

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



DIVISION ONE
FILED: 05-04-2010
PHILIP G. URRY, CLERK
BY: DN

IN RE MH2009-001550)
) No. 1 CA-MH 09-0063
)
) DEPARTMENT A
)
) Maricopa County
) Superior Court
) No. MH-2009-001550
)
)
)
) **DECISION ORDER**
)

The court, Presiding Judge Maurice Portley and Judges Lawrence F. Winthrop and Margaret H. Downie participating, has considered Appellant's appeal of the superior court's order for involuntary mental health treatment. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-2101(K) (2003) and 36-546.01 (2009). Appellant raises a single issue in her timely appeal - that the superior court was required to engage in a colloquy with her personally to determine whether she knowingly, voluntarily, and intelligently waived her right to have the physicians who evaluated her testify. We addressed this issue in a recent opinion and, for

the same reasons expressed therein, we affirm. See *In re MH 2009-001264*, 1 CA-MH 09-0048 (Ariz. App. April 27, 2010).

Procedurally, this case is nearly identical to *MH 2009-001264*. The superior court conducted a hearing on a petition for court ordered treatment at which counsel for both parties stipulated to admit the two evaluating physicians' affidavits and the 72-hour medication affidavit in lieu of in-person testimony. See *id.* at *3, ¶ 4. The court, however, did not engage in a colloquy directly with Appellant to determine whether she knowingly, voluntarily, and intelligently waived the physicians' in-person testimony. The parties entered no other stipulations, and the hearing proceeded. At the conclusion of the hearing, the superior court found, by clear and convincing evidence, that Appellant is, as a result of a mental disorder, persistently or acutely disabled, and in need of psychiatric treatment. The court ordered a combination of inpatient and outpatient treatment for a period not to exceed 365 days, with the period of inpatient treatment not to exceed 180 days, and Appellant timely appealed, raising the single, aforementioned issue.

For the reasons set forth in *In re MH 2009-001264*, we affirm the superior court's treatment order.

_____/S/_____
LAWRENCE F. WINTHROP, Judge