

## MEMORANDUM DECISION

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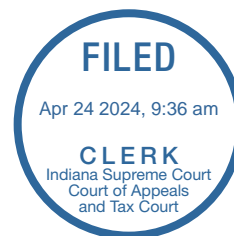
IN THE  
**Court of Appeals of Indiana**

In the Matter of the Civil Commitment of:

K.S.,  
*Appellant*

v.

St. Vincent Hospital and Health Care Center, Inc., d/b/a St.  
Vincent Stress Center,  
*Appellee*



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April 24, 2024

Court of Appeals Case No.  
23A-MH-2712

Appeal from the Marion Superior Court

The Honorable David J. Certo, Judge

Trial Court Cause No.  
49D08-2310-MH-39357

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**Memorandum Decision by Judge Bailey**  
Judges Crone and Pyle concur.

**Bailey, Judge.**

## Case Summary

[1] After St. Vincent Hospital and Health Care Center, Inc. d/b/a St. Vincent Stress Center (“St. Vincent”) filed a petition for the involuntary commitment of K.S., the trial court found K.S. mentally ill and gravely disabled and entered an involuntary, regular commitment order.<sup>1</sup> We affirm.

## Issues

[2] K.S. raises two issues for our review, which we restate as:

- I. Whether St. Vincent presented sufficient evidence to support K.S.’s involuntary commitment; and
- II. Whether K.S. waived her claim that St. Vincent failed to comply with Indiana Code Section 12-26-7-3, requiring the commitment proceedings to contain a report from a community mental health center.

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<sup>1</sup> A regular commitment is a commitment for a period that exceeds ninety days, Ind. Code § 12-26-7-1, and a temporary commitment is a commitment for a period not to exceed ninety days, I.C. § 12-26-6-1.

## Facts and Procedural History

- [3] K.S. was forty-one years old at the time the commitment hearing took place in October 2023. She had been diagnosed with schizophrenia when she was age thirty-three. However, K.S.'s struggles with her mental health began when she was twelve years old when she was diagnosed with depression and prescribed medication after her mother had passed away.
- [4] At age sixteen, K.S. became a patient of Diagnostic Medicine of Carmel ("Diagnostic"), an outpatient provider. Diagnostic diagnosed her with attention deficit/hyperactivity disorder ("ADHD") when she was a teenager and re-diagnosed her with the disorder at ages twenty-five and thirty-three. Diagnostic prescribes K.S. the drug Adderall, which K.S. has been taking for twenty-two years.
- [5] K.S. is also a patient of Aspire Indiana ("Aspire"). Aspire prescribes her a monthly injection of Haldol Decanoate, an anti-psychotic medication.<sup>2</sup> Aspire also prescribes K.S. daily oral medications for anxiety and depression, namely, Buspar and Duloxetine. K.S. relies on her father ("Father") to drive her to her monthly injection appointments because her driver's license is suspended.
- [6] K.S. has lived with Father for the last ten or twelve years, and she last worked a full-time job approximately ten years ago. K.S. receives \$2,200.00 each month

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<sup>2</sup> K.S. has been receiving Haldol Decanoate injections since she was twenty-five years old.

in Social Security disability income, she has additional funds in a savings account, and she has \$15,000.00 in a retirement account.

- [7] Around July 2023, K.S. and Father began to argue over how K.S. spent her money and Father's decision to limit K.S.'s spending money to \$100.00 per week. Some of the arguments between K.S. and Father escalated to the point that Father would call St. Vincent. Between July and September 2023, K.S. was admitted to St. Vincent three times.<sup>3</sup>
- [8] On October 5, 2023, K.S. was admitted to St. Vincent for the fourth time, after having been detained by the police on a report of a fire in a trash can at a neighbor's house. On October 6, St. Vincent filed with the trial court an Application for Emergency Detention of Mentally Ill and Dangerous and/or Gravely Disabled Person ("the Application"), alleging that K.S. was suffering from a psychiatric disorder that "disturb[ed her] thinking, feeling or behavior and impair[ed her] ability to function[.]" (Appellant's App. Vol. II, pg. 15.) The behavioral health counselor attested in the Application that, due to K.S.'s condition, she was either dangerous to others or gravely disabled and required involuntary detention to receive care and treatment because she was "actively psychotic"; had an "[a]ltercation with [a] neighbor [and] set their trash cans on

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<sup>3</sup> K.S. was admitted to St. Vincent from July 15 through July 24, 2023; from August 4 through August 14, 2023; and from September 14 through September 26, 2023.

fire”; believed Father was “in danger”; and believed she was “part of a murder investigation.” (*Id.* at 16.)

