

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00017-CV

MILLET HARRISON, JR., Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 66306

MEMORANDUM OPINION

Appellant Millet Harrison, Jr. appeals from a judgment extending his involuntary inpatient mental health treatment for a period of one year. In two issues, he challenges the legal and factual sufficiency of the evidence to support the order. Because the evidence is sufficient and the trial court did not err in ordering continued inpatient treatment, we affirm the trial court's judgment.

In 1994, Harrison was found not guilty by reason of insanity for the murder of his mother. *See Harrison v. State*, 148 S.W.3d 678, 679 (Tex. App.--Beaumont 2004, no pet.). Harrison was committed to a mental health facility. *See id.*¹

In conducting a legal sufficiency review when the burden of proof is clear and convincing, the reviewing court considers all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction as to the truth of the allegations sought to be established. *In re J.F.C.*, 96 S.W.3d 256, 266 (Tex. 2002). In conducting the factual sufficiency review, the reviewing court gives due consideration to evidence that the factfinder reasonably could have found to be clear and convincing. *Id.* The ultimate inquiry is whether a reasonable factfinder could have resolved disputed evidence in favor of the finding. *Id.*

Dr. Dan Haynes Roberts, a clinical psychologist, testified for the State. In addition to meeting with Harrison just prior to the competency hearing, Roberts met with Harrison two other times since 2005. Roberts explained that Harrison is mentally ill and suffers from schizophrenia/paranoid type. According to Roberts, Harrison is a possible danger to himself or others, and if left untreated, his chronic condition would deteriorate to the

¹The trial court took judicial notice of the prior proceedings. *See Harrison v. State*, No. 09-98-134 CR, 1999 Tex. App. LEXIS 2027 (Tex. App.--Beaumont Mar. 24, 1999, no pet.) (not designated for publication); *see also Harrison v. State*, 259 S.W.3d 314 (Tex. App.--Beaumont 2008, no pet.); *Harrison v. State*, 239 S.W.3d 368 (Tex. App.--Beaumont 2007, no pet.); *Harrison v. State*, 179 S.W.3d 629 (Tex. App.--Beaumont 2005, pet. denied); *Harrison v. State*, 148 S.W.3d 678 (Tex. App.--Beaumont 2004, no pet.); *Harrison v. State*, No. 07-99-0259-CR, 1999 Tex. App. LEXIS 8332 (Tex. App.--Amarillo Nov. 2, 1999, no pet.) (not designated for publication).

extent that he would be unable to make rational and informed decisions about whether or not to submit to treatment. Roberts stated that in his opinion Harrison could not be treated outside of Rusk State Hospital because he is unprepared “to function as an outpatient reliably and continue to take his medication and remain free of the symptoms of his psychosis.”

Roberts explained that he is concerned with Harrison’s recent preoccupation with the idea that someone tampered with his mail and his comments that people in the legal system “were out to get him.” Also, Roberts learned that Harrison wrote a religious book and sent the book to publishers. Roberts was concerned because Harrison’s criminal past has been typically associated with religious delusions.

Although Harrison takes four milligrams of Risperidone a day and has been medicated for the past year, Roberts testified that Harrison still experiences delusional thought. Harrison’s medical records for the past year indicated to Roberts two incidents where it appeared Harrison manipulated the nursing assistants and directed their actions. In the past Harrison has persuaded doctors into letting him discontinue medication and Roberts is concerned that if Harrison were released from Rusk State Hospital, he would have less supervision and could possibly manipulate caregivers to change his prescribed medication.

Roberts testified that in the past some of the notes he reviewed regarding Harrison’s care at Rusk State Hospital were daily notes but this past year the notes are

less frequent and less specific. Roberts stated this could be a result of the hospital staff members' efforts to protect themselves because of Harrison's history of confronting staff members regarding the notes and attempting to obtain their home contact information. Based on the incidents within the past year and the fact that Harrison is still experiencing delusional thoughts, Roberts believes the best course of treatment for Harrison for the next twelve months would be to stay at Rusk State Hospital.

Roberts admitted that over the last year Harrison has been compliant in taking his medication. During the interview the day before the hearing Harrison acted "more appropriate than [Roberts had] ever seen him." Roberts stated that, with one exception, Harrison was not delusional during the interview. Roberts believes that Harrison was "being guarded" with Roberts because he knew why Roberts was interviewing him, and Harrison's response to the question could represent a manifestation of schizophrenic delusion.

