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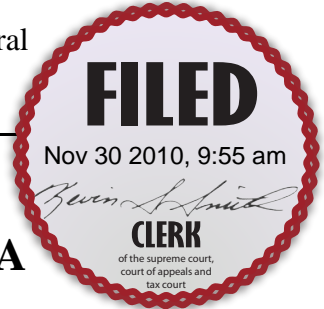
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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF THE)
COMMITMENT OF B.K.,)

Appellant-Respondent,)

vs.)

STATE OF INDIANA,)

Appellee-Petitioner.)

No. 33A01-1006-MH-301

APPEAL FROM THE HENRY SUPERIOR COURT
The Honorable Michael D. Peyton, Judge
Cause No. 33D01-0704-MH-10

November 30, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary and Issue

In this case, we address the question of when it is safe to release a psychiatric patient back into society. In 2007, officials at a state prison in New Castle petitioned for involuntary commitment of one of their inmates to a Logansport psychiatric hospital. A trial court heard evidence and granted the petition. The patient's commitment was renewed in 2008, 2009, and 2010.

Psychiatrists testified that the patient is a paranoid schizophrenic with a long history of psychosis. He hears voices almost daily, and his delusions include the belief that he is the President of United States. He has been uncooperative with treatment regimens and has been involuntarily medicated as a result. He is combative with guards and has attempted to escape the hospital grounds in response to the voices in his head.

In May 2010, the patient, B.K., filed a request for review of his continued commitment at Logansport State Hospital. After a hearing, the trial court issued an order to continue B.K.'s commitment, concluding that his mental illness renders him gravely disabled. B.K. now appeals and challenges the sufficiency of evidence to support the trial court's commitment order. We affirm.

Facts and Procedural History

In March 2005, B.K. was convicted of stalking and resisting law enforcement and was sentenced to a four-year executed term. Because of his unusual behavior during incarceration, he was transferred to the psychiatric unit at the New Castle correctional facility. At some point in late 2005 or early 2006, he was released on parole and ordered to

follow up with an Anderson treatment center. In April 2006, he violated his parole, and in August 2006, he was returned to the Department of Correction (“DOC”). On October 13, 2006, he was again placed in the New Castle psychiatric unit.

On April 24, 2007, Dr. Tom Bennett, a psychologist at the New Castle psychiatric unit, filed a petition for involuntary commitment, stating that B.K. was delusional, failed to exercise good judgment, was combative with correction officers, and was medication noncompliant, which required officials to involuntarily administer medications. In support of the petition, psychiatrist Dr. Anita Glasson filed a statement listing her diagnosis that B.K. suffers from chronic paranoid schizophrenia with a long history of psychosis and that he hears voices almost daily and operates under the delusion that he is the President of the United States. Dr. Glasson described B.K. as combative with correction officers, as not amenable to voluntary treatment due to his refusal to take the prescribed medicines, and as posing a substantial risk of harm to himself and others. Dr. Glasson also reported that B.K. “is so influenced by his delusional belief that he is President that he is unable to make plans for release [and that he] will likely cont[inue] to deteriorate due to medication noncompliance.” Appellant’s App. at 8.

On May 9, 2007, the trial court held a hearing on the petition. There, Dr. Glasson testified that B.K. was gravely disabled and presented a danger to others. Tr. at 10-11. She described him as being combative due to paranoia, being medication noncompliant, having poor hygiene, and refusing to eat. *Id.* at 10. She testified that his parents cannot control him and that they reported an incident in which B.K. held a knife to his mother’s throat. *Id.* at 11.

Dr. Glasson also testified that even after eight months of treatment, “[B.K.’s] delusional thinking is still pretty firmly fixed and he hasn’t shown any increase in insight into his illness.” *Id.* at 14. She reported that he claims to speak to his girlfriend telepathically and that his continuing delusion “that he is President of the United States substantially impairs his ability to make decisions.” *Id.* at 11. B.K. himself testified that he was appointed President and that the job was “thrust” on him as a “calling.” *Id.* at 16. At the end of the hearing, the trial court granted the involuntary commitment petition, and B.K. was transferred to Logansport State Hospital in May 2007.

