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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 08/11/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN RE MH2010-002646) No. 1 CA-MH 11-0014
)
) DEPARTMENT A
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 28, Arizona Rules
) of Civil Appellate
) Procedures)
)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. MH 2010-002646

The Honorable Veronica W. Brame, Judge *Pro Tem*

AFFIRMED

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

Brent Graham, Maricopa County Legal Defender, Phoenix
By Cynthia D. Beck, Deputy Legal Defender
Attorneys for Appellant

D O W N I E, Judge

¶1 Appellant appeals from an order for involuntary mental health treatment. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶12 Appellant was transported to Aurora Behavioral Health Center ("Aurora") from the Urgent Psychiatric Center. When admitted, she was experiencing auditory hallucinations. Appellant reported "being terrorized 24/7 by [] satanic views" and stated "[t]hey are infringing upon my rights, getting into my anatomy and subliminal mind." After one day, Appellant requested a discharge form, which she signed against medical advice. However, Appellant later withdrew her request to leave and remained at Aurora.

¶13 A petition for court ordered evaluation was filed, stating that Appellant "won't take meds," has "poor insight and judgement [sic]," is psychotic, and cannot care for herself. It further alleged Appellant was persistently or acutely disabled. Two physicians' affidavits were attached. Dr. Leet reported that Appellant had a history of serious mental illness dating back to 2003. Appellant had reportedly engaged in "extreme self-harming behavior, [such as] stabbing herself in the stomach when decompensated."¹ Dr. Leet stated Appellant "has not been taking any medications, according to the records, for some period of time until she was admitted to Aurora Hospital, and

¹ Dr. Leet could not complete his interview of Appellant, as she abruptly ended it after a few minutes. He thus relied on information from Appellant's medical records.

then signed out against medical advice, prompting the current petition for court ordered evaluation."

¶14 In his affidavit, Dr. Patel reported that Appellant was focused on "concepts of paranormal activity [and] satanic abuse." During an interview, Appellant "appeared to have limited insight, and her judgment was impaired." Dr. Patel noted Appellant's history of mental illness, offered a diagnosis of psychotic disorder, and stated Appellant had been both compliant and noncompliant with medications and treatment in the past. He opined that Appellant "lacks insight into her mental illness, as well as the need and reason for treatment at an inpatient level of care, as evidenced by refusal of voluntary treatment and previous noncompliance with medication."

¶15 At the hearing, the parties stipulated to admission of the physicians' affidavits. Two witnesses from Aurora testified, as did Appellant. Appellant testified that she sought treatment for a physical ailment, not psychiatric care. She wanted to be taken to St. Joseph's Hospital because she "had trouble with [her] head. . . . Like it cracked." Appellant testified that court-ordered treatment was unnecessary because "I knew I had a problem. I went to a medical facility. Something happened and I had a troublesome satanic abuse. . . . And the doctor understands satanic abuse. That's a term he

understood." She conceded she "wasn't voluntary the whole time" at Aurora.

¶16 The Aurora social worker testified about Appellant's symptoms and behaviors, including her statements that the hospital was unsafe because there were "satanic views in the area," that she was being subjected to "back-door infringement," and that "different things [] were going on within her body having subliminal splicing or espousing of her brain." The social worker opined that Appellant lacked the insight and judgment to tend to her mental health needs if released. She also testified that Appellant's fears of non-existent physical ailments, such as ear infections and "wet substances . . . [that were] attacking her body and her brain," fueled her concerns about whether Appellant could "take care of herself on the outside." The social worker, though, acknowledged that Appellant "had very good insight into understanding that . . . a lot of people wouldn't agree with what she thought and that she wanted a psychiatrist . . . that specialized in her views."

¶17 The superior court found, by clear and convincing evidence, that Appellant suffered from a mental disorder and, as a result, was persistently or acutely disabled. It concluded Appellant was in need of treatment and was either unwilling or unable to accept treatment. The court thus ordered Appellant to undergo combined inpatient and outpatient treatment.

¶18 While Appellant was receiving outpatient treatment, the treatment provider sought a court order to return her to inpatient status. The motion alleged Appellant had been non-compliant by refusing to attend out-patient appointments. The court ordered Appellant into an inpatient treatment program.

¶19 Appellant timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 36-546.01 and 12-2101(B).

DISCUSSION

¶10 We will uphold an order for mental health treatment unless it is "clearly erroneous or unsupported by any credible evidence." *In re Mental Health Case No. MH 94-00592*, 182 Ariz. 440, 443, 897 P.2d 742, 745 (App. 1995). We review the interpretation and application of statutes *de novo*. *Id.*

¶11 Involuntary treatment proceedings must strictly comply with statutory requirements. *Maricopa Cnty. Super. Ct. No. MH 2001-001139*, 203 Ariz. 351, 353, ¶ 8, 54 P.3d 380, 382 (App. 2002). Once statutory requirements are satisfied, it is the superior court's role to weigh the evidence and resolve any conflicts. *See In re MH 2007-001236*, 220 Ariz. 160, 171 n.17, ¶ 33, 204 P.3d 418, 429 n.17 (App. 2008). The superior court, as the trier of fact, "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and make appropriate findings." *Jesus M. v. Ariz.*

Dep't of Econ. Sec., 203 Ariz. 278, 280, ¶ 4, 53 P.3d 203, 205 (App. 2002).

¶12 A finding that a person is persistently or acutely disabled must be based on clear and convincing evidence. A.R.S. § 36-540(A); *In re Mental Health Case No. MH 94-00592*, 182 Ariz. 440, 444, 897 P.2d 742, 746 (App. 1995). A person is persistently or acutely disabled if he or she has a severe mental disorder that: (1) if left untreated, will cause the individual to suffer severely and abnormally in a way that significantly impairs judgment; (2) substantially impairs the ability to make decisions and understand the advantages and disadvantages of treatment; and (3) has a reasonable prospect of being treatable. A.R.S. § 36-501(33).

¶13 Appellant focuses on the second criterion, arguing her ability to make treatment decisions was not impaired. She contends the doctors relied on the social worker's erroneous statement that Appellant was unwilling to undergo voluntary evaluation and treatment. She asserts that she demonstrated an understanding of the need for treatment by willingly remaining at Aurora after withdrawing her request to leave against medical advice.

¶14 Even assuming that the physicians relied on incorrect factual statements by the social worker, the record nonetheless supports the treatment order. Appellant's ultimate willingness

to remain at Aurora is a relevant factor. But by her own admission, her stay at Aurora was not entirely voluntary. And though Appellant at times recognized that "a lot of people wouldn't agree with what she thought," she also experienced significant periods where she was incapable of recognizing her mental health needs--focusing on non-existent physical causes instead.

¶15 Even where there is contradictory evidence, a trial court may still find clear and convincing proof that court ordered treatment is necessary. See *MH 2007-001236*, 220 Ariz. at 171 n.17, ¶ 33, 204 P.3d at 429 n.17. Because the record includes evidence sufficient to uphold the determination that Appellant was unable or unwilling to make appropriate treatment decisions, we discern no error.

CONCLUSION

¶16 For the reasons stated, we affirm the order for involuntary treatment.

/s/_____
MARGARET H. DOWNIE,
Presiding Judge

CONCURRING:

/s/_____
PATRICK IRVINE, Judge

/s/_____
LAWRENCE F. WINTHROP, Judge