

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

IN RE: MH2020-007082

No. 1 CA-MH 20-0122
FILED 6-17-2021

Appeal from the Superior Court in Maricopa County
No. MH2020-007082
The Honorable Sarah Selzer, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Maricopa County Legal Defender's Office, Phoenix
By Anne H. Phillips
Counsel for Appellant

Maricopa County Attorney's Office, Phoenix
By Anne C. Longo
Counsel for Appellee

MEMORANDUM DECISION

Judge David D. Weinzweig delivered the decision of the Court, in which Presiding Judge David B. Gass and Judge Michael J. Brown joined.

WEINZWEIG, Judge:

¶1 Patient appeals the superior court’s order for involuntary mental health treatment. We affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 A police detective petitioned for Patient to receive an involuntary mental health evaluation in September 2020. Patient had been living with his parents when the detective responded to a welfare call from their address. Patient told the detective that “famous people were trying to poison” him to prevent him from running for President of the United States. To foil the plot, Patient had been throwing out assorted household items and his father’s medications. Patient did not believe his father needed the medications, even after Father experienced chest pains causing the fire department to visit.

¶3 Based on his experience and training, the detective concluded that Patient was “going through a mental health crisis” and thus transported him to a mental health clinic, where Dr. Hand and Dr. Pynn evaluated Patient and provided affidavits to support the petition. Dr. Hand and Dr. Pynn concluded that Patient was persistently or acutely disabled (with either bipolar disorder with psychosis or an unspecified psychotic disorder) and found a “reasonable prospect” that his mental health disorder was “treatable” by “combined inpatient and outpatient treatment,” but Patient had refused treatment.

¶4 A mental health nurse then petitioned for involuntary medical treatment of Patient. The court conducted a telephonic evidentiary hearing on the petition. The affidavits of Dr. Hand and Dr. Pynn were admitted by stipulation. The court heard testimony from the police detective, a mold expert and Patient’s brother and sister. Patient’s attending physician was called on rebuttal. The superior court ordered that Patient undergo involuntary treatment, finding (1) “there is clear and convincing evidence that [Patient] is suffering from a mental disorder, and as a result is persistently or acutely disabled, and is still in need of

psychiatric treatment,” (2) “[Patient] has been either unwilling or unable to accept voluntary treatment,” and (3) “[Patient] shall undergo treatment in a combined inpatient and outpatient treatment program, until he is found to be no longer persistently or acutely disabled.” Patient timely appealed. We have jurisdiction. *See* A.R.S. § 36-546.01.

DISCUSSION

¶5 We review and thus recount “the facts in the light most favorable to sustaining the trial court’s judgment.” *In re MH 2008-001188*, 221 Ariz. 177, 179, ¶ 14 (App. 2009). We affirm an involuntary treatment order unless “it is ‘clearly erroneous and unsupported by any credible evidence.’” *In re MH2009-002120*, 225 Ariz. 284, 290, ¶ 17 (App. 2010) (citation omitted). “Because involuntary treatment proceedings may result in a serious deprivation of appellant’s liberty interests, statutory requirements must be strictly met.” *In re Maricopa Cnty. Super. Ct. No. MH 2001-001139*, 203 Ariz. 351, 353, ¶ 8 (App. 2002).

¶6 To secure an involuntary order of treatment, a petition must show by clear and convincing evidence that a patient suffers from a “persistent or acute disability,” which has three elements:

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person’s capacity to make an informed decision regarding treatment, and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

A.R.S. § 36-501(32).

¶7 Patient contends the record does not show “a reasonable prospect [of his mental condition] being treatable,” A.R.S. § 36-501(32)(c), because Patient’s “behavior was due to mold poisoning and not a mental

IN RE: MH 2020-007082
Decision of the Court

health disorder and was not treatable with forced psychiatric medications.” At trial, Patient argued his “symptoms are due to toxic poisoning and brain damage, which is a medical condition, as opposed to some mental disorder.”

¶8 We find no error. The record has ample evidence to support the superior court’s finding by clear and convincing evidence that Patient was treatable. A pair of licensed psychologists, Drs. Hand and Pynn, found “a reasonable prospect” that Patient’s mental health disorder was “treatable.” Dr. Hand concluded that: “[w]ith a structured environment, supportive therapy and medication, the patient should improve sufficiently to allow him to move to a less restrictive setting.” Dr. Pynn concluded that:

There is a reasonable prospect that [Patient]’s symptoms of a mental disorder . . . are treatable by a combination of inpatient followed by outpatient treatment. At this time though court order for treatment is the least restrictive environment and is necessary to ensure his adherence to treatment and minimize the risk of rehospitalization in the near future.

¶9 Patient counters with the contrary opinion of Dr. Rosen, a mold expert, who concluded that Plaintiff’s residence was “far from being habitable” and a person living in that environment would experience “serious neurological effects” causing “long-term neurological damage.” But that testimony only proves a difference of expert opinion, which the superior court resolved in favor of the petition. *Kocher v. Ariz. Dep’t of Rev.*, 206 Ariz. 480, 482, ¶ 9 (App. 2003) (“A finding of fact is not clearly erroneous if substantial evidence supports it, even if substantial conflicting evidence exists.”). Moreover, the court heard rebuttal testimony from Patient’s attending physician, Dr. Ashurst, who found no evidence that Patient’s problems were “solely attributable to exposure to mold,” adding that heavy mold exposure would manifest in “other neurologic signs of neurotoxic damage,” including “spinal cord damage, weakness, difficulty with speech” and “eye movement abnormalities.” The record had no evidence of those symptoms.

CONCLUSION

¶10 We affirm.



AMY M. WOOD • Clerk of the Court
FILED: AA