IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

IN RE PIMA COUNTY MENTAL HEALTH NO. MH20000209

No. 2 CA-MH 2020-0003
Filed March 7, 2022

Appeal from the Superior Court in Pima County
No. MH200002091520
The Honorable Alyce L. Pennington, Judge Pro Tempore

APPEAL DISMISSED

COUNSEL

P.B., Tucson
In Propria Persona

Laura Conover, Pima County Attorney
By Tiffany Tom, Deputy County Attorney, Tucson
Counsel for Appellee

MEMORANDUM DECISION

Presiding Judge Eppich authored the decision of the Court, in which Vice Chief Judge Staring and Judge Brearcliffe concurred.

E P P I C H, Presiding Judge:

¶1 In this appeal from an involuntary-treatment order, appellant P.B. asks for "injunctive and declaratory relief." She argues the trial court erred by granting the petition for court-ordered treatment and in finding that she is persistently or acutely disabled (PAD) and a danger to herself. *See* A.R.S. §§ 36-501(32), 36-540(A). For the reasons stated below, we dismiss P.B.'s appeal as moot.

¶2 In reviewing a trial court's order for involuntary treatment, we view the facts in the light most favorable to sustaining the court's findings and judgment. *In re Maricopa Cnty. Mental Health No. MH 2008-001188*, 221 Ariz. 177, ¶ 14 (App. 2009). On July 18, 2020, Tucson police officers conducted a welfare check on P.B. after she repeatedly dialed 9-1-1. When officers arrived, P.B. was calling 9-1-1 while holding three telephones up to her head, refused to acknowledge the officers and informed them that her husband was a "robot, cyborg or clone." The following day, P.B. again called 9-1-1 repeatedly. An application for emergency admission was prepared, and a petition for court-ordered evaluation of P.B. was filed on July 21, 2020. A court-ordered evaluation was performed, and Dr. Michael Colon and Dr. Seth Studer completed affidavits and PAD addenda supporting a petition for court-ordered treatment. A petition for court-ordered treatment was filed, alleging that P.B. suffered from schizophrenia, was a danger to herself and was PAD, and requesting combined inpatient and outpatient treatment. The trial court held a two-part hearing, during which Dr. Colon, a Tucson police officer, and P.B. testified.[1]

[1]On the first day of the hearing, the trial court granted P.B.'s request to represent herself, but ordered counsel to remain in an advisory capacity. The parties later stipulated that Dr. Studer's evaluation would be admitted in lieu of his live testimony.

¶3 At the conclusion of the hearing on August 5, 2020, the trial court found clear and convincing evidence that P.B. "is, as a result of a mental disorder, a danger to herself, persistently or acutely disabled, and in need of a period of mental health treatment." It further determined that "at the present time, [P.B.] is unable or unwilling to comply with treatment on a voluntary basis without a court order." The court then ordered that P.B. "receive court-ordered treatment for one year with the ability to be re-hospitalized . . . in an inpatient psychiatric facility for a time period not to exceed 180 days." P.B. appeals from that ruling. At a judicial review hearing on January 11, 2021, after counsel for CODAC Behavioral Health withdrew his objection to P.B.'s release, the court released her early from court-ordered treatment.

¶4 Based on P.B.'s release, appellee argues this appeal should be dismissed as moot. We agree. A case is moot when the involuntary commitment period has expired. *See In re Coconino Cnty. Mental Health No. MH 1425*, 181 Ariz. 290, 292 (1995); *see also In re Maricopa Cnty. Mental Health No. MH-2008-000867*, 225 Ariz. 178, ¶ 1 (2010) (case "arguably moot" because treatment order had expired); *In re Maricopa Cnty. Mental Health No. MH 2008-000028*, 221 Ariz. 277, ¶ 13 (App. 2009) ("A case is moot when it seeks to determine an abstract question which does not arise upon existing facts or rights." (quoting *Contempo-Tempe Mobile Home Owners Ass'n v. Steinert*, 144 Ariz. 227, 229 (App. 1985))). And, "we typically decline to consider moot or abstract questions as a matter of judicial restraint" because "'[i]t is not an appellate court's function to declare principles of law which cannot have any practical effect in settling the rights of litigants.'" *Kondaur Cap. Corp. v. Pinal County*, 235 Ariz. 189, ¶ 8 (App. 2014) (quoting *Progressive Specialty Ins. Co. v. Farmers Ins. Co. of Ariz.*, 143 Ariz. 547, 548 (App. 1985)); *see also Contempo-Tempe*, 144 Ariz. at 229 ("The court is not empowered to decide moot questions . . . .").