Roberts's greatest concern is whether Harrison would be compliant with his medication if he is released. Roberts testified that if Harrison were released and continued his treatment regimen that he's presently on that he would "probably" be able to function successfully in the community. During the interview Harrison told Roberts that Harrison has a "slight mental illness," which suggested to Roberts that Harrison might not think it was serious enough to continue his medication "if he felt okay for a month or two." Roberts also felt, based on Harrison's complaints in the past regarding side effects of his

medication that were not otherwise noted in his medical records or listed as common side effects of the medication, that Harrison's thoughts regarding side effects of his medication could be delusional. Roberts explained that if Harrison discontinued his medication he would deteriorate and most likely become psychotic again. Based on Harrison's prior experiences discontinuing his medication, Harrison's condition without medication could deteriorate in as little as two weeks. Harrison has become violent on several occasions in the past when his condition deteriorated.

Dr. Charlie Cade, a psychiatrist at Rusk State Hospital, provided psychiatric care to Harrison for the eight months prior to the hearing. Cade spends five to ten minutes a day with Harrison. Cade diagnosed Harrison with "schizophrenia paranoid, chronic in remission." Cade testified that since treating Harrison, Harrison has not engaged "in [any] aggression towards himself, others or property" and that Harrison has not demonstrated disorganized or delusional thinking. He takes his medication without argument, has good "self-care skills[,] and attends classes. Harrison is allowed to work washing dishes at the hospital and although he has "free run of the campus[,] he has never attempted to leave. Unlike those with negative symptoms of psychosis, Harrison is animated and completes tasks. Cade explained that although Harrison's mental illness is in remission, it is not cured. In Cade's opinion, if Harrison were released he would do well in the community as long as he continues taking his medication. If he discontinued his medication, Cade

believes Harrison would probably revert to his former disorganized behavior and thinking and would become a danger to himself or others.

Ken Hopper, a psychologist, provided care for Harrison “off and on since around 1999,” but only counseled with him for a brief period of time over the year prior to the hearing. Hopper explained Harrison suffers from paranoid schizophrenia and, based on Hopper’s interaction with Harrison, Hopper believes Harrison is in full remission with medication. Hopper admits that he has heard from others that Harrison has had delusional thoughts.

John Barnes, a clinical social worker at Rusk State hospital testified that he has spoken to Harrison’s son, and his son told Barnes that it would be acceptable for Harrison to move in with him in Harris County. If released, Harrison could receive continued services by a doctor and programs through Spindletop MHMR in Beaumont or Harris County MHMR. Barnes believes that there would be no significant barriers to Harrison’s transition to one of these facilities from Rusk State Hospital, but the key component to his stability is his compliance with his medication. Barnes explained that to compel Harrison to take his medication after his release, the court could order Harrison to appear at an outpatient facility to receive his treatment.

Barnes testified that within the last year Harrison has not been “symptom free” but has in fact exhibited delusional thoughts. Barnes stated that if Harrison were released, he would “like to have a full set of eyes on him” and Harrison would need to be visited three

or four times a week at the least for the first two months. Despite Harrison's recent delusional thoughts, Barnes believes that with some type of treatment program, case management services, and assertive treatment teams that Harrison could function on an outpatient basis. Barnes agreed that the court could put outpatient treatment directives in an order and require Harrison to be returned to a state mental hospital if he failed to follow the court's order.

Brenda Slaton, a unit director at Rusk State Hospital, testified that while working in a different capacity for the hospital in 2000, she assisted in looking for an outpatient placement for Harrison should he be released from the hospital. In 2000, they located placement in Houston, Texas, but the court rejected that placement. Currently, she does not know what local programs are available for Harrison on an outpatient basis and she is unaware if the placement located in 2000 would still be available now.

Dina Leitner testified she met Harrison in 2007 when they were both patients at Rusk State Hospital. Leitner was released and is now a patient's advocate at Rusk State Hospital. She is currently on an "extended furlough" and has been required to meet periodically with a psychiatrist and a social worker and to submit blood samples to show she is in compliance regarding her medications. If she does not comply with the treatment program she could be readmitted to the hospital. She admitted there is a limited number of beds at Rusk State Hospital and that there is a lot of pressure to treat many people in a limited amount of space.

Issac Randal testified that he was married to Harrison's sister and has known Harrison since Harrison was a child. He talks to him at least three or four times a week. Randal explained that he witnessed Harrison's condition deteriorate after his medication was changed, and Randall believed that the change in medication ultimately caused Harrison to kill his mother. Randal now believes Harrison is a "normal individual" and he has not observed him exhibit signs of hearing voices or not being in touch with reality. Randal stated that "[a]s long as [Harrison is] on his medication, he's no threat to anyone." Randal agrees that if Harrison discontinued taking his medicine then he could harm someone but believes he deserves a chance to prove that he can be successful outside of the hospital setting.

Harrison's niece, Diane Randal, testified she has spoken to Harrison at least four or five times a week over the past several years and that she has not observed any signs of his mental illness during the conversations. Based on her interactions with him, she now believes he is "normal as long as he's taking his medication." It is her understanding that if the court released Harrison, he would live with his son and the family would support him.