[9] On October 23, 2023, the trial court conducted K.S.’s commitment hearing remotely.<sup>4</sup> During the hearing, Dr. Erika Cornett—K.S.’s attending psychiatrist at St. Vincent—testified that K.S. had a “diagnosis of schizophrenia and depression” and that Dr. Cornett had “added [a diagnosis of] amphetamine use disorder.” (Tr. Vol. II, pg. 10.) Dr. Cornett further testified that upon admission to St. Vincent, K.S. was “angry, very belligerent”; “yelling, cursing at us, ... name calling”; “extremely paranoid, [and] very suspicious of everything.” (*Id.* at 7.) When asked to provide an example of K.S.’s paranoia, Dr. Cornett testified that K.S. accused Dr. Cornett of following her and that K.S. told the doctor she “had evidence and tapes” of the doctor “following her [in a car] down the interstate[.]” (*Id.*) Dr. Cornett testified that K.S.’s behavior was a “function of her psychiatric illness[.]” (*Id.* at 12.)

[10] Regarding treatment, Dr. Cornett testified that K.S. received a monthly Haldol Decanoate injection, oral medications, daily antianxiety and antidepressant medications, and “some other medical[-]based medications.” (*Id.* at 8.) Dr. Cornett further testified that K.S. “seem[ed] to respond fairly well to the medication[s]” and that the medications “reduce[d her] symptoms ... while she[ was at St. Vincent].” (*Id.* at 9.) However, Dr. Cornett also testified that after

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<sup>4</sup> K.S. had remained a patient at St. Vincent.

being discharged from St. Vincent, K.S. would “go to a different provider and get [Adderall]. (*Id.*) Dr. Cornett expressed that K.S. was “probably partially compliant with outpatient medicines” and that K.S. made an “effort to do so,” but Dr. Cornett believed that Adderall “[wa]s a major factor in the escalation of [K.S.’s] paranoia and psychosis[.]” (*Id.*) The doctor told the court that St. Vincent had not diagnosed K.S. with ADHD or attention deficit disorder. However, Dr. Cornett added that she had not communicated with Diagnostic to have the provider stop prescribing Adderall to K.S.

[11] Dr. Cornett testified that she was seeking involuntary commitment of K.S. because “we just keep repeating the same pattern, the length of time between hospitalizations is getting ... shorter[,] and I have no reason at this point to suspect we won’t just keep doing this.... [W]e’ve been unsuccessful doing things the way that we have done them in the past.” (*Id.* at 11.) When asked if K.S. lacked judgment and reasoning to be able to function independently, Dr. Cornett responded, “Based on her lack of insight [into] her mental illness, I do believe so yes.” (*Id.* at 12.) Dr. Cornett clarified that while K.S. acknowledges that she has a mental illness and that she needs to remain on some medication, she “will not acknowledge” that continuing to take Adderall is “an issue.” (*Id.* at 13.) When asked if K.S.’s diminished judgment and reasoning were the result of her mental illness, Dr. Cornett responded, “Yes.” (*Id.* at 15.)

[12] Dr. Cornett also told the court that she did not advise a less restrictive environment for K.S.’s treatment. According to Dr. Cornett, absent regular

commitment, K.S. would return to St. Vincent “in a short period of time.” (*Id.* at 14.)

[13] Father also testified in support of St. Vincent’s request for K.S.’s involuntary, regular commitment. Father told the court that K.S. is an “unhappy person”; throughout the day, “she gets mad” and accuses Father of stealing her purse or wallet; and at night, she goes to her bedroom and cries. (*Id.* at 22.) When asked about the demeanor K.S. exhibits when she is discharged from St. Vincent, Father stated:

[T]he first three times ... she’s come in the hospital, they get her calmed down[.] [T]hey send her home and she does real good for about three days up to four and then she goes back, starts going meaner, meaner and then real mean. And doing stuff you don’t know why she’s doing it.

(*Id.*)

[14] When asked to provide examples of K.S.’s troubling behavior, Father detailed that on one occasion, K.S. drove Father’s car to a fast-food restaurant despite her license suspension. On another occasion, K.S. allowed an unhoused woman she had met at a park to spend the night in a spare bedroom at Father’s house. Father also described an instance where one night, K.S. left Father’s house and walked to a gas station. When Father drove to the gas station to pick her up, K.S. refused to get into Father’s vehicle unless she could drive, even though K.S. did not have a valid driver’s license. K.S. then jumped in front of a car that was turning into the intersection and put her hands on the hood,

causing the car to stop. Father detailed another instance where K.S. and her daughter got into an argument at a restaurant over something the daughter had posted on social media. Father testified that K.S. was screaming and cursing, which caused people nearby to look at her, and K.S.'s daughter left the restaurant, crying. Father told the court that the incident scared him and that he did not know which K.S. was “going to show up”—the calm K.S. or the agitated K.S. (*Id.* at 28.)