In April 2008 and April 2009, attending physicians at Logansport State Hospital filed periodic status reports on B.K., indicating that he remained “gravely disabled.” Appellant’s App. at 23, 28. The reports also stated that he had poor judgment and an impaired sense of reality that placed him at “grave risk” of not being able to provide for “his essential human needs.” *Id.* On April 23, 2008, and on April 21, 2009, the trial court issued orders continuing B.K.’s commitment without hearing.

On April 21, 2010, Logansport State Hospital attending physician Rebecca Santiago filed a periodic report that described B.K. as remaining “gravely disabled” and “unable to provide for self due to Chronic Mental Illness.” *Id.* at 33. On April 22, 2010, the trial court issued an order continuing B.K.’s commitment without hearing.

On April 26, 2010, B.K. filed a request for review of the continued commitment. The trial court granted the request and held a hearing on May 26, 2010. At the hearing, the evidence showed that B.K. has demonstrated violent propensities and was written up at least

three times for battery on correction officers. The evidence also showed that B.K. continued to believe that he was President of the United States and/or Ford Motor Company. Dr. Santiago testified at length that B.K.'s lack of cooperation in taking his medication is a major factor supporting her conclusion that he continues to be gravely disabled. Tr. at 33-37. B.K. testified that he had been cooperative in taking his medications but that Dr. Santiago treated him unfairly and "took [his] life." *Id.* at 40.¹ At the close of the hearing, the trial court issued an order continuing B.K.'s involuntary commitment. B.K. now appeals. Additional facts will be provided as necessary.

Discussion and Decision

B.K. challenges the sufficiency of evidence to support the trial court's order. Our standard of review for involuntary commitment cases is well settled:

[W]e look only at the evidence and reasonable inferences therefrom most favorable to the trial court's judgment. We may not reweigh the evidence or judge the credibility of the witnesses. 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.

In re Commitment of A.W.D., 861 N.E.2d 1260, 1264 (Ind. Ct. App. 2007) (citations and internal quotation marks omitted), *trans. denied*.

Indiana Code Section 12-26-2-5(e) states that "the petitioner [in an involuntary commitment proceeding] is required to prove by clear and convincing evidence that: (1) the individual is mentally ill and either dangerous or gravely disabled; and (2) detention or

¹ When asked to tell the court about his concerns that Dr. Santiago was treating him unfairly, B.K. replied, "I thought there were examples of malpractice when she took my life for example at ten o'clock, nineteen minutes after ten o'clock p.m. on April 12, as she claimed God did that to her." Tr. at 40.

commitment of that individual is appropriate.” The statute requires that the petitioner prove that B.K. is *either* dangerous *or* gravely disabled. *J.S. v. Ctr. for Behavioral Health*, 846 N.E.2d 1106, 1113 (Ind. Ct. App. 2006), *trans. denied* (2007). Indiana Code Section 12-7-2-96 defines “gravely disabled” as a condition that, due to an individual’s mental illness, places him in danger because he either “(1) is unable to provide for [his] own food, clothing, shelter, or other essential human needs; or (2) has a substantial impairment or an obvious deterioration of [his] judgment, reasoning, or behavior that results in [his] inability to function independently.”

In its May 26, 2010 order, the trial court stated in part,

The Court now finds that [B.K.] continues to be suffering from a mental illness and is gravely disabled based upon the evidence which shows that he continues to suffer from paranoid schizophrenia. He continues to suffer delusions and responds to auditory hallucinations, refuses to recognize that he is mentally ill and will not voluntarily take his medications. The evidence further shows that he is an escape threat, [and] attempted to leave the hospital grounds without authority. The treatment goals to continue treatment to be able to place him in a less restrictive environment appear to be appropriate.

Appellant’s App. at 41.

