IN THE COURT OF APPEALS OF IOWA

No. 3-727 / 13-0431
Filed October 23, 2013

IN THE MATTER OF A.C.H.,
Alleged to be Seriously Mentally Impaired,

A.C.H.,
Respondent-Appellant.

Appeal from the Iowa District Court for Johnson County, Douglas S. Russell, Judge.

A.H. appeals the district court ruling finding he is seriously mentally impaired. **AFFIRMED.**

Ellen Ramsey-Kacena, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Gretchen Witte Kraemer, Assistant Attorney General, Janet M. Lyness, County Attorney, and Patricia Weir, Assistant County Attorney, for appellee.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

BOWER, J.

A.H. appeals the district court ruling that he is seriously mentally impaired. A.H. argues the district court erred in finding clear and convincing evidence he is seriously mentally impaired and lacks sufficient judgment to make reasonable decisions regarding his treatment. A.H. also contends the district court erred in finding clear and convincing evidence he presents a danger to himself. Because we find the district court committed no error, we affirm.

I. Background Facts and Proceedings

A.H. is a seventy-one year old man who appeared at the Veterans Administration (VA) medical center in Iowa City, Iowa, on January 9, 2013. Because the VA had no available beds, he was temporarily transferred to University of Iowa Hospitals and Clinics until a bed at the VA became available.[1] A.H. was accompanied by his son who expressed concerns about A.H.'s ability to care for himself.

An application alleging A.H. was seriously mentally impaired was filed on January 11, 2013. The Judicial Hospitalization Referee determined A.H. was seriously mentally impaired and was incapable of caring for himself. A.H. appealed to the district court and a de novo hearing was held on February 19, 2013.

During the appeal hearing Dr. Adam Nardini, (Nardini) A.H.'s treating physician, testified A.H. was tested for dementia and received an unusually low

[1] A.H. is currently at the VA medical center in Iowa City.

score.[2] Nardini stated A.H. had little capacity for forming short-term memories, was confused, and believed a girlfriend was waiting for him at home despite the fact the girlfriend had left more than a year earlier. Nardini also testified A.H. initially appeared at the hospital with an exceptionally low body weight indicating he had not been eating properly. Additional testimony indicated A.H. had been physically violent with a doctor and, on the day of the hearing, a male nurse. Despite the incident with the nurse having happened just hours before, A.H. had little memory of the altercation and was confused while testifying.

Nardini provided the district court with several second-hand stories of A.H.'s living conditions, as explained to Nardini by A.H.'s son. On at least one occasion, A.H. had turned on a stove or oven and fallen asleep, creating a fire hazard. The record indicates A.H. was drinking alcohol in excess, exacerbating his dementia symptoms. The son also reported A.H. had failed to turn the furnace on during the winter creating cold conditions within the home. Medical records indicated A.H. was covered in layers of dirt and showed poor oral hygiene when he arrived at the hospital. A.H. had explanations for every allegation and claimed he could rely upon neighbors for help, though he admitted he sees his neighbors rarely. A.H. gave conflicting testimony on his ability to drive.

The district court affirmed the ruling of the hospitalization referee and found A.H. was seriously mentally impaired and a danger to himself.

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[2] A low score on this particular test is evidence of dementia.

II. Standard of Review

Involuntary civil commitments are special actions tried to the court as an action at law. *In re Oseing*, 296 N.W.2d 797, 800-01 (Iowa 1980). We review the decision of the district court for errors at law. *See* Iowa R. App. P. 6.907. We are bound by the findings of the district court so long as they are supported by substantial evidence. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998). If a reasonable fact finder could conclude the findings were supported by clear and convincing evidence, the evidence is substantial. *Id.*

III. Discussion

An individual suffers from a serious mental impairment when the person has a diagnosed mental illness which prevents the person from possessing sufficient judgment to make "responsible decisions with respect to the person's hospitalization or treatment," and who also meets at least one of three additional criteria. Iowa Code § 229.1(17) (2013). One of the three enumerated criteria is proof the individual is likely to harm himself or others if allowed to continue without treatment. Iowa Code § 229.1(17)(a).

The State must first show A.H. is mentally ill and lacks judgmental capacity about treatment. The proof of his mental illness is significant. A.H. was examined by a trained physician who administered tests aimed at diagnosing his mental state. The doctor testified A.H. suffers from dementia, and A.H.'s testimony about various events supports the doctor's conclusion. There is also sufficient evidence A.H. lacks the ability to "make a rational decision about treatment." *See In re Mohr*, 383 N.W.2d 539, 541 (Iowa 1986). A.H. became

extremely argumentative and threatened violence upon hospital staff when it was suggested he be transported to a long-term care facility. He stated clearly he would reject treatment and would fight, hurt, and kill people if forced into treatment. A.H. does not appear to have an appreciation of his condition nor the necessity for further treatment. The district court had sufficient evidence to determine A.H. is mentally ill and lacks judgmental capacity regarding his mental condition.

Mental illness and a lack of judgmental capacity do not support a finding of serious mental impairment, however. The State must also show A.H. is likely to physically injure himself or others. This must be "evidenced by a recent overt act, attempt or threat." *Id.* at 543. The district court did not explicitly state which overt act it relied upon to find dangerousness, however the record contains a number of recent incidents which are sufficient. A.H. lost a significant amount of weight, well beyond the fluctuations Nardini testified would be normal, while living alone. There is clear and convincing evidence to conclude A.H. was not eating properly. Though it is clear his sons did not have a complete perspective of A.H.'s living conditions, the testimony concerning A.H. leaving the stove on is troubling. A.H.'s dementia and lack of short-term memory places him at significant risk. The isolated nature of his living conditions and reliance on casual acquaintances that he sees rarely also increase the risk of harm. Additionally persuasive is Dr. Nardini's testimony that patients suffering from advanced and severe dementia, as A.H. is, are unable to take necessary medications in a

reliable fashion. We find clear and convincing evidence to support the district court's conclusion A.H. is likely to harm himself if left untreated.

AFFIRMED.