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# IN THE COURT OF APPEALS OF INDIANA

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|---|---|---|
| IN THE MATTER OF THE COMMITMENT OF: N.B., | ) | |
| Appellant-Respondent, | ) | |
| vs. | ) | No. 03A01-0701-CV-20 |
| STATE OF INDIANA, | ) | |
| Appellee-Petitioner. | ) | |

APPEAL FROM THE BARTHOLOMEW SUPERIOR COURT
The Honorable Chris D. Monroe, Judge
Cause No. 03D01-0612-MH-2259

**December 5, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

## Case Summary

N.B. appeals his involuntary commitment to Columbus Regional Hospital Mental Health Center ("Columbus Regional"). Specifically, he contends that the evidence is insufficient to support the trial court's findings that he is dangerous and gravely disabled. Because there is clear and convincing evidence that N.B. is dangerous, we affirm the trial court's commitment order.

## Facts and Procedural History

In late 2005, N.B. was admitted to Columbus Regional and diagnosed with paranoid schizophrenia. Approximately one year later, on December 12, 2006, N.B., who was twenty-one years old at the time, was again admitted to Columbus Regional as the result of an altercation with his mother, Lanna Bush ("Lanna").[1] Specifically, the police were called to the scene, and N.B. was taken to the emergency room. That very day, Columbus Regional filed an Application for Emergency Detention of Mentally Ill and Dangerous Person along with a Physician's Emergency Statement providing that N.B. "has threatened to harm and/or kill himself. He is acutely psychotic and is having hallucinations and delusions. He believes that his mother is trying to 'live in his head' and he 'will not allow' this." Appellant's App. p. 2. N.B. was kept at Columbus Regional on an emergency detention.

Two days later, on December 14, 2006, Dr. Lara Jaradat, N.B.'s treating physician, filed a Report Following Emergency Detention concluding that N.B. is suffering from paranoid schizophrenia and is dangerous and gravely disabled. Also on

[1] At some places in the record and in the parties' briefs, Lanna's first name appears as Linda. However, according to the Petition for Involuntary Commitment, which Lanna herself penned, her first name is spelled Lanna. Therefore, we refer to her as Lanna.

December 14, Lanna filed a Petition for Involuntary Commitment of N.B. In the petition, Lanna alleged that N.B. is dangerous because:

> 1 yr. ago tried to commit suicide. Also, has made comments about how the neighbors will pay for taking 2 years of his life. He has attacked me, choked me and said that I was not going anywhere until I lifted a curse off him. Also bit me when I tried to get free.

*Id.* at 6. Lanna alleged that N.B. is gravely disabled because: "No income, lives at home with mother, no car, no job, and thinks that his problem is caused by a curse put on him or voodoo." *Id.*

A commitment hearing was held on December 21, 2006, at Columbus Regional. Dr. Jaradat, N.B., and Lanna testified at this hearing. At the conclusion of the hearing, the trial court issued an Order of Regular Commitment Following Emergency Detention, which provides, in relevant part:

> 1. Respondent is suffering from chronic paranoid schizophrenia, which is a mental illness as defined in I.C. 12-7-2-130(1).
> 2. Respondent is [x] dangerous [ ] to self or [x] others, as defined in I.C. 12-7-2-53 or
> Respondent is [x] gravely disabled as defined in I.C. 12-7-2-96.
> 3. Respondent is in need of commitment to an appropriate facility for a period expected to exceed ninety (90) days.
> 4. The appropriate facility where Respondent can receive rehabilitative treatment or habilitation and care is Columbus Regional Hospital Mental Health Center/QUINCO and a state operated facility, which is the least restrictive environment suitable for the necessary care, treatment and protection of said person and others.
>
> [N.B.], Respondent, is accordingly committed to the designated facility for a regular period expected to exceed ninety (90) days.
>
> **The Court further finds that the staff is authorized to give whatever treatment is deemed necessary, with or without the consent of the patient.**

*Id.* at 10-11. N.B. now appeals his involuntary commitment.

