MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Commitment of M.H.,

M.H.,

Appellant-Respondent,

v.

Sandra Eskenazi Mental Health Center,

Appellee-Petitioner.

December 7, 2023

Court of Appeals Case No. 23A-MH-1100

Appeal from the Marion Superior Court

The Honorable David J. Certo, Judge

Trial Court Cause No. 49D08-2304-MH-14328

Memorandum Decision by Judge Foley
Judges Pyle and Tavitas concur.

Foley, Judge.

[1] M.H. was the subject of a temporary civil commitment order sought by the Sandra Eskenazi Mental Health Center ("Eskenazi"). Although M.H. timely appealed to challenge the validity of the commitment order, the trial court's temporary order expired during the pendency of this appeal. The expiration of the order presents two threshold issues, which we conclude are dispositive:

I. Whether this appeal is not moot, despite the expiration of the commitment order, under the collateral consequences doctrine.

II. If not, whether we should invoke the public interest exception and address the merits of M.H.'s challenge to the expired commitment order rather than dismiss as moot.

[2] Concluding that (1) the appeal is moot because the collateral consequences doctrine does not apply and (2) M.H. has not demonstrated that we should address the merits under the public interest exception, we dismiss.

Facts and Procedural History

[3] In April 2023, M.H. was a voluntary patient at Eskenazi. On April 6, 2023, M.H. asked to be released from Eskenazi, which led Eskenazi to file a petition for involuntary commitment. The trial court initially scheduled a video hearing. When M.H. objected and sought an in-person hearing, the trial court scheduled an in-person hearing for April 14, 2023. Eskenazi objected and sought a remote hearing. When M.H. did not personally attend the scheduled in-person hearing, the parties agreed to continue the matter to April 17, 2023.

[4] At the April 17 hearing, which was held remotely, the trial court addressed at the outset whether there was good cause to hold a remote evidentiary hearing on Eskenazi's petition. M.H.'s psychiatrist, Dr. Jayme Ahmed ("Dr. Ahmed"), testified that an in-person hearing would be detrimental to M.H.'s health in part due to incidents "that have occurred since he's been in the hospital." Tr. Vol. 2 p. 15. Dr. Ahmed explained that M.H. had frequent outbursts that led to emergency injections, with M.H. receiving "at least one" emergency injection every day except April 13, 2023. *Id.* at 16. Dr. Ahmed recounted that a recent outburst involved "yelling at the security officers," telling them to shoot him. *Id.* M.H. refused medications and, when the injections did not work quickly enough, hospital staff ultimately had to place M.H. "in seclusion or restraints." *Id.* at 17. Dr. Ahmed noted that, for M.H. to attend an in-person hearing, protocol required that M.H. be handcuffed and transported with security. Based on concerns about (1) M.H.'s negative "ongoing relationship with security officers"; (2) whether M.H. would remain "calm and cooperative"; (3) and whether M.H. would have adequate access to injections away from the hospital, Dr. Ahmed opined that transporting M.H. to the courtroom would be harmful to his health. *Id.* Dr. Ahmed agreed that it was "likely" that "placing M.H. in handcuffs and transporting him with security would lead to escalation in his behavior[.]" *Id.* at 20.

[5] The trial court determined that a remote hearing was "safest for M.H. and his continued care," referring to—among other things—"the daily medications required to assist M.H. in regulating his behavior, especially when . . .

agitated," and "the profound limitations . . . at the criminal justice campus concerning public safety and [the] ability to manage the situation [t]here." *Id.* at 22. The court noted that the remote setting "shouldn't restrict in any way [the court's] ability to get to the bottom of this matter, and do it promptly." *Id.*