[15] Father also testified that K.S. “smacked [him] in the face a couple [of] times” and “spit in [his] face.” (*Id.* at 23.) He further testified that one night, K.S. locked him out of his home, causing Father to have to spend the night at his son's house. Father also testified that K.S. believes he killed her mother, even though her mother had died of cancer years ago. He told the court that he did not want K.S. to continue living with him and that if K.S. was released from St. Vincent and allowed to return to his home, he would lock his bedroom door and hide his wallet and keys.

[16] K.S. was the final witness at the commitment hearing. She described why she believed regular commitment was unnecessary. K.S. testified that when she arrived at St. Vincent on October 5, she was in a “manic state” that had been triggered by stress and the belief that she was not welcomed at Father's house. She further testified that “it takes about four or five days to get out of [the manic state] but then [she is] fine.” (*Id.* at 35).



[17] K.S. confirmed that she does not have a valid driver's license. She told the court that she planned to use her money to move out of Father's home and move, first, to a hotel and, eventually, to an apartment. She also told the court that her most recent employment was at a grocery store, "working for the lady putting out flowers" and that she had "only worked one day" before she was admitted to St. Vincent. (*Id.* at 37.)

[18] Regarding her prescribed medications, K.S. acknowledged that she "ha[s] to take the medication, I know that. I know how it is if I don't take it, I always take my medication." (*Id.* at 40.) However, she told the court that she did not believe Adderall was the cause of her manic state and that, instead, she believed "what goes on around me is what determines whether I become manic or not. Like me getting blamed for stuff I didn't do, is something that really upsets me." (*Id.* at 42.) When asked if she would continue to "seek out" Adderall if she was discharged from St. Vincent, she responded: "Probably not." (*Id.* at 47.)

[19] K.S. concluded her testimony by telling the court: "I am capable of taking care of myself, I'm not going to hurt anyone, I'm not going to harm myself.... I do need to [get] help with ... access to my money to stay at a hotel[,] to get housing.... I've never been, um, given the opportunity to[,] you know, show that I can do it on my own...." (*Id.* at 43.)

[20] At the conclusion of the commitment hearing, the trial court found by clear and convincing evidence that K.S. was suffering from a mental illness, specifically,

schizophrenia, and that she was gravely disabled. The court issued its Order for Regular Commitment that same day, concluding that K.S. was in need of custody, care, and treatment at St. Vincent “for a period of time expected to exceed ninety (90) days, pending [K.S.’s] admission and placement at an Indiana State [p]sychiatric [h]ospital[.]” (Appellant’s App. Vol. II, pg. 10.) The court ordered K.S. committed to St. Vincent and, subsequently, to a state hospital “until discharged or the [c]ourt terminates the commitment.” (*Id.* at 11.) In so ordering, the court noted:

[K.S.] remains gravely disabled by impairment in her judgment and reasoning, including paranoia that her neighbors and father are out to get her and insisting that inviting a stranger to stay in her father’s home was reasonable. If commitment does not issue, she is likely to succumb again to her symptoms of paranoia when she leaves the controlled environment of the hospital. She shall not fill any prescription for a controlled substance except through her care team at [St.] Vincent or Aspire[.]”

(*Id.* at 12.) K.S. was transferred to Richmond State Hospital on November 21, 2023.<sup>5</sup> K.S. now appeals.

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<sup>5</sup> K.S. notes that she was discharged from Richmond State Hospital on March 1, 2024, and thus this case is arguably moot. A case is moot when the controversy at issue has been ended, settled, or otherwise disposed of so that the court can give the parties no effective relief. *E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 188 N.E.3d 464, 466 (Ind. 2022). However, St. Vincent does not argue that the mootness doctrine applies. And even if it did, because of “the unique circumstances and issues presented by involuntary commitments,” we “routinely [consider] the merits of these cases despite finding them moot.” *Id.* at 467.

