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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

IN RE PIMA COUNTY MENTAL HEALTH NO. MH-20030042-2-09	)	2 CA-MH 2009-0002
	)	DEPARTMENT A
	)	MEMORANDUM DECISION
	)	Not for Publication
	)	Rule 28, Rules of
	)	Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Honorable Richard C. Henry, Court Commissioner

AFFIRMED

Barbara LaWall, Pima County Attorney
By Rutheanne Anne Miller — Tucson
Attorneys for Appellee

Ann L. Bowerman — Tucson
Attorney for Appellant

H O W A R D, Chief Judge.

¶1 After a hearing, the trial court found by clear and convincing evidence that appellant is "persistently or acutely disabled" as the result of a mental disorder, is in need of treatment, and is either "unable or unwilling to accept or comply with treatment" voluntarily.

Thus, implicitly finding the requirements of A.R.S. § 36-540(A) satisfied, the court ordered that appellant receive mental health treatment for one year, including the possibility of rehospitalization, if necessary, for up to 180 days of inpatient treatment "in a level one behavioral health facility."

¶2 Appellant is a forty-seven-year-old female with a history of court-ordered, mental-health treatment on one previous occasion in Pima County in 2003. Most recently, in May 2009, police officers and a mental health crisis team were summoned to appellant's home one afternoon after appellant was observed outside naked, both in her front yard and on the roof of her home. On her roof, she was making gestures with her hands and repetitiously claiming to be "engaging with the moon and the sun." She was taken to Kino Hospital, where a psychiatrist observed her to have disorganized thoughts and pressured speech and to be speaking in what the doctor described as a "word salad" that was hard to follow or understand. The trial court ordered appellant detained for evaluation pursuant to A.R.S. §§ 36-526 and 36-529.

¶3 At the hearing on the ensuing petition for court-ordered treatment, two psychiatrists who had evaluated appellant testified that she was suffering from bipolar disorder with psychotic features, a serious but treatable mental illness. Based on the testimony of these and other witnesses, the trial court concluded appellant was persistently or acutely disabled as defined in A.R.S. § 36-501(33) and entered the order for involuntary treatment from which appellant appeals.

¶4 In the sole issue raised on appeal, appellant contends the trial court's order violated A.R.S. § 36-520(G), which provides:

> If a person is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner of that church or denomination, such person may not be ordered evaluated, detained or involuntarily treated unless the court has determined that the person is, as a result of mental disorder, a danger to others or to self.

Appellant contends she was being "treated by spiritual means alone and did not believe in medications." And, because the court found insufficient evidence to prove, and therefore dismissed, the allegation that appellant was a danger to herself, she contends § 36-520(G) therefore precluded the court from ordering her involuntarily treated.

¶5 It is well settled that, "[b]ecause involuntary treatment proceedings may result in a serious deprivation of appellant's liberty interests," *In re Maricopa County No. MH 2001-001139*, 203 Ariz. 351, ¶ 8, 54 P.3d 380, 382 (App. 2002), the applicable commitment statutes must be rigorously followed. *In re Maricopa County No. MH 2003-000058*, 207 Ariz. 224, ¶ 12, 84 P.3d 489, 492 (App. 2004); *In re Pima County No. MH-1140-6-93*, 176 Ariz. 565, 567, 863 P.2d 284, 286 (App. 1993). "Proceedings to adjudicate a person mentally incompetent must be conducted in strict compliance with the statutory requirements." *In re Maxwell*, 146 Ariz. 27, 30, 703 P.2d 574, 577 (App. 1985).

¶6 In invoking § 36-520(G), appellant has overlooked certain salient language in the statute. By its terms, § 36-520(G) pertains to those whose treatment by prayer or spiritual

means alone is "in accordance with the tenets and practices of a recognized church or religious denomination [and] by a duly accredited practitioner of that church or denomination." Asked to describe what led to her being taken to Kino Hospital, appellant testified that, through meditating and "follow[ing] the path within," she had achieved "something called 'nearly accomplished Samadhi' which is a very rare state of consciousness." And the court admitted in evidence a two-page exhibit offered by appellant entitled "Samadhi." The document states it is "[f]rom Wikipedia, the free encyclopedia," and it begins with the statement that samadhi "is a Hindu and Buddhist technical term that usually denotes higher levels of concentrated meditation."

¶7 There was, however, no evidence that appellant was being treated "by a duly accredited practitioner" of any "recognized church or religious denomination" in accordance with "the tenets and practices" of that recognized denomination. § 36-520(G). Appellant herself did not testify to that effect, mentioning only a "spiritual teacher" in Michigan, who, appellant claimed, was also a psychiatrist[1] and whom appellant reportedly consulted by telephone. Appellant had apparently told Dr. Sinha, one of the two evaluating psychiatrists, about appellant's belief in "Far Eastern medicine" and meditation practice, but there was simply no evidence presented that appellant was "being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious

[1]That testimony was contradicted by one of the two evaluating psychiatrists, who testified that the Michigan "psychotherapist" appellant claimed to consult appeared to have a master's degree in psychology.

denomination by a duly accredited practitioner of that church or denomination." § 36-520(G). Accordingly, the trial court did not err in ruling § 36-520(G) inapplicable. We therefore affirm its order entered on May 19, 2009, committing appellant for involuntary mental health treatment.

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

PHILIP G. ESPINOSA, Presiding Judge

PETER J. ECKERSTROM, Judge