IN THE COURT OF APPEALS OF IOWA

No. 1-771 / 11-0631
Filed November 9, 2011

IN THE MATTER OF M.G.S.,
Alleged to be Seriously
Mentally Impaired.

M.G.S.,
Respondent-Appellant.

Appeal from the Iowa District Court for Wapello County, Daniel P. Wilson, Judge.

Respondent appeals the district court decision finding he was seriously mentally impaired and placing him an inpatient treatment facility. **AFFIRMED.**

Sarah Wenke, Ottumwa, for appellant.

Thomas J. Miller, Attorney General, and Gretchen Witte Kraemer, Assistant Attorney General, Lisa Holl, County Attorney, and Seth Harrington, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., Vaitheswaran, J., and Huitink, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

HUITINK, S.J.

I. Background Facts & Proceedings.

M.G.S. has a long history of mental illness. On March 2, 2011, a nurse practitioner filed an application alleging M.G.S. was seriously mentally impaired. There were concerns because his blood pressure was dangerously high, but he refused a referral to a local hospital emergency department for evaluation and treatment. Also, he was not consistently taking prescribed medication for his mental health.

M.G.S. was examined by Dr. Anthony Miller, a staff psychiatrist at the Veterans Administration (VA) Medical Center in Iowa City, on March 5, 2011. Dr. Miller noted M.G.S. had previous diagnoses of schizophrenia, personality disorders, and dementia. M.G.S. had extensive delusions about his health and about being persecuted by a VA employee. Dr. Miller found M.G.S. was likely to physically injure himself as "[h]e refused medical treatment for severe hypertension and chest pain until court ordered to treatment for psychiatric problems." Dr. Miller also found M.G.S. could not be treated on an outpatient basis because "[w]ithout improvement in his delusions, he is likely to refuse appropriate medical treatment and die from a heart attack."

A magistrate determined M.G.S. was seriously mentally impaired and should be placed at the VA hospital in Iowa City. M.G.S. appealed to the district court. On March 27, 2011, Dr. Miller created a second report that updated his earlier report. Dr. Miller noted M.G.S. continued to have multiple delusions regarding his medical treatment. Dr. Miller stated "because of his delusional beliefs, he states that he will not take the recommended treatments for his

extremely high blood pressure after he leaves the hospital," and "[h]e is at imminent risk of heart attack or stroke if he does not get these medications." The report furthermore noted that on March 26, 2011, M.G.S. had physically attacked a VA police officer.

On April 4, 2011, M.G.S. was evaluated by Dr. Abraham Assad, resident psychiatrist, who found M.G.S. showed a complete lack of insight into his illness. Dr. Assad gave the opinion that if M.G.S. were not under court commitment he would not take his antipsychotic or antihypertensive medications. Dr. Assad also noted that M.G.S. had attacked one of the VA police officers and had to be restrained. Dr. Assad concluded M.G.S. "cannot feasibly be left to care for his own needs."

After a hearing, the district court entered a ruling on April 4, 2011, finding M.G.S. was seriously mentally impaired. The court determined M.G.S. lacked judgment to make responsible decisions regarding his hospitalization or treatment, he was treatable and would benefit from treatment, and he was likely to physically injure himself if not treated. The court ordered M.G.S. to inpatient evaluation and treatment at the VA hospital in Iowa City. M.G.S. appealed the decision of the district court.

II. Standard of Review.

An involuntary commitment proceeding is a special action that is triable to the court as an action at law. *In re Oseing*, 296 N.W.2d 797, 800-01 (Iowa 1980). We review at law challenges to the sufficiency of the evidence. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998). If the court's findings of fact are supported by substantial evidence, they are binding on us on appeal. *In re B.T.G.*, 784 N.W.2d

792, 796 (Iowa Ct. App. 2010). "Evidence is substantial if a reasonable trier of fact could conclude the findings were established by clear and convincing evidence." *J.P.*, 574 N.W.2d at 342.

III. Sufficiency of the Evidence.

A person may be involuntarily committed for treatment if a court finds by clear and convincing evidence that the person has a serious mental impairment. Iowa Code § 229.13(1) (2011). The term "serious mental impairment" is defined as follows:

> [T]he condition of a person with mental illness and because of that illness lack sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who because of that illness meets any of the following criteria:
>
> a. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment.
>
> b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the person with mental illness if the person with mental illness is allowed to remain at liberty without treatment.
>
> c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death.

Iowa Code § 229.1(17).

M.G.S. contends there is insufficient evidence that he lacks sufficient judgment to make responsible decisions with respect to his hospitalization or treatment. The State must prove "that the person is unable, because of the alleged mental illness, to make a rational decision about treatment, whether the decision is to seek treatment or not." *In re Mohr*, 383 N.W.2d 539, 541 (Iowa 1986) (citations omitted). We must focus on whether a person's grounds for making medical decisions are rational or reasonable. *J.P.*, 574 N.W.2d at 343.

At the hearing before the district court, M.G.S. testified that he intended to seek medical treatment in the future and to take the medication prescribed to him. His testimony also revealed, however, that he continued to have several delusions concerning his medical care. Because of these delusions, M.G.S. was not making rational or reasonable decisions about his medical care. The reports of both Dr. Miller and Dr. Assad give the opinion that M.G.S. would not continue with treatment for his mental illness or high blood pressure if he were not committed. We conclude there is sufficient evidence in the record to show that because of his mental illness M.G.S. lacked sufficient judgment to make responsible decisions with respect to his medical treatment.

M.G.S. also claims there is not sufficient evidence in the record to support a finding that he was likely to physically injure himself or others if allowed to remain at liberty without treatment. In this context "likely" is construed to mean "probable or reasonably to be expected." *Oseing*, 296 N.W.2d at 801. This element must be evidenced by a recent overt act, attempt, or threat. *Mohr*, 383 N.W.2d at 542. An "overt act" involves past aggressive behavior or threats. *In re Foster*, 426 N.W.2d 374, 378 (Iowa 1988).

M.G.S. had recently engaged in behavior that was dangerous to himself when he refused to seek treatment for critically high blood pressure. As Dr. Miller noted "[w]ithout improvement in his delusions, he is likely to refuse appropriate medical treatment and die from a heart attack." Furthermore, a week before the district court hearing M.G.S. had engaged in a recent overt act of aggression towards a VA police officer. We conclude there is sufficient evidence

in the record to support a finding that M.G.S. was likely to physically injure himself or others.

IV. Level of Treatment.

M.G.S. asserts that the district court erred in ruling that he needed inpatient evaluation and treatment. "It is not only the customary procedure, but the constitutionally and statutorily mandated requirement, to treat even seriously mentally impaired persons in the least restrictive environment medically possible." *Leonard v. State*, 491 N.W.2d 508, 512 (Iowa 1992). M.G.S. claims he could be treated on an outpatient basis.

In his second report Dr. Miller stated M.G.S. could not be treated on an outpatient basis because "[h]is decision-making about his mental and medical care is influenced by paranoid delusions that prevent him from getting required care." Dr. Assad also gave the opinion that M.G.S. could not be treated on an outpatient basis because if he were not under court commitment he would most likely discontinue taking his medicine. We conclude there is sufficient evidence in the record that inpatient evaluation and treatment for M.G.S. was the least restrictive environment medically possible.

We affirm the decision of the district court.

AFFIRMED.