# Discussion and Decision

## I. Standard of Review

[21] When reviewing a challenge to the sufficiency of the evidence with respect to commitment proceedings, we will only look to the evidence most favorable to the trial court's decision and all reasonable inferences drawn therefrom. *Golub v. Giles*, 814 N.E.2d 1034, 1038 (Ind. Ct. App. 2004), *trans. denied*. In reviewing the evidence supporting the judgment, we may neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* "Where the evidence is in conflict, we are bound to view only that evidence that is most favorable to the trial court's judgment." *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.*

[22] However, civil commitment is a significant deprivation of liberty, and it requires due process protections. *C.J. v. Health and Hosp. Corp. of Marion County*, 842 N.E.2d 407, 409 (Ind. Ct. App. 2006) (citation omitted). The petitioner must show "that the individual suffers from something more serious than is demonstrated by idiosyncratic behavior." *In re Commitment of Bradbury*, 845 N.E.2d 1063, 1065 (Ind. Ct. App. 2006) (quoting *Addington v. Texas*, 441 U.S. 418, 427 (1979)). To obtain an involuntary commitment, St. Vincent was required to prove by clear and convincing evidence that K.S. was (1) mentally ill; (2) either dangerous or gravely disabled; and (3) her commitment was appropriate. Ind. Code § 12-26-2-5(e).

[23] K.S. does not challenge the trial court’s finding that she is mentally ill. Instead, she argues that St. Vincent failed to prove by clear and convincing evidence that she was gravely disabled, and that regular commitment to a state hospital was appropriate. K.S. also argues that St. Vincent failed to comply with Indiana Code Section 12-26-7-3, requiring that the commitment proceedings contain a report from a community mental health center. We address each argument in the order presented.

## **II. Sufficiency of the Evidence Supporting K.S.’s Commitment**

### **II.A. Gravely Disabled**

[24] First, K.S. contends that St. Vincent failed to prove by clear and convincing evidence that she is gravely disabled. “Gravely disabled” means a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:

(1) is unable to provide for that individual’s food, clothing, shelter, or other essential human needs; or

(2) has a substantial impairment or an obvious deterioration of that individual’s judgment, reasoning, or behavior that results in the individual’s inability to function independently.

I.C. § 12-7-2-96. As this Court has noted, because this statute is written in the disjunctive, a trial court’s finding of grave disability survives if we find that there was sufficient evidence to prove either that the individual is unable to provide for her basic needs or that her judgment, reasoning, or behavior is so

impaired or deteriorated that it results in her inability to function independently. *See Civ. Commitment of W.S. v. Eskenazi Health, Midtown Cmty. Mental Health*, 23 N.E.3d 29, 34 (Ind. Ct. App. 2014), *trans. denied*. The trial court's order indicates it relied on subsection (2) of the statute to find K.S. gravely disabled.

[25] K.S. asserts that the evidence St. Vincent presented to prove she was gravely disabled was insufficient to support the finding. Specifically, K.S. challenges evidence that she: (1) continued to take the Adderall prescribed by Diagnostic; (2) had “recent conflicts” and disagreements with her family members; (3) had been “angry and belligerent toward” St. Vincent staff; (4) made unfounded accusations against Father and Dr. Cornett; (5) drove a vehicle on a suspended driver's license; (6) jumped in front of a moving vehicle; and (7) invited a stranger to stay at her Father's home. (Appellant's Br. at 21.) K.S. argues that St. Vincent failed to establish that her decisions and actions were outside the range of normal behavior or the result of her schizophrenia.

[26] Dr. Cornett testified that K.S. had been diagnosed with schizophrenia and that, upon admission to St. Vincent, she was angry, belligerent, extremely paranoid, and “suspicious of everything.” (Tr. Vol. II, pg. 7.) Dr. Cornett testified that K.S.'s behavior was a “function of her psychiatric illness” and that she believed Adderall was a “major factor in the escalation” of K.S.'s “paranoia and psychosis.” (*Id.* at 9, 12.) Dr. Cornett also testified that the length of time between K.S.'s hospitalizations was becoming shorter; the doctor had “no reason at this point to suspect” that K.S.'s hospitalizations would not continue;

and the doctor was “confident that [K.S. would] be back in the hospital” if K.S. was not involuntarily committed—noting that the most recent admission was “proceeded by a fire in a trash can.” (*Id.* at 11, 13, 14). When asked if K.S. lacked judgment and reasoning to be able to function independently, Dr. Cornett responded in the affirmative, basing her response on K.S.’s lack of insight into her mental illness. When asked if K.S.’s diminished judgment and reasoning were the result of her mental illness, Dr. Cornett responded, “Yes.” (*Id.* at 15.)