## Discussion and Decision

N.B. contends that the evidence is insufficient to support his involuntary commitment. When reviewing the sufficiency of the evidence, we look only at the evidence and reasonable inferences therefrom most favorable to the trial court's judgment. *In re A.W.D.*, 861 N.E.2d 1260, 1264 (Ind. Ct. App. 2007), *trans. denied*. We may not reweigh the evidence or judge the credibility of the witnesses. *Id.* "If the trial court's commitment order represents a conclusion that a reasonable person could have drawn, we will affirm the order even if other reasonable conclusions are possible." *Id.*

In general, there are three types of commitments: emergency, temporary, and regular. *J.S. v. Ctr. for Behavioral Health*, 846 N.E.2d 1106, 1111 (Ind. Ct. App. 2006), *trans. denied*. At issue here is regular commitment, which is the most restrictive form of involuntary treatment and is proper for an individual whose commitment is expected to exceed ninety days. *Id.* To demonstrate a person should be committed involuntarily, a petitioner must prove "by clear and convincing evidence that: (1) the individual is mentally ill and either dangerous or gravely disabled; and (2) detention or commitment of that individual is appropriate." Ind. Code § 12-26-2-5(e).

On appeal, N.B. concedes that he is mentally ill but challenges the trial court's findings that he is dangerous and gravely disabled.[2] Because Indiana Code § 12-26-2-5(e) requires the petitioner (here, Lanna) to prove by clear and convincing evidence that N.B. is dangerous *or* gravely disabled, *see J.S.*, 846 N.E.2d at 1113, we only address

[2] N.B. also appears to challenge the trial court's finding that a ninety-day commitment is appropriate; however, he has waived this issue for failing to make a cogent argument. *See* Ind. Appellate Rule 46(A)(8)(a).

whether the evidence is sufficient to support the trial court's finding that N.B. is dangerous.

Indiana Code § 12-7-2-53 defines "dangerous" as "a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm the individual or others." "Dangerousness must be shown by clear and convincing evidence indicating that the behavior used as an index of a person's dangerousness would not occur but for the person's mental illness." *C.J. v. Health & Hosp. Corp. of Marion County*, 842 N.E.2d 407, 410 (Ind. Ct. App. 2006). "Importantly, a trial court is not required to wait until harm has nearly or actually occurred before determining that an individual poses a substantial risk of harm to others." *Id.*

At the hearing, Dr. Jaradat testified that N.B. was admitted to Columbus Regional because of "an altercation with his mother. Police had to be called and he was brought to the emergency room then." Tr. p. 4. Dr. Jaradat confirmed N.B.'s 2005 diagnosis of paranoid schizophrenia and opined that N.B. is "very ill." *Id.* at 5. Dr. Jaradat testified that N.B. has "no insight" into his illness and does not agree with his diagnosis of paranoid schizophrenia but rather believes that he suffers from "demonic possession." *Id.* at 7, 8. She said that N.B.'s condition is chronic and that he is currently taking an anti-psychotic medication, Zyprexa. Because N.B. has had problems in the past complying with his treatment, Dr. Jaradat explained that N.B. needs "very close supervision and monitoring." *Id.* at 6.

Lanna, with whom the twenty-one-year-old N.B. has lived for his entire life, testified at the hearing that N.B. did not take his anti-psychotic medication but instead

would flush it down the toilet. Lanna explained that she has noticed a change in N.B.'s behavior and, as a result, has taken N.B. "all over the State talking to priests to convince him that this [is] not a demon possession and every one of them has told him he needs to get counseling." *Id.* at 11-12. Lanna testified that "the altercation started from where he thought that I was the one that put the curse on him. I was doing voodoo on him." *Id.*

This evidence is sufficient to prove that as a result of his mental illness, N.B. presents a substantial risk of harm to others. As N.B. points out, it is true that there was no evidence presented at the commitment hearing regarding the specifics of the altercation between N.B. and his mother, such as whether the altercation was verbal, physical, or both. Nevertheless, as we stated above, a trial court is not required to wait until a physical act is committed upon an individual before determining that an individual poses a substantial risk of harm to others. *See C.J.*, 842 N.E.2d at 410. Believing his mother had put a curse on him and was doing voodoo, N.B. got into an altercation with his own mother that required the assistance of the police and resulted in N.B. going to the emergency room.[3] Based on this evidence, a reasonable person could conclude that N.B. poses a substantial risk of harm to others and is therefore dangerous. Accordingly, we affirm the trial court's commitment order.

BAKER, C.J., and BAILEY, J., concur.

[3] The fact that N.B. actually got into an altercation with his mother because he believed she had put a curse on him and was doing voodoo distinguishes this case from *In re Steinberg*, 821 N.E.2d 385 (Ind. Ct. App. 2004) (pointing unloaded gun), and *In re L.W.*, 823 N.E.2d 702 (Ind. Ct. App. 2005) (holding iron object in hand), upon which N.B. relies on appeal.