IN THE COURT OF APPEALS OF IOWA

No. 1-523 / 10-1293
Filed August 10, 2011

S.Q.,
Plaintiff-Appellant,

vs.

ST. ANTHONY REGIONAL HOSPITAL
and THE IOWA DISTRICT COURT
FOR GREENE COUNTY,
Defendants-Appellees.

Appeal from the Iowa District Court for Greene County, Joel E. Swanson, Judge.

S.Q. appeals a district court ruling denying and dismissing her petition for writ of habeas corpus. **AFFIRMED.**

Laura R. Jontz of Iowa Legal Aid, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Gretchen Witte Kraemer, Assistant Attorney General, and Nicola J. Martino, County Attorney, for appellees.

Considered by Eisenhauer, P.J., and Potterfield and Tabor, JJ.

POTTERFIELD, J.

I. Background Facts and Proceedings

S.Q. has a history of mental illness and has been hospitalized pursuant to an order for involuntary inpatient treatment on more than one occasion, most recently on April 30, 2001. At some point, S.Q.'s commitment was apparently transferred to outpatient treatment, and S.Q. was ordered to see her doctor on an annual basis. The record on appeal indicates S.Q. was compliant with treatment and took medication as recommended.

On January 21, 2009, a judicial hospitalization referee signed a review order stating the chief medical officer's report recommended a "change from annual basis to monthly basis." The court found this to be in the best interests of S.Q. and adopted the recommendation. The form order contained no notice of S.Q.'s right to a placement hearing.

S.Q. filed a petition for writ of habeas corpus on May 17, 2010, alleging the court's review order was illegal because: (1) there was no evidence increased restraint was necessary and (2) it violated procedural requirements including her right to notice and a hearing on the issue of the new placement/more restrictive outpatient commitment under Iowa Code section 229.14A(1) (2009).

At an evidentiary hearing on the petition, S.Q., the mental health advocate for the county, and a nurse who acted as the director of quality and risk management at St. Anthony Regional Hospital testified. The district court dismissed the petition, finding that S.Q. was "not restrained in any way which would require a writ of habeas corpus to be filed"; that S.Q.'s guardian had not

been notified of the proceedings; and that the monthly reporting was "in the best interests" of S.Q.

S.Q. filed a motion to amend findings and conclusions pursuant to Iowa Rule of Civil Procedure 1.904(2). She alleged: (1) a petition for writ of habeas corpus was her only way to challenge the more restrictive terms of her outpatient commitment; and (2) the district court erred in considering her best interests as opposed to the evidence of serious mental impairment, as was required to deny her petition for writ of habeas corpus. The district court denied this motion.

S.Q. now appeals, arguing: (1) the district court's commitment review order violated procedural requirements in Iowa Code section 229.14A, (2) a petition for writ of habeas corpus was the proper means of contesting the district court's order, and (3) the State failed to provide substantial evidence of serious mental impairment at the hearing.

The State asserts S.Q.'s present commitment is governed by an order entered after the order at issue. The State therefore argues the appeal is moot and should be dismissed.

II. Mootness

> An appeal "'is moot if it no longer presents a justiciable controversy because [the contested issue] has become academic or nonexistent.'" "The test is whether the court's opinion would be of force or effect in the underlying controversy." As a general rule, we will dismiss an appeal "'when judgment, if rendered, will have no practical legal effect upon the existing controversy.'"
>
> There is an exception to this general rule, however, "where matters of public importance are presented and the problem is likely to recur."

In re M.T., 625 N.W.2d 702, 704 (Iowa 2001) (internal citations omitted) (alteration in original). In determining whether to review a moot action, we consider four factors:

> (1) the private or public nature of the issue; (2) the desirability of an authoritative adjudication to guide public officials in their future conduct; (3) the likelihood of the recurrence of the issue; and (4) the likelihood the issue will recur yet evade appellate review.

State v. Hernandez-Lopez, 639 N.W.2d 226, 234 (Iowa 2002).

After considering the factors as applied to this case, we elect to address the procedural issues raised. The supreme court has said, "The procedural aspects of an involuntary civil commitment hearing are of great public importance." *In re T.S.*, 705 N.W.2d 498, 502 (Iowa 2005). Further, because "involuntary commitment hearings occur on a daily basis . . . the issues raised . . . are likely to recur." *Id*. It is also likely the procedural issues raised on appeal will evade appellate review given the time it takes to process an appeal and the likelihood a commitment will terminate or be altered before the appeal can be completed. *See id*. "Additionally, it is desirable for the courts and our public officials to have an authoritative adjudication of these issues." *Id*. We therefore exercise our discretion to address the procedural issues raised on appeal.

III. Habeas Corpus

On appeal, S.Q. challenges the district court's finding that she was not restrained in any way that would require a writ of habeas corpus to be filed. Iowa Code section 229.37 provides,

> All persons confined as seriously mentally impaired shall be entitled to the benefit of the writ of habeas corpus, and the question of

> serious mental impairment shall be decided at the hearing. If the judge shall decide that the person is seriously mentally impaired, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person is no longer seriously mentally impaired.