[27] The evidence clearly and convincingly demonstrates that K.S. is in danger of coming to harm because she suffers from a substantial impairment of her judgment, reasoning, and behavior. The evidence further demonstrates that, in light of this impairment, K.S. is unable to function independently. Therefore, we conclude that St. Vincent presented sufficient evidence to prove by clear and convincing evidence that K.S. is gravely disabled. K.S.’s contentions to the contrary are requests that we reweigh the evidence and judge witness credibility, which we may not do. *See Civ. Commitment of T.K. v. Dep’t of Veterans Affairs*, 27 N.E.3d 271, 273 (Ind. 2015).

## **II.B. Appropriateness of K.S.’s Commitment**

[28] Next, K.S. contends that St. Vincent failed to prove by clear and convincing evidence that her involuntary, regular commitment to a state hospital was appropriate and that “less restrictive options”—such as a temporary commitment to St. Vincent or the imposition of a special condition on K.S. as

to the medications she can take—were not appropriate. (Appellant’s Br. at 25.)  
We disagree.

[29] A reasonable factfinder could readily find from Dr. Cornett’s testimony that K.S. would not do well in a less restrictive setting and that she needed continued hospitalization. Dr. Cornett told the court that she did not advise a less restrictive environment for K.S.’s treatment. The doctor testified to K.S.’s frequent hospitalizations and that the time between the hospitalizations was becoming shorter, noting that the instant hospitalization resulted from “issues that involved the police having been called[.]” (Tr. Vol. II, pg. 14.) Dr. Cornett further testified that the “same pattern” regarding the hospitalizations “ke[pt] repeating” and that “we’ve been unsuccessful doing things the way that we have done them in the past.” (*Id.* at 11.) Dr. Cornett also testified that absent regular commitment, K.S. would return to St. Vincent “in a short period of time.” (*Id.* at 14.)

[30] Based on Dr. Cornett’s testimony, we conclude that St. Vincent provided clear and convincing evidence to support the trial court’s finding that K.S.’s regular commitment to a state hospital was appropriate. K.S.’s arguments are a request to reweigh the evidence, which we cannot do. *Golub*, 814 N.E.2d at 1038.

### **III. Compliance with Indiana Code Section 12-26-7-3**

[31] Finally, K.S. challenges her commitment to Richmond State Hospital on grounds that St. Vincent failed to comply with Indiana Code Section 12-26-7-3(b), which provides:

(b) If the commitment is to a state institution administered by the division of mental health and addiction, *the record of the proceedings must include a report from a community mental health center* stating both of the following:

(1) The community mental health center has evaluated the individual.

(2) Commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(Emphasis added.) Indiana Code Section 12-7-2-38 defines a “community mental health center,” in relevant part, as

a program of services that meets the following conditions:

(1) Is approved by the division of mental health and addiction.

(2) Is organized for the purpose of providing multiple services for persons with mental illness or a chronic addictive disorder.

(3) Is operated by one (1) of the following or any combination of the following:

\* \* \*

(G) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17[.]



[32] K.S. contends that the record of her commitment proceedings does not include a report from a community mental health center (“CMHC”) that complies with Indiana Code Section 12-26-7-3(b), and she argues that St. Vincent is not a CMHC. However, K.S. did not present these issues to the trial court during the commitment hearing. As a general rule, a party may not present an argument or issue to an appellate court unless the party raised that argument or issue to the trial court. *GKC Indiana Theatres, Inc. v. Elk Retail Investors, LLC.*, 764 N.E.2d 647, 651 (Ind. Ct. App. 2002). The rule of waiver in part protects the integrity of the trial court in that the trial court cannot be found to have erred as to an issue or argument that it never had an opportunity to consider, and an intermediate court of appeals is not the forum for the initial decisions in a case. *Id.* Consequently, an argument or issue not presented to the trial court is generally waived for appellate review. *Id.* K.S. may not present for the first time on appeal the issue of compliance with Indiana Code Section 12-26-7-3. K.S. has waived her argument on appeal.<sup>6</sup>

## Conclusion

[33] We conclude that St. Vincent presented sufficient evidence to support the trial court’s order of involuntary, regular commitment of K.S. to a state hospital,

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<sup>6</sup> In her reply brief, K.S. for the first time raises the claim that the record failed to show whether Dr. Erika Cornett possessed the requisite knowledge to determine the appropriateness of K.S.’s commitment to a state hospital. (Appellant’s Reply Br. at 21.) However, K.S. has waived that contention in this appeal, as an issue may not be raised for the first time in a reply brief. *See, e.g., Monroe Guar. Ins. Co. v. Magwerks Corp.*, 829 N.E.2d 968, 977 (Ind. 2005).

and K.S. has waived any issue regarding compliance with Indiana Code Section 12-26-7-3. The judgment of the trial court is affirmed.

[34] Affirmed.

Crone, J., and Pyle, J., concur.

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