IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

IN RE PIMA COUNTY MENTAL HEALTH NO. 20211617

No. 2 CA-MH 2022-0002
Filed October 4, 2022

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. MH20211617
The Honorable M. June Harris, Judge Pro Tempore

AFFIRMED

COUNSEL

Pima County Mental Health Defender's Office
By Ann L. Bowerman, Tucson
Counsel for Appellant

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

MEMORANDUM DECISION

Chief Judge Vásquez authored the decision of the Court, in which Presiding Judge Eckerstrom and Judge Cattani concurred.

V Á S Q U E Z, Chief Judge:

¶1 D.D. appeals from the trial court's March 2022 order for involuntary treatment. He argues the court failed to comply with A.R.S. § 36-540(A) by finding he was unwilling or unable to "participate in" voluntary treatment, when the statute requires a finding that he was unwilling or unable to "accept" voluntary treatment. Alternatively, D.D. challenges the sufficiency of the evidence to support that finding. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to sustaining the trial court's order. *In re Maricopa Cnty. Mental Health No. MH 2008-001188*, 221 Ariz. 177, ¶ 14 (App. 2009). In February 2022, D.D.'s father filed an application for emergency admission for evaluation of eighteen-year-old D.D. Within the previous year, D.D. had been diagnosed with depression with psychotic features and psychosis, and he was taking a long-acting injectable antipsychotic. The application was based, in part, on the father's concerns that D.D. was not taking his medication, was being verbally aggressive, was exposing himself in public, and was not maintaining proper hygiene. The state also filed a petition for court-ordered evaluation, alleging that D.D. was a danger to himself. That same day, the trial court ordered an evaluation of D.D.

¶3 Based on evaluations subsequently completed by Dr. Albert Shin and Dr. Michael Colon, the state filed a petition for court-ordered treatment, alleging that D.D. was a danger to himself and was persistently or acutely disabled and requesting combined inpatient and outpatient treatment. In March 2022, the trial court held a hearing during which Shin and D.D.'s mother and father testified for the state, while D.D. testified on his own behalf.

¶4 Dr. Shin opined that the antipsychotic injectable D.D. had been prescribed originally was not working because, at the time of his admission, he was still exhibiting signs of psychosis, including hypervigilance, command auditory hallucinations, muttering under his breath, and hitting himself. Shin testified, however, that after changing D.D.'s antipsychotic medication, D.D.'s symptoms had improved. And although D.D. was taking his medications at the hospital, Shin explained that D.D. "did not believe that he was experiencing any psychotic symptoms," did not "recognize the need to become stabilized," and repeatedly asked about being discharged. Shin recommended, in addition to medication, increased follow-up and services, including therapy for D.D. and education for the family.

¶5 At the conclusion of the hearing, the trial court found by clear and convincing evidence that, as a result of a mental disorder, D.D. was a "danger to himself, persistently or acutely disabled, and in need of a period of mental health treatment." The court also found that D.D. was "either unable or unwilling to participate in treatment on a voluntar[y] basis without a court order." Accordingly, the court ordered that D.D. receive mental-health treatment for "one year with the ability to be re-hospitalized, should the need arise, in an inpatient psychiatric facility for a time period not to exceed 180 days."

Discussion

¶6 On appeal, D.D. argues the trial court erred in ordering involuntary treatment after finding by "clear and convincing evidence that D.D. is unwilling or unable to *participate* in treatment voluntarily" when § 36-540(A) requires a finding that he is "unwilling or unable to *accept* voluntary treatment." D.D. asserts that "participate in" and "accept" are "very different in [the] context of mental health" because the former requires "more of an overt action." And because the court "failed to strictly comply" with § 36-540(A), D.D. maintains that "the order must be vacated."

