

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 07/26/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE MH 2010-002524) 1 CA-MH 11-0009
)
) DEPARTMENT D
)
) **MEMORANDUM DECISION**
) (Not for Publication
) - Rule 28, Arizona
) Rules of Civil
) Appellate Procedure)
)

Appeal from the Superior Court in Maricopa County

Cause No. MH 2010-002524

The Honorable Michael D. Hintze, Judge Pro Tempore

AFFIRMED

William G. Montgomery, Maricopa County Attorney Phoenix
By Anne C. Longo
and Bruce P. White
Attorneys for Appellee

Maricopa County Office of the Legal Defender Phoenix
By Cynthia Dawn Beck, Deputy Legal Defender
Attorneys for Appellant

N O R R I S, Judge

¶1 After conducting an evidentiary hearing, the superior court found by clear and convincing evidence Appellant was, as a result of a mental disorder, persistently or acutely disabled,

in need of psychiatric treatment, and unwilling and unable to accept voluntary treatment. Accordingly, the court ordered Appellant to undergo inpatient treatment not to exceed 180 days ("treatment order").

¶12 On appeal, Appellant asks us to vacate the treatment order, challenging the sufficiency of the evidence. Based on our review of the record, we decline to vacate the order.

¶13 First, the appeal is moot; the treatment order has, by its own terms, expired.

¶14 Second, even if not moot, the treatment order is supported by substantial evidence. *See generally In re Mental Health Case No. MH 94-00592*, 182 Ariz. 440, 443, 897 P.2d 742, 745 (App. 1995) (reviewing court will uphold treatment order if supported by substantial evidence and will set aside trial court's findings of fact only if clearly erroneous or unsupported by any credible evidence).

¶15 At the hearing, the parties stipulated to the admissibility of the evaluating physicians' affidavits in lieu of their testimony.¹ After examining Appellant, Paul M. Berkowitz, M.D., stated Appellant was "very paranoid" and

¹Although Appellant, through counsel, stipulated to the admissibility of the evaluating physicians' affidavits, Appellant did not stipulate to the sufficiency of their testimony, as Appellee suggests. We thus reject Appellee's argument Appellant has waived her right to challenge the sufficiency of the evidence on appeal.

described her thought process as "very loose and disorganized." He stated Appellant had "endorsed that she had been taking medications erratically as of late" and further explained Appellant was delusional with "very poor" insight. Dr. Berkowitz concluded Appellant had "allegedly not been caring well for herself," "had been noncompliant with treatment recommendations," and was in a "psychotic decompensated state." Dr. Berkowitz offered a probable diagnosis of "Psychotic Disorder, Not Otherwise Specified; Mood Disorder, Not Otherwise Specified."

¶16 Dr. Berkowitz's evaluation and probable diagnosis of Appellant was consistent with the evaluation and probable diagnosis made by Teejay Tripp, D.O. Dr. Tripp characterized Appellant's thought process as disorganized and described her as being paranoid with delusions. He concluded Appellant lacked "insight into her mental illness, as well as into the need and reason for treatment." Dr. Tripp offered a probable diagnosis of "Psychotic Disorder, Not Otherwise Specified."

¶17 The two acquaintance witnesses who testified at the hearing further substantiated Appellant's delusional, paranoid status. One acquaintance witness described Appellant as hearing nonexistent sounds and exhibiting strange verbal as well as nonverbal behavior, while the other acquaintance witness