¶5 Appellee further contends, and we agree, that P.B. has not raised any issues exempt from the general rule of mootness. Although we have considered moot appeals "when they present an issue of great public importance or one capable of repetition yet evading review" or "if the consequences of [an] order will continue to affect a party," P.B.'s has presented no such claims. *Cardoso v. Soldo*, 230 Ariz. 614, ¶¶ 5-9 (App. 2012). To the extent P.B. has raised arguments cognizable on appeal and to the extent we understand them, they may be summarized as follows: [2]

[2] By way of example, the following claims do not constitute arguments on appeal: that P.B. previously remained off court-ordered treatment after being released in 2018, and that the trial court complimented

(1) several of P.B.'s constitutional rights were violated, including various substantive and procedural due process rights; (2) her right to freedom of speech, thought, choice, privacy and freedom from slavery were violated; (3) her right to remain silent under *Miranda v. Arizona*, 384 U.S. 436 (1966), was violated; (4) there were violations of the United Nations Convention on the Rights of Persons with Disabilities, and the "United Nations October 10, 2015 joint decree that all governments should eradicate non-consensual psychiatric 'treatment'"; (5) there was insufficient evidence, or in some instances contrary evidence, that P.B. was a danger to herself and that she was PAD; (6) the trial court erroneously found P.B. was unwilling or unable to undergo treatment without a court order; (7) the appeal process violates P.B.'s substantive and procedural due process rights; and (8) the "court-ordered 'treatment' process is plagued with financial conflicts of interest."

¶6 In her reply brief, P.B. counters that her claims are not moot, asserting that she is entitled to relief under 42 U.S.C. § 1983 and that international laws take precedence over state laws. She maintains she raised "most" of her arguments below, and asserts they implicate issues of statewide importance.

¶7 However, we are not persuaded that any of the typical exceptions to the mootness doctrine apply. Given the absence of a live controversy, our consideration of the merits hinges on the application of one of the exceptions to the mootness doctrine identified above. *See, e.g.*, *Contempo-Tempe*, 144 Ariz. at 230. We cannot say this case is one of great public importance, especially because the trial court's ruling was based on the specific facts presented here, which do not implicate broader issues of statewide importance. And more importantly, P.B. has not established that, of the relevant issues she raised below, any of them present claims related to involuntary commitment proceedings that have not previously been addressed by the legislature or the courts.

¶8 Likewise, P.B.'s claims are not capable of evading review. She suggests that her claims somehow relate to a successive referral for court-ordered treatment in October 2021.[3] Although we have recognized

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her ability to present her case. Additionally, to the extent P.B. directs us to information she would have cited to the court if she had been given more time to present her arguments, we do not consider that information. *See Lewis v. Oliver*, 178 Ariz. 330, 338 (App. 1993).

[3]That proceeding is not part of the record before us on appeal.

the need to address collateral consequences related to court-ordered treatment in some instances,[4] this case simply does not present that situation. P.B. has previously been ordered to undergo treatment and has given us no reason to conclude the order now before us on appeal carries any additional collateral consequence. *See Cardoso*, 230 Ariz. 614, ¶ 9 (describing collateral consequences stemming from court-ordered mental health treatment, suspension of driver license, and criminal cases).

¶9 Accordingly, we dismiss P.B.'s appeal as moot.

[4]Division One of this court has addressed an otherwise moot appeal of an involuntary treatment order due to the potential collateral consequences of such an order. *In re Maricopa Cnty. Mental Health No. MH 2007-001236*, 220 Ariz. 160, n.3 (App. 2008); *see also* A.R.S. § 13-3101(A)(7)(a).