The State asserts a writ of habeas corpus could not issue in this matter because S.Q. was not "confined" as required by section 229.37. S.Q. asserts her commitment was properly contested.

Because the State's claim involves statutory interpretation, our review is for correction of errors at law. *State v. Booth*, 670 N.W.2d 209, 211 (Iowa 2003). Our goal in interpreting the statute is to discover the true intention of the legislature. *Bernau v. Iowa Dep't of Transp.*, 580 N.W.2d 757, 761 (Iowa 1998). When a statute's text is plain and its meaning is clear, we do not search for meaning beyond the statute's express terms. *State v. Snyder*, 634 N.W.2d 613, 615 (Iowa 2001). "When the legislature has not defined words of a statute, we look to prior decisions of this court and others, similar statutes, dictionary definitions, and common usage." *Gardin v. Long Beach Mortg. Co.*, 661 N.W.2d 193, 197 (Iowa 2003). Because the legislature did not define the word "confined" and both the State and S.Q. suggest plausible interpretations of the word, we look to other sources to determine its meaning.

First, we look to surrounding statutes. Iowa Code section 229.31 discusses a commission established to inquire into complaints filed by parties who allege they are not seriously mentally impaired. It states,

> A sworn complaint, alleging that a named person is not seriously mentally impaired and is unjustly deprived of liberty in any hospital in the state, may be filed by any person with the clerk of the district court of the county in which such named person is so confined . . . .

Iowa Code § 229.31. Section 229.32 then discusses the duty of the commission after a complaint has been filed under section 229.31, stating:

> Said commission shall at once proceed to the place where said person is confined and make a thorough and discreet examination for the purpose of determining the truth of said allegations and shall promptly report its findings to [a] judge in writing. Said report shall be accompanied by a written statement of the case signed by the chief medical officer of the hospital in which the person is confined.

Iowa Court Rule 12.6 discusses an attorney's opportunity to confer with a client who is alleged to be seriously mentally impaired, providing:

> If the respondent is involuntarily confined prior to the hearing . . . the respondent's attorney may apply to the judge or referee for an opportunity to confer with the respondent, in a place other than the place of confinement, in advance of the hearing provided for in Iowa Code section 229.12. The order shall provide for transportation and the type of custody and responsibility therefor during the period the respondent is away from the place of confinement under this rule.

Further, Iowa Code section 227.15, in the code chapter on facilities for persons with mental illness, provides:

> No person shall be involuntarily confined and restrained in any private institution or hospital or county hospital or other general hospital with a psychiatric ward for the care or treatment of persons with mental illness, except by the procedure prescribed in sections 229.6 to 229.15.

Section 227.11 provides for transfers from state hospitals, stating: "A county shall transfer to its county care facility any patient in a state hospital for persons with mental illness upon request of the superintendent of the state hospital in which the patient is confined . . . ."

The legislature's use of the word "confined" in these statutes and rules is limited to situations where an individual is required to stay in a hospital or private institution. The context of the statutes suggest the legislature did not intend the

word "confined" to refer to an individual ordered to submit to outpatient treatment; rather, the word is used exclusively to discuss individuals involuntarily hospitalized in an inpatient setting.

Black's Law Dictionary defines "confinement" as "[t]he act of imprisoning or restraining someone; the state of being imprisoned or restrained . . . ." Black's Law Dictionary 318 (8th ed. 2004). Webster's Third New International Dictionary defines "confined" as "kept in confines." Webster's Third New International Dictionary 476 (unabr. ed. 2002). "Confine" when used as a verb is defined as "to . . . restrain within limits," "to keep in narrow quarters: IMPRISON," "to hold within bounds." *Id.* These definitions suggest that the word "confined" applies to individuals who are forced to stay within a certain physical area.

Further, we believe the common usage of the word "confined" refers to an individual who is in some way physically restrained. *See* Iowa Criminal Jury Instruction No. 1000.5 (defining one as "confined" for purposes of the kidnapping statute "when [one's] freedom to move about is substantially restricted by force, threat or deception"). When "confined" is used as it is defined in the dictionaries and as it is commonly understood, it would not encompass someone who is in outpatient care.

After reviewing related statutes and rules, dictionary definitions, and the common usage of the word, we conclude the legislature did not intend "confined" to apply to individuals committed to outpatient care. S.Q. was therefore not

confined and was not entitled to file a petition for writ of habeas corpus.[1] Accordingly, we conclude the district court properly dismissed S.Q.'s petition.

AFFIRMED.

[1] S.Q. was entitled to challenge the court's order changing her commitment under Iowa Code section 229.14A, but the court did not give notice of her right to a placement hearing in its review order. S.Q. was entitled to file a petition for writ of certiorari pursuant to Iowa Rule of Civil Procedure 1.1401 to challenge the district court's failure to provide notice of her right to a hearing as required under section 229.14A.