

IN THE COURT OF APPEALS OF IOWA

No. 2-211 / 11-1975
Filed March 28, 2012

IN THE MATTER OF J.O.,

J.O.,
Petitioner-Appellant.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert,
Judge.

J.O. appeals from the district court's ruling dismissing his petition for writ
of habeas corpus. **AFFIRMED.**

Kathleen T. Sandre of Coppola, McConville, Coppola, Hockenberger &
Scalise, P.C., West Des Moines, for appellant.

Thomas J. Miller, Attorney General, Gretchen Witte Kraemer, Assistant
Attorney General, John P. Sarcone, County Attorney, and Daniel Flaherty,
Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

POTTERFIELD, J.

J.O. has a history of mental illness and has been hospitalized involuntarily on more than one occasion. Most recently, J.O. resided at the VA Hospital for roughly two and one-half years after having been involuntarily committed. On September 16, 2011, J.O. filed a petition for writ of habeas corpus asserting the restraint on his liberty was illegal as he had become self-sufficient and no longer needed help from the staff at the VA Hospital.

After a hearing on the matter, the district court determined J.O.'s continuing commitment was necessary and legal, and was based in law and fact. The district court dismissed J.O.'s petition for habeas corpus on November 3, 2011. On appeal, we review for errors at law. *In re Oseing*, 296 N.W.2d 797, 800–01 (Iowa 1980).

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). In determining whether a person has a serious mental impairment, the person must be found to have: (1) a mental illness, consequently (2) to lack “sufficient judgment to make responsible decisions with respect to the person’s hospitalization or treatment” and (3) to be likely, if allowed to remain at liberty, to inflict physical injury on “the person’s self or others,” to inflict serious emotional injury on a designated class of persons, or be unable to satisfy the person’s physical needs. *Id.* § 229.1(17).

First, we find the record supports a finding that J.O. was mentally ill. When asked what he understood his mental health situation to be, J.O. responded, “Schizophrenia.” Further, Dr. L.D. Weldon, a physician who

examined J.O. on October 18, 2011, and November 1, 2011, wrote in both reports that J.O. was mentally ill and suffered from schizophrenia. Dr. Weldon noted that J.O. denied his mental illness and frequently would not take his medication, causing the symptoms of his schizophrenia to intensify.

Next, we find the record shows that because of his mental illness, J.O. lacked sufficient judgment to make responsible decisions with respect to his treatment. J.O. testified he did not believe he was mentally ill. Though he testified he would take medication prescribed by a doctor, he also testified that he had refused to take medications “[l]ong ago, but I been on them three months now.” In a letter to the court admitted as an exhibit at trial, J.O. stated, “I shouldn’t have to take pills to say who I am. A lot of these pills made me psychotic.” Dr. Weldon also noted that J.O. “lack[ed] judgment and without structure [would not] take medication or care for self.” Based on this evidence, we conclude J.O. was unable to make responsible decisions with respect to his treatment.

Finally, we conclude the third element, dangerousness, was proven here. Dr. Weldon reported that J.O. was likely to physically injure himself or others, noting he was “violent when psychotic and prone to strike out and his behavior then is not predictable.” Dr. Weldon noted that J.O. often could not be managed and required “frequent inpatient stabilization or locked ward.” Dr. Weldon also reported that J.O. was incapable of satisfying his needs for nourishment, clothing, essential medical care or shelter so that it was likely he would suffer physical injury, physical debilitation, or death within the reasonably foreseeable future.

We find J.O. has a serious mental impairment and the district court therefore properly dismissed J.O.'s petition for habeas corpus after concluding his restraint was legal.

AFFIRMED.