¶7 "Because involuntary treatment proceedings may result in a serious deprivation of [an individual]'s liberty interests, statutory requirements must be strictly met." *In re Maricopa Cnty. Mental Health No. MH 2001-001139*, 203 Ariz. 351, ¶ 8 (App. 2002). We will generally "vacate a treatment order absent strict compliance with the applicable statutory provisions." *In re Pima Cnty. Mental Health No. MH-2010-0047*, 228 Ariz. 94, ¶ 7 (App. 2011). "[T]he determination of what those requirements are and whether there has been sufficient compliance is a question of statutory interpretation, an issue of law that we review de novo." *Id.*

¶8 “When analyzing statutes, we apply fundamental principles of statutory construction, the cornerstone of which is the rule that the best and most reliable index of a statute’s meaning is its language and, when the language is clear and unequivocal, it is determinative of the statute’s construction.” *In re Maricopa Cnty. Mental Health No. MH 2008-002659*, 224 Ariz. 25, ¶ 12 (App. 2010) (quoting *Deer Valley Unified Sch. Dist. No. 97 v. Houser*, 214 Ariz. 293, ¶ 8 (2007)). We give words their ordinary meanings, and, in doing so, we may refer to respected dictionary definitions. *In re Maricopa Cnty. Mental Health No. MH 2008-000097*, 221 Ariz. 73, ¶ 8 (App. 2009). We avoid statutory interpretations that lead to absurd results contrary to the legislative intent. *In re Pima Cnty. Mental Health No. MH-1140-6-93*, 176 Ariz. 565, 568 (App. 1993).

¶9 Section 36-540(A) requires the trial court to order mental-health treatment if it finds by clear and convincing evidence that, as a result of a mental disorder, the proposed patient is, among other things, “either unwilling or unable to accept voluntary treatment.” A “finding of inability or unwillingness to accept voluntary treatment must be made on the record before the court may order treatment.” *In re Pima Cnty. Mental Health No. MH-1360-1-84*, 145 Ariz. 81, 82-83 (App. 1985). However, a written finding in the court’s minute entry is sufficient. *Maricopa Cnty. No. MH 2008-001188*, 221 Ariz. 177, ¶ 20. The purpose of this finding “reflect[s] a legislative judgment that voluntary treatment is to be preferred if feasible.” *Pima Cnty. No. MH-1360-1-84*, 145 Ariz. at 82.

¶10 Here, during its oral pronouncement at the hearing, the trial court found that D.D. was “either unable or unwilling to participate in treatment on a voluntar[y] basis without a court order.” But the court further explained that it was finding D.D. “was not able to take the medication or was unwilling to take the medication while he was with his father.” And in the minute entry, the court stated that D.D. “is unable or unwilling to comply with treatment on a voluntary basis without a court order.”

¶11 Although strict compliance is required, *Maricopa Cnty. No. MH 2001-001139*, 203 Ariz. 351, ¶ 8, D.D. has not directed us to any statutory requirement that the trial court must recite particular words in its finding to comply with § 36-540(A). *See* Ariz. R. Civ. App. P. 13(a)(7)(A) (argument must include appellant’s contentions with citations of legal authorities); *cf. State v. Lacy*, 187 Ariz. 340, 351 (1996) (“It is the substance of the finding, rather than its label, that is significant.”); *Kline v. Kline*, 14 Ariz. 369, 374 (1912) (findings of fact challenged on appeal “sufficient in form when construed as a whole”). Considering the language of § 36-540(A), “accept”

generally means "[t]o answer affirmatively" or "[t]o receive (something offered), especially with gladness or approval." The American Heritage Dictionary (5th ed. 2011). In contrast, "participate" commonly means "[t]o be active or involved in something; take part" or "[t]o share in something." *Id.* While D.D. may be correct that "participate" tends to reflect a more overt action than "accept," the terms carry generally the same meaning when considered in the context of § 36-540(A)—that the proposed patient is unwilling or unable to engage in voluntary treatment. Indeed, the action itself could take many forms—taking medication, participating in therapy, attending appointments, complying with doctor's orders, and the like. *Cf. Maricopa Cnty. No. MH 2008-001188*, 221 Ariz. 177, ¶ 13 (appellant contends she demonstrated "willingness and ability to comply with voluntary treatment").

