IN THE COURT OF APPEALS OF IOWA

No. 6-704 / 06-0525
Filed October 25, 2006

IN THE MATTER OF

L.C.S.C., Minor Child,
Alleged to be Seriously Mentally Impaired,

L.C.S.C., Minor Child,
Appellant.

Appeal from the Iowa District Court for Linn County, Susan Flaherty, Associate Juvenile Judge.

A minor child appeals from the juvenile court order for involuntary mental commitment. **AFFIRMED.**

Ryan Tang of Law Office of Ryan P. Tang, P.C., Cedar Rapids, for minor child.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Harold L. Denton, County Attorney, and Jeff Clark, Assistant County Attorney, for appellee.

Heard by Sackett, C.J., and Zimmer, J., and Hendrickson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2005).

SACKETT, C.J.

L.C.S.C. (L.C.), a minor child born in July of 1988, appeals from the juvenile court order for his involuntary commitment. He contends (1) the juvenile court lacked subject matter jurisdiction once the commitment application and supporting affidavit were withdrawn, and (2) the State failed to establish by clear and convincing evidence that inpatient commitment was necessary.

I. Background facts and proceedings

Lyle, the father of L.C., filed an application for involuntary hospitalization in October of 2005, alleging his son suffered from a serious mental impairment. *See* Iowa Code § 229.6 (2005) (application for order of involuntary hospitalization). Lynne, the mother of L.C., filed an affidavit in support of the application. Following a hearing in late October, the court found clear and convincing evidence L.C. was seriously mentally impaired and ordered L.C. to outpatient psychiatric evaluation and treatment by order filed November 7, 2005. Based on the report of Dr. Wilharm, L.C.'s psychiatrist, the court filed an order for transfer of commitment on November 14, hospitalizing L.C. for inpatient treatment. After review on November 18, the court transferred L.C. to outpatient status for treatment and ordered him to comply with the Life Program.

L.C. missed or cancelled most of his appointments with therapists after his return to outpatient status. He did not take his medication as ordered, was increasingly violent toward family members, and was non-compliant with rules, attending school, or curfew. His mother wrote his therapist on March 9, 2006, about her concerns and noted, "I know in the past that we felt possibly we could help him by not putting him in a treatment facility. But now we are forced to do this your way."

Dr. Wilharm sent an urgent update to the court that same day recommending that L.C. be picked up, evaluated, and placed out of the home. The March 14 report of examination noted L.C. could not be evaluated on an outpatient basis or released to the custody of a relative or friend during evaluation. The report indicated full-time hospitalization was necessary for evaluation and recommended placement at the Mental Health Institute (MHI).

At the March 14 hearing, Dr. Wilharm testified he recommended placing L.C. at MHI, but that the family no longer supported inpatient commitment. The doctor listed the options as inpatient commitment or dismissal with a discharge against medical advice. The doctor testified L.C. continued to promise compliance, but was unable to follow through. He described L.C. as violent, destructive, and dangerous.

The mother testified she now wanted outpatient treatment for L.C. because an inpatient committal would prevent him from entering the military in July after graduation from high school. She said the family was going to seek therapy at home and wanted the whole matter dismissed. She testified she was withdrawing her affidavit filed the previous October. Counsel for L.C. offered a letter from the father, who was not present at the hearing, asserting that he wished "to cancel or end this committal process, like my wife, who is also pulling this committal."

L.C. testified he planned to graduate from high school and enter the military. He admitted problems with anger management, school attendance, and compliance with treatment and medication. L.C. acknowledged the police had been called to his house twice since November. He testified he had learned anger management and coping skills in prior treatment, but that he planned to seek anger management therapy on his own if he were not committed. He asked the court to dismiss the

case and let him live with a friend so there would be no more problems with anger and violence at home with his family.

