and A.Q., crisis intervention specialists at Terros. J.T. testified that prior to filing the application for involuntary evaluation he visited appellant at her long term residence home after staff at the residence became concerned and called Terros. J.T. observed that appellant was agitated, hyperactive, and had "a lot of derailment in her thought associations." Appellant wanted her HIV medications examined as "evidence." Appellant told J.T. that "she didn't feel like she was long for this reality," and while speaking to J.T. she made motions like shooting herself with her finger, a slashing motion against her wrist with a credit card, and a hanging motion with a scarf she was wearing around her neck. Appellant told J.T. she was unwilling to get

voluntary treatment. A.Q. testified that appellant displayed psychotic behavior during the visit to her apartment, and that she was upset about her recent previous treatment at Urgent Psychiatric Center.

¶4 Dr. Daniel Merrill examined appellant prior to the involuntary commitment hearing. Dr. Merrill diagnosed appellant with "a mental disorder diagnosed as (Probable Diagnosis) Psychotic Disorder" and found that she was a danger to herself and was persistently or acutely disabled. During his examination of appellant, among other things, appellant told Dr. Merrill that she became "a bridge between the Church of Scientology and a protest Scientology group called Anonymous" after she saw Tom Cruise decompensating on television, and that she had developed an algorithm to ensure peace between the two groups. Dr. Merrill opined that appellant's "preoccupation with these two organizations [was] psychotic in nature."

¶5 Dr. Michael Brennan also examined appellant. Dr. Brennan diagnosed appellant with "mental disorder . . . (Probable Diagnosis) Mood Disorder, Not Otherwise Specified; Cannabis Dependence; HIV Positive" and also found that she was a danger to herself and persistently or acutely disabled. Dr. Brennan similarly described appellant's obsession with the Church of Scientology and Anonymous, and concluded that appellant had a severe mental disorder that, if not treated, had

a substantial probability of causing appellant to suffer severe and abnormal mental, emotional, or physical harm that significantly impairs her judgment, reason, behavior, or capacity to recognize reality.

¶6 Arizona Revised Statutes (A.R.S.) § 36-540(A) (2008) provides, in relevant part:

A. If the court finds by clear and convincing evidence that the proposed patient, as a result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and in need of treatment, and is either unwilling or unable to accept voluntary treatment, the court shall order the patient to undergo one of the following:

. . .

2. Treatment in a program consisting of combined inpatient and outpatient treatment.

Based on the testimony of appellant, the state's witnesses, and the doctors' affidavits, the trial court found "by clear and convincing evidence that [appellant] is suffering from a mental disorder and, as a result, is persistently and/or acutely disabled, and is in need of treatment and is either unwilling or unable to accept voluntary treatment." We find no error. The doctors' affidavits and testimony in this case constituted sufficient evidence to support the court's ruling that appellant had a mental disorder and was persistently or acutely disabled.

¶7 For the foregoing reasons, we affirm the trial court's order for involuntary treatment.

/s/

JON W. THOMPSON, Judge

/s/

JOHN C. GEMMILL, Presiding Judge

/s/

PATRICK IRVINE, Judge