

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT

Justin R. Wall
Wall Legal Services
Huntington, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
Abigail R. Recker
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In Re: The Civil Commitment of
R.T.,

Appellant-Respondent,

v.

State of Indiana,

Appellee-Petitioner.

December 21, 2021

Court of Appeals Case No.
21A-MH-1911

Appeal from the Huntington
Circuit Court

The Honorable Davin G. Smith,
Judge

Trial Court Cause No.
35C01-9903-MH-127

Pyle, Judge.

Statement of the Case

[1] R.T. (“R.T.”) appeals the trial court’s order continuing his involuntary regular commitment.¹ R.T. argues that there was insufficient evidence to support his commitment because Logansport State Hospital (“the Hospital”) failed to prove by clear and convincing evidence that he was mentally ill and either a danger to himself or gravely disabled. Concluding that there was sufficient evidence that R.T. was mentally ill and dangerous, we affirm the trial court’s commitment order.

[2] We affirm.

Issue

Whether there was sufficient evidence to support the trial court’s order continuing R.T.’s involuntary regular commitment.

Facts

[3] R.T. has been committed to the Hospital since 1999 after molesting a sixteen-year-old boy. R.T. was diagnosed with narcissistic personality disorder and

¹ In *Civil Commitment of T.K. v. Dep’t of Veterans Affairs*, 27 N.E.3d 271, 273 n.1 (Ind. 2015), the Indiana Supreme Court explained:

In Indiana, an adult person may be civilly committed either voluntarily or involuntarily. Involuntary civil commitment may occur under four circumstances if certain statutorily regulated conditions are satisfied: (1) “Immediate Detention” by law enforcement for up to 24 hours; (2) “Emergency Detention” for up to 72 hours; (3) “Temporary Commitment” for up to 90 days; and (4) “Regular Commitment” for an indefinite period of time that may exceed 90 days.

(internal citations omitted).

pedophilia at the time of his commitment in 1999. R.T. has remained committed in the Hospital since that time.

[4] In March 2021, R.T. requested a review hearing. The trial court granted the request and assigned counsel to R.T. In August 2021, the trial court held a review hearing. During this hearing, Dr. Danny Meadows (“Dr. Meadows”), the medical director of the Hospital, testified that he had been seeing R.T. as a patient for years. Dr. Meadows testified that R.T. has been diagnosed with narcissistic personality disorder, generalized anxiety disorder, attention deficit/hyperactivity disorder, and pedophilia. Dr. Meadows also testified that R.T. had not yet completed his program at the sexual responsibility unit. Dr. Meadows noted that R.T. “ha[d] a very difficult year last year[,]” had “a lot of . . . negative . . . interactions with staff[,]” and “still ha[d] some . . . of the sexual deviancy issues[.]” (Tr. Vol. 2 at 39). Dr. Meadows testified that “in [his] opinion, [R.T.] . . . pose[d] . . . at least a short-term threat[.]” (Tr. Vol. 2 at 39). Dr. Meadows testified that the recommended treatment plan for R.T. was that his “regular commitment be continued.” (Tr. Vol. 2 at 42).

[5] Psychologist Maria Becker (“Psychologist Becker”), who had provided therapy to R.T. for six years, testified that R.T. had engaged in forty-five dangerous acts and twenty-four deviant sexual behaviors within the last year. Psychologist Becker also testified that R.T. “had some difficulty in managing . . . some aggressive impulses[,] which for [R.T.][,] also link to . . . sexual preoccupation or deviant sexual . . . themes, urges, fantasies, etcetera.” (Tr. Vol. 2 at 50). Psychologist Becker explained that in April 2021, R.T. “had expressed

thoughts, feelings, and urges to attack a female staff member[,]” “ha[d] some deviant sexual fantasies about raping a female staff member[,]” and had “reported a desire to kill the [female staff member].” (Tr. Vol. 2 at 50-51). Psychologist Becker testified that in June 2021, R.T. had threatened to punch two peers in the face. Furthermore, R.T. had told a female attendant that he had “start[ed] to get thoughts in his head of cutting her up.” (Tr. Vol. 2 at 51). R.T. had also reported “violent thoughts” about a female staff member and had reported “wanting to harm or rape her.” (Tr. Vol. 2 at 51). Psychologist Becker testified that in July 2021, R.T. had “threatened to shoot a special attendant in the head.” (Tr. Vol. 2 at 52). Psychologist Becker also testified that R.T. was currently in “red level”² for his behavior. (Tr. Vol. 2 at 55). Psychologist Becker noted that “in . . . these moments of high emotionality[,] [R.T.] ha[d] trouble managing unhelpful thoughts.” (Tr. Vol. 2 at 53). Finally, Psychologist Becker testified that she believed R.T.’s commitment should continue.

