

FILED
JULY 24, 2012
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

In re Detention of P.R.

No. 30109-5-III

STATE OF WASHINGTON,

Respondent,

v.

P.R.,

Appellant.

UNPUBLISHED OPINION

Brown, J. • P.R. appeals his 180-day mental health commitment to a less restrictive alternative (LRA) under chapter 71.05 RCW. P.R. contends (1) the trial court erred in not entering findings under RCW 71.05.217(7)(a) before ordering antipsychotic medication, and (2) he was denied a fair trial because the instructions failed to provide he had a right to refuse medication. We decline to review P.R.'s contentions because this appeal is moot. Accordingly, we affirm.

FACTS

On May 9, 2011, Spokane Mental Health acting on behalf of the State petitioned to renew the 180-day LRA ordered on January 19, 2011 and require P.R. to take Risperdal Consta shots, an antipsychotic medication. The State alleged P.R. had delusions, an extensive history of rehospitalizations, was manic and disorganized with mood liability, and continually demanded a different case manager.

At his June 2011 trial, P.R. did not object to the proposed jury instructions and did not propose an instruction regarding whether he had a right to refuse medication. A jury found P.R. suffered from a mental illness and was gravely disabled.

In July 2011, P.R.'s physician petitioned for involuntary treatment with anti-psychotic medication to be an included condition in the current LRA, resulting in P.R.'s hospitalization. The revocation hearing on both matters was cancelled because the parties reached an agreement. On July 8, 2011, P.R. was discharged from Eastern State Hospital to continue on the LRA. One of the release conditions required P.R. to receive Risperdal Consta injections. The 180-day LRA ordered in June 2011 expired on December 25, 2011. On July 27, 2011, P.R. appealed the June 2011 LRA order.

ANALYSIS

The State preliminarily contends this appeal is moot. An appeal is moot if the court cannot grant the relief requested. *In re Cross*, 99 Wn.2d 373, 376-77, 662 P.2d 828 (1983). But, a case considered moot can still be decided if “matters of continuing and

substantial public interest are involved.” *Sorenson v. City of Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972). To determine whether an issue has sufficient public interest, the court should consider (1) whether the issue is of a public or private nature, (2) the need for authoritative judicial guidance for public officers, and (3) the likelihood that the question will reoccur. *In re Det. of Swanson*, 115 Wn.2d 21, 24-25, 804 P.2d 1 (1990) (quoting *Dunner v. McLaughlin*, 100 Wn.2d 832, 838, 676 P.2d 444 (1984)). In addition, the court can consider “the likelihood that the issue will never be decided by a court due to the short-lived nature of the case.” *Philadelphia II v. Gregoire*, 128 Wn.2d 707, 712, 911 P.2d 389 (1996).

The June 2011 order committing P.R. to a LRA for a 180-day period expired on December 25, 2011. P.R. did not object to the antipsychotic medication during the June 2011 proceedings nor did he object to the jury instructions. In July 2011, P.R. refused the medication. This prompted P.R.’s physician to petition for involuntary treatment with the antipsychotic medication to be an included condition in the current LRA. A revocation hearing was scheduled, but then cancelled because the parties reached an agreement. In the agreement, P.R. acquiesced to receive the injections.

Applying these facts to the standard set forth in *Swanson*, 115 Wn.2d at 24-25, P.R. raises a private issue for the first time on appeal, there is no need for authoritative judicial guidance because the issues were not preserved, and there is little likelihood the

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question will be raised again due to the unique circumstances involving his agreement to take the medication.

Accordingly, this appeal does not involve matters of continuing and substantial

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public interest to warrant review. The case is moot.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Brown, J.

WE CONCUR:

Korsmo, C.J.

Sweeney, J.