¶12 The thrust of the trial court's finding in this case was that D.D. was "unwilling or unable to accept voluntary treatment." § 36-540(A). Although the court's use of the phrases like "participate in" and "comply with" do not mirror § 36-540(A) precisely, they nonetheless address the legislature's stated preference for—and D.D.'s inability or unwillingness to accept—voluntary treatment. *See Pima Cnty. No. MH-1360-1-84*, 145 Ariz. at 82. The court thus strictly complied with § 36-540(A). *See Pima Cnty. No. MH-2010-0047*, 228 Ariz. 94, ¶ 7. To find otherwise would yield an absurd result contrary to the legislative intent. *See Pima Cnty. No. MH-1140-6-93*, 176 Ariz. at 568.

¶13 Alternatively, D.D. challenges the sufficiency of the evidence to support the trial court's finding that he was "in need of treatment or unable or unwilling to accept treatment." He points to evidence, including his taking of medication before February 2022 and while hospitalized, showing his "willingness and ability to accept" treatment. We will not disturb an order for involuntary treatment unless it is "clearly erroneous or unsupported by any credible evidence." *In re Maricopa Cnty. Mental Health No. MH 2008-000438*, 220 Ariz. 277, ¶ 6 (App. 2009) (quoting *In re Maricopa Cnty. Mental Health No. MH 94-00592*, 182 Ariz. 440, 443 (App. 1995)).

¶14 Dr. Shin testified that D.D. was not "willing and able to participate in [his] recommended treatment on a voluntary basis." He explained that, although D.D. was taking his medications, "even when he's stable . . . he doesn't really want to participate [with Shin] . . . outside of answering very simple questions." D.D. also failed to recognize his symptoms and repeatedly asked about being discharged. Based on D.D.'s "lack of insight and understanding about his illness," Shin reasoned that D.D. "doesn't have a lot of buy-in into participating with his providers" and

that he needs "the accountability" of court-ordered treatment "to follow through with some of these interventions [they] discussed." D.D.'s father similarly testified that the treatment "needs to be court ordered" because, if D.D. were released, he would not comply with his mental-health services. D.D.'s mother was somewhat ambivalent, testifying that before his latest hospitalization, D.D. had been taking his medications regularly, but she explained that she would give them to him and if she did not, he would not "seek out his meds."

¶15 We acknowledge that D.D. testified that he was willing to continue with treatment and medication without a court order. But it was for the trial court, "as the trier of fact, to consider the evidence presented and weigh it based on the court's assessments of credibility and reliability, and to resolve any conflicts that might exist." *See Pima Cnty. No. MH-2010-0047*, 228 Ariz. 94, ¶ 17. We will not reweigh the evidence on appeal. *See id.*

¶16 D.D. also challenges his father's statement from the application for emergency admission for evaluation that D.D. was "not taking [his] meds." Pointing to evidence that he had the long-acting antipsychotic "in his system" at that time, D.D. maintains the trial court "failed to understand" that his father's statement "was misleading or outright false." But even assuming D.D. was taking his medication and the court misunderstood the testimony, we must affirm the ruling if it is legally correct for any reason. *Glaze v. Marcus*, 151 Ariz. 538, 540 (App. 1986); *State v. Boteo-Flores*, 230 Ariz. 551, ¶ 7 (App. 2012). As detailed above, the court's finding that D.D. was "unable or unwilling to comply with treatment on a voluntary basis" is supported by sufficient evidence, including testimony from both Dr. Shin and D.D.'s father that D.D. needed a court order for treatment or else he would not comply.

Disposition

¶17 For the foregoing reasons, we affirm the trial court's order for involuntary treatment.