[6] R.T.’s counsel, near the end of the hearing, stated that he thought “what would be appropriate [wa]s if the court continue[d] the commitment, . . . set a review hearing in about 90 days, and ha[d] all the service[] providers and the . . . Hospital start to work that process of evaluating [R.T.] for release[.]” (Tr. Vol. 2 at 62). The trial court ordered R.T.’s regular commitment to continue. In

² The levels assessing behavior are on a scale from red, yellow 1, yellow 2, yellow 3, and green. When an individual in the program is at green level, the individual is allowed to begin reintegrating into the community.

relevant part, the trial court determined that R.T. was mentally ill and dangerous to others.

[7] R.T. now appeals.

Decision

[8] R.T. argues that the trial court erred when it continued his involuntary regular commitment. However, at the conclusion of arguments at the hearing, R.T.'s counsel stated that it "would be appropriate . . . if the court continue[d] the commitment, . . . set a review hearing in about 90 days, and ha[d] all the service[] providers and the . . . Hospital start to work that process of evaluating [R.T.] for release[.]" (Tr. Vol. 2 at 62). R.T. has therefore invited the error about which he now complains.

[9] The Indiana Supreme Court recently explained as follows:

The invited-error doctrine is based on the doctrine of estoppel and forbids a party from taking of an error that [he] commits, invites, or which is the natural consequence of [his] own neglect or misconduct. Where a party invites the error, [he] cannot take advantage of that error. In short, invited error is not reversible error.

Matter of J.C., 142 N.E.3d 427, 432 (Ind. 2020) (internal citations omitted).

Here, because R.T.'s counsel specifically agreed with the conclusion that R.T. should remain regularly committed, R.T. cannot now argue that the trial court erred by extending R.T.'s regular commitment.

- [10] Invited error notwithstanding, we will address R.T.’s challenge to the continuation of his regular commitment. To obtain an involuntary commitment, the petitioner 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 commitment of that individual is appropriate.” IND. CODE § 12-26-2-5(e) (format altered).
- [11] R.T. argues that there was insufficient evidence to support the continuation of his involuntary regular commitment. Specifically, he disputes the trial court’s determination that he was: (1) mentally ill; and (2) a danger to others. We will address each argument in turn.
- [12] When we review the sufficiency of the evidence supporting an involuntary commitment, we will affirm if, “considering only the probative evidence and the reasonable inferences supporting it, without weighing evidence or assessing witness credibility, a reasonable trier of fact could find [the necessary elements] proven by clear and convincing evidence.” *T.K. v. Dep’t of Veterans Affairs*, 27 N.E.3d 271, 273 (Ind. 2015) (quotation marks and citation omitted).

1. Mental Illness

- [13] For purposes of involuntary commitment, mental illness is defined as a psychiatric disorder that: (A) substantially disturbs an individual’s thinking, feeling, or behavior; and (B) impairs the individual’s ability to function. I.C. § 12-7-2-130. R.T. argues that “the diagnoses do not impair or disturb his

thinking, feelings or behaviors, nor impair[] his ability to function.” (R.T.’s Br. 13). We disagree.

[14] Our review of the record reveals that R.T. has been diagnosed with narcissistic personality disorder, generalized anxiety disorder, attention deficit/hyperactivity disorder, and pedophilia. Psychologist Becker testified that R.T. “had some difficulty in managing . . . some aggressive impulses[,] which for [R.T.][,] also link to . . . sexual preoccupation or deviant sexual . . . themes, urges, fantasies, etcetera.” (Tr. Vol. 2 at 50). When Psychologist Becker discussed R.T.’s behavior, she noted that “in . . . these moments of high emotionality[,] [R.T.] ha[d] trouble managing unhelpful thoughts.” (Tr. Vol. 2 at 53). Furthermore, there are several examples of R.T.’s diagnoses disturbing or impairing his behavior. R.T. had engaged in forty-five dangerous acts and twenty-four deviant sexual behaviors within the last year. These acts included violent threats towards staff and peers and thoughts of raping and harming the staff of the Hospital.