The court reviewed the history of this committal process with L.C., noting the repeated chances given and attempts to maintain him in outpatient status in order not to impair his chance to enter the military. As it became clear to L.C. the court was planning to order hospitalization, L.C. pleaded with the court to give him another chance, swearing that this time he would follow the rules and comply with outpatient treatment. The court asked him why he did not pursue treatment seriously when given previous opportunities. The court stated:

> That is a choice you could have made all the way along . . . . The court orders treatment for you, and we've tried outpatient treatment since October. We've been here again giving you the additional chance. You had another warning in January. You have continued not to be compliant with your treatment, and I can't continue you on outpatient treatment.

The court ordered L.C. to be placed in MHI for evaluation and treatment. L.C. appeals, contending (1) the court lacked subject matter jurisdiction and (2) the State did not adduce clear and convincing evidence that inpatient committal was necessary.

II. Scope of review

An involuntary commitment proceeding is a special action triable to the court as an ordinary action at law. *In re Melodie L.*, 591 N.W.2d 4, 6 (Iowa 1999). Because an involuntary commitment proceeding is an ordinary action at law, we review challenges to the sufficiency of the evidence for errors at law. Iowa R. App. P. 6.4; *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998).

III. Discussion

A. Subject matter jurisdiction. L.C. first contends the court lacked subject matter jurisdiction to order his hospitalization because his father asked to withdraw his application for order of involuntary hospitalization and his mother withdrew her affidavit in support of the application. He argues that withdrawal of the application and affidavit deprived the court of subject matter jurisdiction, and any order entered without authorization is void. The State asserts (1) error was not preserved, (2) there is no statutory authority to allow a party to terminate the court's jurisdiction, and (3) withdrawal of the application does not terminate the court's jurisdiction.

In *Christie v. Rolscreen Co.*, 448 N.W.2d 447, 450 (Iowa 1989), subject matter jurisdiction was distinguished from a court's "lack of authority to hear a particular case," also referred to as "lack of jurisdiction of the case." Subject matter jurisdiction refers to the power of a court to deal with a class of cases to which a particular case belongs. *Cargill, Inc. v. Conley*, 620 N.W.2d 496, 501 (Iowa 2000). A constitution or a legislative enactment confers subject matter jurisdiction on the courts. *Powell v. Khodari-Intergreen Co.*, 303 N.W.2d 171, 173 (Iowa 1981); *see* Iowa Const. art. V, § 6 (conferring jurisdiction upon district courts over civil and criminal matters); Iowa Code § 602.6101 (conferring all powers of a court of general jurisdiction upon district courts).

Iowa Code section 229.6A expressly grants the juvenile court "exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary admission is filed under section 229.6." The juvenile court, therefore, has subject matter jurisdiction over the class of cases to which this involuntary hospitalization proceeding belongs. Iowa Code § 229.6A. Withdrawing an

application filed under section 229.6 does not deprive the juvenile court of its statutory subject matter jurisdiction. *See In re H.G.*, 601 N.W.2d 84, 86 (Iowa 1999) ("Subject matter jurisdiction cannot be ousted by the parties or by any procedures employed by the parties during the course of the proceeding."); *State ex rel. Iowa State Highway Comm'n v. Read*, 228 N.W.2d 199, 202 (Iowa 1975).

L.C.'s argument, although expressly challenging subject matter jurisdiction, appears to be a challenge to the authority of the juvenile court to hear this particular case. Although a court may have subject matter jurisdiction, it may lack the authority to hear a particular case for one reason or another. *Christie*, 448 N.W.2d at 450. Unlike a subject matter jurisdiction challenge, which can be raised at any time, a challenge to the authority of a court to hear a particular case must be raised in the district court. *See Keokuk County v. H.B.*, 593 N.W.2d 118, 122 (Iowa 1999) (comparing subject matter jurisdiction and authority); *see also Rants v. Vilsack*, 684 N.W.2d 193, 199 (Iowa 2004) (citing *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) (noting that issues "must be presented to and ruled upon by the district court in order to preserve error for appeal")).

