

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



DIVISION ONE
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE MH 2008-001196)
) No. 1 CA-MH 09-0050
)
) DEPARTMENT C
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 28, Arizona Rules
) of Civil Appellate
) Procedure)
)

Appeal from the Superior Court in Maricopa County

Cause No. MH 2008-001196

The Honorable Patricia Arnold, Judge *Pro Tem*

APPEAL DISMISSED AS MOOT

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D O W N I E, Judge

¶1 Appellant challenges an order continuing her involuntary mental health treatment. For the following reasons, we dismiss the appeal as moot.

FACTS AND PROCEDURAL HISTORY¹

¶2 In May 2008, a crisis counselor filed a petition for court-ordered evaluation, an application for involuntary evaluation, and an application for emergency admission for evaluation, alleging appellant had stopped taking her medications, suffered "paranoid delusions," and was a danger to self. Appellant denied mental illness, but reported "numerous bizarre physical symptoms including urinating from her birth canal, . . . her umbilicus is stretched backwards, . . . urinating from her baby," and "bleeding from her aorta," evidenced by the taste of blood in her mouth. Two evaluating physicians opined that appellant was, as a result of a mental disorder, persistently or acutely disabled and in need of combined inpatient and outpatient treatment. In June 2008, the superior court ordered appellant to undergo combined inpatient and outpatient treatment for a period not to exceed 365 days.

¶3 On June 10, 2008, appellant was released to outpatient care. Toward the end of the treatment period, appellant was compliant with her treatment plan. However, based on her past failure to engage in treatment without a court order, the clinical team was concerned she would not take medications or

¹ We view the facts in the light most favorable to affirming the trial court's decision. *In re MH 2008-001188*, 221 Ariz. 177, 179, ¶ 14, 211 P.3d 1161, 1163 (App. 2009).

attend scheduled appointments if the court order expired; it thus recommended continued treatment.

¶4 In May 2009, Dr. Carol Olson evaluated appellant. She recommended that appellant not be released from court-ordered treatment due to "very poor insight" and an inability to "recognize her ongoing need for treatment." Dr. Olson opined that appellant's "history of repeatedly stopping her medication when off of the court order for treatment" made it unlikely she would "be consistent in taking prescribed medication on a voluntary basis."

¶5 A petition for continued treatment was filed. At the ensuing hearing, appellant stipulated to the admission of Dr. Olson's report, cross-examined two acquaintance witnesses, and testified on her own behalf. Appellant acknowledged that she had a psychiatric illness that required medication and stated she planned to continue treatment even if the court order expired. Nevertheless, the court found that appellant remained persistently or acutely disabled as a result of a mental disorder and ordered continued treatment for a period not to exceed 365 days. Appellant timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-2101(K) (2003) and 36-546.01 (2009).

DISCUSSION

¶6 Appellant's treatment order expired June 5, 2010. When circumstances in a case change to the extent that a reviewing court's action would have no effect on the parties, the issue becomes moot for purposes of appeal. *Vinson v. Marton & Assocs.*, 159 Ariz. 1, 4, 764 P.2d 736, 739 (App. 1988). In such a case, we may dismiss the appeal. *Dougherty v. Ellsberry*, 45 Ariz. 175, 175, 41 P.2d 236, 236 (1935) (dismissing appeal because the issue of whether to recall a director was moot once the director's term of office expired). Arizona's appellate courts have exercised their discretion to review a moot matter presenting "significant questions of public importance" that are "likely to recur." *Big D Constr. Corp. v. Court of Appeals*, 163 Ariz. 560, 563, 789 P.2d 1061, 1064 (1990) (considering the constitutionality of Arizona's bid preference statute notwithstanding settlement by parties). See also *LaFaro v. Cahill*, 203 Ariz. 482, 485, ¶ 9, 56 P.3d 56, 59 (App. 2002) (considering appeal of an injunction that may have expired because "the use of an injunction to restrict political speech is an issue of great public importance that is capable of evading review.").

¶7 Resolution of this appeal is intensely fact-specific. The one pure legal claim appellant raises was recently resolved adverse to her position by *In re MH 2009-001264*, ___ Ariz. ___,