[15] From this evidence, the trial court could have reasonably found that there was clear and convincing evidence that R.T. was mentally ill because he had narcissistic personality disorder, generalized anxiety disorder, attention deficit/hyperactivity disorder, and pedophilia, which were substantially disturbing his thinking, feeling, behavior and ability to function. R.T.’s argument to the contrary is an invitation to reweigh the evidence, which we may not do. *See T.K.*, 27 N.E.3d at 273.

2. Dangerous or Gravely Disabled

[16] R.T. next challenges the continuation of his temporary commitment by arguing that there was insufficient evidence that he was dangerous or gravely disabled. As noted above, to obtain an involuntary commitment, the petitioner 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 commitment of that individual is appropriate.” I.C. § 12-26-2-5(e) (format altered). Because this statute is written in the disjunctive, we will affirm if the evidence establishes that R.T. was “either dangerous *or* gravely disabled.” *Id.* (emphasis added); *see also M.Z. v. Clarian Health Partners*, 829 N.E.2d 634, 637 (Ind. Ct. App. 2005) (“It is important to note that in order to carry its burden of proof, Clarian only had to prove that M.Z. was either gravely disabled *or* dangerous. It did not have to prove both of these elements.”) (emphasis in original), *trans. denied*. We conclude that the evidence is sufficient to show that R.T. was dangerous, and therefore, we need not address the trial court’s findings regarding whether R.T. was gravely disabled.

[17] “Because everyone exhibits some abnormal conduct at one time or another, loss of liberty calls for a showing that the individual suffers from something more serious than is demonstrated by idiosyncratic behavior.” *In re Commitment of T.K.*, 993 N.E.2d 245, 249 (Ind. Ct. App. 2013) (internal quotation marks and citations omitted), *trans. denied*. “There is no constitutional basis for confining a mentally ill person who is not dangerous and can live safely in freedom.” *Id.* (internal quotation marks and citations omitted). Dangerous is defined 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.” I.C. § 12-7-2-53. This Court has further explained that:

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. This standard is not met by a showing that a person made a rational and informed decision to engage in conduct that may have entailed a risk of harm. Instead, the evidence must show that there is a substantial risk that the person will harm himself [or others] as a result of a psychiatric disorder which substantially disturbs the person’s thinking, feeling, or behavior and impairs the person’s ability to function.

In re Commitment of C.A. v. Center for Mental Health, 776 N.E.2d 1216, 1218 (Ind. Ct. App. 2002) (quotation marks and citations omitted). 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 to others. *C.J. v. Health & Hosp. Corp. of Marion Cty.*, 842 N.E.2d 407, 410 (Ind. Ct. App. 2006).

[18] Our review of the record reveals that R.T. is dangerous as a result of his diagnoses. Dr. Meadows explained that R.T. “ha[d] a very difficult year last year[,]” had “a lot of . . . negative . . . interactions with staff[,]” and “still ha[d] some . . . of the sexual deviancy issues[.]” (Tr. Vol. 2 at 39). Dr. Meadows testified that “in [his] opinion, [R.T.] . . . pose[d] . . . at least a short-term threat[.]” (Tr. Vol. 2 at 39). Further, Psychologist Becker testified that R.T. had engaged in forty-five dangerous acts and twenty-four deviant sexual

behaviors within the last year. Psychologist Becker explained that in April 2021, R.T. “had expressed thoughts, feelings, and urges to attack a female staff member[,]” “ha[d] some deviant sexual fantasies about raping a female staff member[,]” and had “reported a desire to kill the [female staff member].” (Tr. Vol. 2 at 50-51). Psychologist Becker testified that in June 2021, R.T. had threatened to punch two peers in the face. Furthermore, R.T. had told a female attendant that he had “start[ed] to get thoughts in his head of cutting her up.” (Tr. Vol. 2 at 51). R.T. had also reported “violent thoughts” about a female staff member and had reported “wanting to harm or rape her.” (Tr. Vol. 2 at 51). Psychologist Becker testified that in July 2021, R.T. had “threatened to shoot a special attendant in the head.” (Tr. Vol. 2 at 52). Psychologist Becker also testified that R.T. was currently in “red level” for his behavior. (Tr. Vol. 2 at 55). Because the evidence in the record amply supports the trial court’s determination that R.T. is a danger to others, we affirm the trial court’s commitment order.

[19] Affirmed.

May, J., and Brown, J., concur.