B.K. asserts that the evidence fails to support the trial court’s finding that he continues to be gravely disabled as a result of his mental illness. The key consideration in assessing the continuing nature of B.K.’s grave disability is that he has been uncooperative in taking the medications that might allow the illness to be brought under control. During his hospitalization, he has demonstrated combative behavior toward correction officers on at least three occasions and has had to be involuntarily medicated. On more than one occasion, he attempted to escape the hospital grounds in response to voices in his head. He

demonstrated these behaviors both *with* and *without* his medication. To the extent he cites positive changes in his eating and hygiene habits to establish that he can manage his life on a daily basis, we note Dr. Santiago's testimony that these habits have improved *within* the confines of the hospital's restricted environment and that, given B.K.'s failure to acknowledge and cooperate with his medication treatments even while living in the hospital, the improvements are not indicative of how he would live outside such confines. Tr. at 25, 33. In other words, if he balks at his treatments now, the chances are slim that he would become amenable to such treatments when released into the community. *See J.S.*, 846 N.E.2d at 1113 (where patient did not believe that she was mentally ill and did not want to take anti-psychotic drugs that helped mitigate her psychotic symptoms, trial court's conclusion that she was gravely disabled based on deterioration of judgment was supported by clear and convincing evidence).

Moreover, B.K. still experiences fixed delusions and paranoia. This is evident from his testimony at the May 2010 hearing, when he asserted that Dr. Santiago "took [his] life." Tr. at 40. Dr. Santiago testified that it is B.K.'s propensity not only to listen to the voices, but also to act in *response* to them that led her to conclude that he remains gravely disabled and unable to make appropriate judgments regarding his daily needs. *Id.* at 33-36. Indeed, he attempted at least once to leave the hospital grounds in response to the voices in his head. Dr. Santiago stated that there were new drug regimens that might prove effective in subduing his responses to the voices, but that his refusal to cooperate in such treatment modifications had thwarted these efforts. *Id.* Thus, the trial court could reasonably conclude from this

evidence that B.K. continued to be gravely disabled. *See Golub v. Giles*, 814 N.E.2d 1034, 1039 (Ind. Ct. App. 2004) (holding evidence sufficient to support finding that patient was gravely disabled where he suffered paranoia and delusional thoughts, engaged in threatening and destructive behavior, and refused to cooperate with anti-psychotic drug treatment), *trans. denied* (2005).

B.K. characterizes his behaviors as merely strange or unusual, and therefore akin to those of the patient in *In the Matter of the Commitment of Steinberg*, 821 N.E.2d 385 (Ind. Ct. App. 2004), where we found the evidence insufficient to support an involuntary commitment order. In *Steinberg*, a mother took her twenty-four-year-old son for psychiatric evaluation based on certain strange behaviors, i.e., claiming that his roommates were speaking to him through his computer speakers and laughing out loud while sleeping or showering. *Id.* at 386. There, we held that such behaviors, although unusual, did not amount to evidence sufficient to support an involuntary commitment order. *Id.* at 389. Steinberg was living independently with a roommate in an apartment. Here, in contrast, B.K. has been confined in prison and/or a psychiatric hospital since 2005, except for his brief release on parole, during which he failed to report for mental health treatment as ordered. Tr. at 9-10. Also, unlike the present case, the petitioner in *Steinberg* failed to present any evidence that Steinberg was unable to function independently or provide for his essential human needs. *Id.*² Here, the record is replete with evidence indicating that B.K.'s behavior had extended

² In *Steinberg*, the State presented no argument in its brief on the issue of grave disability. 821 N.E.2d at 389. Thus, we reviewed the issue using the prima facie error standard.

beyond merely strange or unusual. He suffered from fixed delusions, acted in response to those delusions, attempted to flee the grounds, became combative on at least three occasions, and denied his need for medication or supervision. As such, we do not find *Steinberg* persuasive.

Finally, to the extent that B.K. cites his college degree and his supportive parents as worthy of greater consideration, we note that these are merely invitations to reweigh evidence, which we may not do. The evidence most favorable to the judgment is sufficient to support the trial court's involuntary commitment order. Accordingly, we affirm.

Affirmed.

FRIEDLANDER, J., and BARNES, J., concur.