[6] The matter progressed to fact-finding, with evidence that M.H. was the subject of an involuntary commitment in 2020. Dr. Ahmed testified that M.H. had been diagnosed with schizoaffective disorder and was exhibiting "symptoms of mania," including "symptoms of hyper talkativeness, being irritable, not sleeping," and "having a lot of hyper focus on religion." *Id.* at 25. She also said M.H. was experiencing delusional thinking. M.H. told her that whenever bad things happen to M.H., "God sees that as something bad that then God has to kill somebody for that[.]" *Id.* at 26. Dr. Ahmed testified that, after M.H.'s involuntary commitment in 2020, he was initially compliant with medications and "seemingly doing well because he was not hospitalized for a long time." *Id.* However, he "stopped taking the medications" and now "tells [her] he doesn't need the medications." *Id.* Dr. Ahmed's treatment plan was to have M.H. "back on a previously effective regimen of an antipsychotic administered in [a] long-acting injectable form, and a mood stabilizer." *Id.* at 26–27. She was "optimistic" about M.H.'s success if he followed that plan, "especially considering how well [he] had done [when] following up" in the past. *Id.* at 36.

[7] After hearing testimony from M.H., the trial court granted Eskenazi's petition for a ninety-day commitment, finding "by clear and convincing evidence that [M.H.'s] reasoning and judgment [was] gravely impaired[.]" *Id.* at 62. The trial

court stated that it found Dr. Ahmed's testimony "convincing," *id.* at 61, and that the evidence "indicate[d] and is clear and convincing that M.H. does in fact suffer from a serious mental illness," *id.* at 62. The court added that M.H.'s "disorganized thinking [was] clear . . . based on the statements [he] ha[d] made, especially concerning his focus on subjects of which he's been questioned." *Id.* Under the order, M.H. was committed to Eskenazi until July 16, 2023, "unless discharged prior." Appellant's App. Vol. 2 p. 16. M.H. now appeals.

Discussion and Decision

I. Mootness and Collateral Consequences Doctrine

[8] Although M.H. timely appealed, his temporary commitment order has expired. Thus, a threshold issue is whether the appeal is moot. "The long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court." *T.W. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 121 N.E.3d 1039, 1042 (Ind. 2019) (quoting *In re Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991)). Put differently, a case is moot "when the concrete controversy at issue in a case 'has been ended or settled, or in some manner disposed of, so as to render it unnecessary to decide the question involved[.]'" *Lawrance*, 579 N.E.2d at 37 (quoting *Dunn v. State*, 71 N.E. 890, 891 (Ind. 1904)).

[9] Even when a temporary commitment order has expired, however, the appeal is not moot—i.e., a live controversy remains—if "the appellant demonstrates a particularized collateral consequence flowing from the temporary commitment

order." *J.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, No. 23A-MH-752, 2023 WL 7120004, at *3 (Ind. Ct. App. Oct. 30, 2023). For example, we concluded an appeal was not moot when the patient "long exercised his right to possess a handgun" and the expired commitment order, if invalid but left in place, would prohibit him from continuing to possess firearms. *C.P. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 219 N.E.3d 142, 149 (Ind. Ct. App. 2023). In contrast, we concluded an appeal from an expired commitment order was moot—i.e., lacking a "particularized collateral consequence flowing from the temporary commitment order"—where the patient merely alleged that "future . . . commitment proceedings against her [were] more likely to succeed" because the order was part of her medical history. *J.F.*, 2023 WL 7120004, at *3.

[10] Here, M.H. makes only general allegations about the collateral consequences of a temporary commitment order, claiming that these types of orders implicate a person's fundamental rights and that "[t]he effects of an involuntary commitment do not disappear when the period of confinement ends," but instead "last a lifetime." Appellant's Br. p. 22. Because these allegations are not particularized to M.H., we conclude that M.H. has not established that a live controversy remained once the temporary commitment order expired. *See J.F.*, 2023 WL 7120004, at *3 (determining a case remains ripe under the collateral consequences doctrine "only when the appellant demonstrates a particularized collateral consequence flowing from the temporary commitment order"). We therefore conclude the case is moot.

