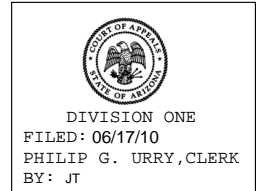


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

IN RE MH 2009-001486 ) 1 CA-MH 09-0062  
)  
) DEPARTMENT B  
)  
) **MEMORANDUM DECISION**  
) (Not for Publication  
) - Rule 28, Arizona  
) Rules of Civil  
) Appellate Procedure)  
)

Appeal from the Superior Court in Maricopa County

Cause No. MH 2009-001486

The Honorable Patricia Arnold, Judge Pro Tempore

**AFFIRMED**

---

Richard M. Romley, Acting Maricopa County Attorney Phoenix  
By Anne C. Longo, Deputy County Attorney  
and Roberto Pulver, Deputy County Attorney  
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix  
By Tennie B. Martin, Deputy Public Defender  
Attorneys for Appellant

---

**N O R R I S**, Judge

¶1 After conducting an evidentiary hearing, the superior court found by clear and convincing evidence appellant was, as a result of a mental disorder, persistently or acutely disabled,

in need of psychiatric treatment, and unwilling or unable to accept voluntary treatment. Accordingly, the court ordered appellant to undergo a combination of inpatient and outpatient treatment not to exceed 365 days ("treatment order").

¶12 On appeal, appellant asks us to vacate the treatment order because one of the evaluating physicians, Tuan-Anh Nguyen, M.D., did not use a Spanish language interpreter during her evaluation of appellant. Appellant asserts Dr. Nguyen's failure to do so violated statutory requirements and deprived him of due process.<sup>1</sup> We disagree. We review constitutional and statutory claims de novo. *In re MH 2008-002393*, 223 Ariz. 240, \_\_\_, ¶ 11, 221 P.3d 1054, 1057 (App. 2009).

¶13 Arizona Revised Statutes ("A.R.S.") section 36-501(12)(b) (2009) states "every reasonable attempt shall be made to conduct the evaluation in any language preferred by the person." While appellant clearly preferred to speak in Spanish, the record contains ample evidence he spoke and understood English.

---

<sup>1</sup>Appellant implies Dr. Nguyen violated an order entered by the court on June 17, 2009, appointing court interpretation and translation services pursuant to Local Rule of Procedure for Maricopa County 5.12. The record, however, reflects Dr. Nguyen evaluated appellant before the court entered its order. Furthermore, the court entered the order pursuant to Rule 5.12, which had been abrogated February 9, 2009, and which pertained to "proceeding[s] before a Probate/Mental Health Department commissioner or judge pro tem," not to physicians' evaluations.

¶14 A psychiatric technician who had met with appellant four times testified appellant spoke with him in English, although appellant told him English was "an evil language." Another mental health professional who had interacted with appellant every day for five weeks testified appellant spoke to her in English with words interspersed in Spanish. The other evaluating physician, who interviewed appellant with a Spanish interpreter, testified appellant explained his "beliefs" in English, continued going back and forth between English and Spanish, and in his affidavit stated appellant "believed there was something somehow offensive about asking him to speak English." Appellant's mother testified that even though he preferred to speak Spanish, appellant spoke English. Finally, Dr. Nguyen testified that although appellant's clinical record indicated he might have preferred she conduct the evaluation in Spanish, she interviewed him in English because he "sp[oke] English perfectly" and his desire to speak Spanish resulted from his psychosis.<sup>2</sup>

¶15 As appellee points out, "every reasonable attempt" to evaluate a person in his or her preferred language does not

---

<sup>2</sup>While the record reflects appellant also spoke Spanish, a psychiatrist who met with appellant three months before his hearing reported appellant "insisted on speaking Spanish only and did so quite poorly." Dr. Nguyen's affidavit also stated appellant "sp[oke] Spanish quite poorly."

mandate the evaluation must be made in the preferred language, when, as here, the individual clearly speaks and understands English. Under these circumstances, we agree with appellee and reject appellant's argument Dr. Nguyen's evaluation violated A.R.S. § 36-501(12)(b) or deprived him of due process.

**CONCLUSION**

¶16 For the foregoing reasons, we affirm the superior court's involuntary mental-health treatment order.

/s/

---

PATRICIA K. NORRIS, Judge

CONCURRING:

/s/

---

JOHN C. GEMMILL, Presiding Judge

/s/

---

MAURICE PORTLEY, Judge