Rodney Haynes and Harrison attended high school and church together. He observed Harrison's delusions and gradual deterioration prior to his commitment to Rusk State Hospital. Based upon his recent interactions with Harrison, he believes Harrison is "normal." Haynes has read portions of the book Harrison has recently written and states

that it is “mainstream” and contains “normal” religious views. Haynes testified that prior to killing his mother, Harrison was “put . . . in the system, and . . . [h]e convinced the Judge to release him.” Hanes believes that if Harrison discontinued his medications he would demonstrate acute signs that he was not compliant with his medication prior to him becoming unmanageable.

Harrison’s son testified he works as a security guard and attends school where he lives in Houston. His son stated that if Harrison were released Harrison could live with him. Considering the resources in Houston, his son sees no problem in Harrison finding adequate local mental health treatment upon his release. Harrison’s son has no reservations about living with his father, would make sure that his father got treatment, and would be able to take care of him until he finds employment. Harrison’s son has not recently made any attempts to locate treatment facilities for his father but had in previous years and does not believe it would be difficult to locate one. At the time of the hearing Harrison’s son was working during the day and taking night classes. He lives with his twenty-two year old younger brother who also works during the day. Harrison’s son acknowledged that if Harrison came to live with him Harrison would be alone during the morning.

Harrison testified that his private psychiatrist in Houston took him off his medication and prescribed Ambien for his sleep deprivation. Harrison began having auditory hallucinations and voices told him that people were out to get him. The voices

tried to convince him that his mother was evil. His mother had just undergone an operation and was in a lot of pain. He said he wanted to see his mother free from pain. He told the voices that his mother was a good person and the voices told him if she is good, he should send her to heaven by taking her life. After he killed her, the voices stopped. He claims he has not heard voices in over fifteen years. At the hearing, Harrison promised that he “will never allow [him]self to get in that situation again, if [he] can help it.”

Harrison stated that he understood the purpose of the hearing and acknowledged that he is mentally ill. He believes he has a chemical imbalance in the brain that causes delusional and paranoid thoughts, as well as auditory hallucinations. He contends he has complied with his medication for over thirty years. He stated that Dr. Cade is his primary psychiatrist at Rusk State Hospital and is most familiar with his present mental status. He testified he understood that he will have to take his medication for the rest of his life in order to maintain normal mental functioning. He stated that if released he would be compliant with his medication and would maintain contact with a psychiatrist to maintain his prescription. If released, he plans on looking into hiring a private psychiatrist and would take his medicine in the psychiatrist’s presence. He denies experiencing any side effects with his medication.

Harrison explained that inmates and guards at the county jail told him why they believed his release was continually refused. He began to wonder whether these

allegations were true but claims these thoughts were not delusional. As for the religious book he wrote, he testified that the book discussed mainstream theological issues such as purgatory, righteous living, and communion. He maintains there is nothing delusional about the book and it merely contains his opinions. Harrison stated that, if released, he would be compliant with his medication and comply with any court-ordered treatment regimen.

As the factfinder in this case, the trial court is the judge of the witnesses' credibility and the weight to be given their testimony. *See City of Keller v. Wilson*, 168 SW.3d 802, 819 (Tex. 2005). Dr. Roberts testified that Harrison could not be treated outside of Rusk State Hospital because he is unprepared "to function as an outpatient reliably and continue to take his medication and remain free of the symptoms of his psychosis." Roberts explained that although Harrison has regularly taken his medication, he has experienced delusional thoughts and manipulated the hospital staff over the past year. In Roberts's professional opinion, Harrison should continue inpatient treatment at Rusk State Hospital for the next twelve months. On this record, the trial court could reasonably conclude this testimony was credible. The trial court found by clear and convincing evidence that Harrison is mentally ill and as a result is likely to cause serious harm to himself or others, or will, if not treated, continue to suffer severe and abnormal mental, emotional or physical distress, will continue to experience deterioration of his ability to function independently, and is unable to make a rational and informed decision

as to whether or not to submit to treatment. The trial court also found that Harrison's condition is expected to continue for more than ninety days. A reasonable factfinder could have resolved the disputed evidence in favor of the findings. The findings are supported by sufficient evidence. Considering the evidence presented at the hearing, the trial court did not err in its conclusions or in ordering continued inpatient treatment. *See* TEX. HEALTH AND SAFETY CODE ANN. § 574.035(e)(1) (Vernon 2010). Issues one and two are overruled. The trial court's judgment is affirmed.

AFFIRMED.

DAVID GAULTNEY
Justice

Submitted on May 27, 2010
Opinion Delivered July 8, 2010

Before Gaultney, Kreger, and Horton, JJ.