II. Public Interest Exception to Dismissal

[11] As the Indiana Supreme Court has explained, "moot cases are ordinarily dismissed." *Mosley v. State*, 908 N.E.2d 599, 603 (Ind. 2009). However, so long as the appeal presents "an issue of great public importance" that is "likely to recur," we may address the merits of the appeal "[d]espite the appeals' mootness." *T.W.*, 121 N.E.3d at 1042. At times, our Supreme Court has invoked this exception in cases involving expired commitment orders "[b]ecause of the fundamental interests at stake in these cases." *E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 188 N.E.3d 464, 466–68 (Ind. 2022) (per curiam). In *E.F.*, our Supreme Court provided guidance about invoking this exception and addressing appellate issues despite the appeal being moot. *Id.* at 467. The Court explained that "review of the issues presented is important" in some cases, particularly to help develop the law. *Id.* (providing the example of an appellate opinion exploring "the nuances of the sufficiency of the evidence to support a commitment"); *cf., e.g.*, *T.W.*, 121 N.E.3d at 1042 (addressing the scope of a probate commissioner's authority to enter a civil commitment order).

[12] Although our Supreme Court explained that invoking this exception is at times "important," the Court emphasized that "appellate courts are not required to issue an opinion in every moot case." *E.F.*, 188 N.E.3d at 467. The Court explained that "one of the hallmarks of a moot case is the court's inability to provide effective relief" and that addressing the issues is tantamount to issuing an advisory opinion—something courts generally "should avoid[.]" *Id.* The Court ultimately guided us to "thoughtfully and thoroughly consider" whether

to invoke the public interest exception. *Id.* The Court also provided guidance to litigants appealing from expired commitment orders, noting that they "should avail themselves of the opportunity to raise relevant issues," including providing argument regarding why the case presents a good opportunity to apply the public interest exception and address the issues presented on appeal. *Id.*

[13] On appeal, M.H. raises two issues: (1) whether the trial court erred by holding a remote evidentiary hearing; and (2) whether there was sufficient evidence supporting the temporary commitment order. Although M.H. presents these two appellate issues, he does not refer to these issues when asking us to apply the public interest exception. Rather, M.H. focuses only on the general nature of civil commitment cases, arguing that, "in addition to the actual physical confinement imposed by an involuntary commitment," these types of cases can carry "significant collateral consequences impacting due process and liberty rights." Appellant's Br. p. 21. He urges that, "given the unique circumstances and issues presented by involuntary commitments," there is "no barrier" to our consideration of the issues presented on appeal, "even if the time period for the commitment has expired." *Id.* He also asserts, without elaboration or citation to caselaw, that, "[i]f appeals are dismissed as moot, there is no meaningful review," which would (1) render Indiana's constitutional right to an appeal "illusory," and (2) run "afoul" of the right to "access . . . the courts." *Id.* at 22.

[14] Because M.H. failed to provide cogent reasoning supporting his constitutional arguments, we conclude he waived them. *See* Ind. Appellate Rule 46(A)(8)(a)

("The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning."); *In re I.L.*, 177 N.E.3d 864, 870 (Ind. Ct. App. 2021) (concluding a litigant waived a due process claim because she "failed to develop it beyond vague generalities"), *summarily affirmed and adopted in pertinent part*. As to M.H.'s other arguments in support of reaching the merits, M.H. has not explained why addressing his specific appellate issues would develop Indiana law or provide guidance to the public. Indeed, he does not connect his arguments to the circumstances of his temporary commitment, but instead relies only on the general nature of temporary commitment cases.

[15] Based on the arguments presented, we decline to apply the public interest exception to address the merits of the issues presented in this moot appeal.

Conclusion

[16] The appeal is moot because the commitment order has expired and the collateral consequences doctrine does not apply. Moreover, we are not persuaded that the case warrants invoking the public interest exception.

[17] Dismissed.

Pyle, J., and Tavitas, J., concur.