The record reveals counsel for L.C. made an oral motion to dismiss after the letter from L.C.'s father, which stated his desire to withdraw the application, was admitted as an exhibit. The court denied the motion. We find nothing in the record raising a challenge to the authority of the court to hear the case or any ruling from the court on this issue. Therefore, this claim was not preserved for our review. *See Benavides v. J.C. Penney Life Ins. Co.*, 539 N.W.2d 352, 356 (Iowa 1995) ("Issues must ordinarily be presented to and passed upon by the trial court before they may be raised and adjudicated on appeal.").

B. Sufficiency of the evidence. "[T]he elements of serious mental impairment must be established by clear and convincing evidence and the district court's findings of fact are binding on us if supported by substantial evidence." *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998); *In re Mohr*, 383 N.W.2d 539, 541 (Iowa 1986) (noting the court's "findings of fact have the effect of a special verdict and will be upheld if there is substantial evidence to support them"). "We will not set aside the trial court's findings unless, as a matter of law, the findings are not supported by clear and convincing evidence." *J.P.*, 574 N.W.2d at 342.

L.C. contends that, because the applicant was not present at the hearing and the affiant withdrew her affidavit in support of the application, nothing could be established by clear and convincing evidence. He asserts:

> At this point, there was neither application nor supporting affidavit upon which the court could rely in making its findings and entering a ruling other than dismissal, and there was no application for the county attorney to bolster with evidence.
>
> Iowa Code section 229.1(2) defines seriously mentally impaired:
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> "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person who is afflicted with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who:
>
> a. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment; or
>
> b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the afflicted person if the afflicted person is allowed to remain at liberty without treatment.

This definition contains three express elements:

> The respondent must be found to be (1) afflicted with a mental illness, consequently (2) to lack sufficient judgment to make responsible decisions with respect to his or her hospitalization or treatment, and (3) to be likely, if allowed to remain at liberty, to inflict physical injury

> on himself or others or to inflict emotional injury on the designated class of persons.

Mohr, 383 N.W.2d at 541 (internal quotation marks omitted).

The juvenile court found clear and convincing evidence L.C. was seriously mentally impaired, had poor insight and judgment, and was dangerous because of his assaultive and aggressive behavior. It found outpatient treatment had not been effective, but that discharge from treatment would be against medical advice.

L.C. does not dispute the first element. Concerning the second element, he argues the standard for lacking sufficient judgment requires more than proof L.C. is not compliant with treatment, and that the court must consider why he is not compliant. *See J.P.*, 574 N.W.2d at 343 ("In determining whether a decision is responsible, the focus must be on whether the grounds for the decision are rational or reasonable not what conclusion is reached."). Concerning the third element, L.C. argues the dangerousness must be manifested by a recent overt act, but that the court relied primarily on distant past behaviors.

The State contends L.C. has not preserved error in that there is nothing in the record "akin" to L.C.'s argument concerning recent overt acts. The State also contends the juvenile court's decision is supported by sufficient evidence.

The juvenile court had the testimony of L.C.'s treating psychiatrist that L.C. acts out of control, terrorizes his younger brother, is destructive, and that "this is a dangerous situation for [L.C.]." He testified to the mother's "very concerning" calls over the past couple of months that requested L.C.'s removal from the home and hospitalization. The court had the letter from the psychiatrist, the e-mail from the mother, and the psychiatrist's report of examination. The report of examination indicated L.C. was not capable of making responsible decisions with regard to his

hospitalization or treatment, was likely to injure himself or others physically or emotionally, and recommended MHI. L.C. admitted staying at home was not the best option for him at the time of the hearing, but said he wanted to stay with a friend.

We conclude the juvenile court's determination that L.C. is seriously mentally impaired is supported by substantial evidence in the record. Given the court's previous attempts to maintain L.C. in outpatient status that were ineffective, we agree with the court's conclusion L.C. had to be committed for inpatient treatment.

AFFIRMED.