SJC-12863

MARCOS GARCIA vs. COMMONWEALTH.

Suffolk. December 7, 2020. - March 22, 2021.

Present: Budd, C.J., Gaziano, Lowy, Cypher, & Wendlandt, JJ.

Practice, Civil, Civil commitment, Moot case. Moot Question. Due Process of Law, Commitment, Substantive rights.

Civil action commenced in the Supreme Judicial Court for the county of Suffolk on October 16, 2019.

The case was considered by Kafker, J.

Elizabeth Hugetz, Committee for Public Counsel Services, for the petitioner.
Ryan J. Rall, Assistant District Attorney, for the Commonwealth.

LOWY, J. After a defendant has been found not criminally responsible by reason of mental illness, G. L. c. 123, § 16 (a), allows the trial judge to order that the defendant be hospitalized "at a facility" for forty days for observation and

examination.[1] If the defendant is male and the judge determines "that the failure to retain him in strict security would create a likelihood of serious harm by reason of mental illness, or other mental defect," the judge may order that the hospitalization occur at the Bridgewater State Hospital (Bridgewater). Id. Yet for defendants sent to a facility other than Bridgewater, § 16 (a) does not provide a standard to guide the judge's determination whether to temporarily commit for an examination.

After a jury-waived trial in October 2019, the defendant, Marcos Garcia,[2] was found not criminally responsible by reason of mental illness based on a February 2018 incident.[3] Immediately

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[1] If the defendant was hospitalized before trial under G. L. c. 123, § 15 (b), for an assessment of competency to stand trial or criminal responsibility, the combined periods of hospitalization under §§ 15 (b) and 16 (a) must not exceed fifty days. G. L. c. 123, § 16 (a).

[2] Although Garcia commenced this action by filing a petition in the county court, for convenience we refer to him as "the defendant."

[3] Although § 16 (a) refers to defendants found "not guilty by reason of mental illness or mental defect," we employ the terminology from our cases, which use variations of the term "not criminally responsible." See, e.g., Commonwealth v. DiPadova, 460 Mass. 424, 431 n.9 (2011) ("We use 'lacks criminal responsibility,' or 'criminal irresponsibility,' terms that derive from Commonwealth v. McHoul, 352 Mass. 544, 555 [1967] [McHoul], at times in this opinion as a shorthand for the more cumbersome text of the formal McHoul standard [i.e., 'as a result of mental disease or defect (lacking) substantial capacity either to appreciate the criminality (wrongfulness) of

after the trial concluded, and despite a lack of evidence that at the time of trial the defendant presented a risk of harm to himself or others, the judge nevertheless ordered him to be hospitalized pursuant to § 16 (a) at a facility for forty days for observation and examination.

For the reasons that follow, we conclude that the defendant's substantive due process rights were violated. Specifically, we hold that the clause of § 16 (a) referring to hospitalization "at a facility" (first clause) is unconstitutional when applied to the defendant, where he was found not criminally responsible and where there was insufficient evidence that he posed a current likelihood of serious harm.[4]

Background. The essential facts are uncontested. On February 28, 2018, the defendant was arrested following an incident occurring after he crashed his van while driving on Interstate Highway 495. When a passerby stopped to help, the defendant approached the passerby's car with a pickaxe and

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his conduct or to conform his conduct to the requirements of law']").

[4] We decide this case based on the narrow facts before us, where there is insufficient evidence in the record that would support a conclusion that the defendant posed a likelihood of serious harm. We therefore do not reach the issue of whether the statute also violates procedural due process. We are cognizant, though, that the statute raises procedural due process concerns. See part 3.b, infra.

attempted to enter the vehicle but was thwarted. When another driver stopped and got out of her Chevrolet Equinox, the defendant entered that vehicle and drove away. The defendant then struck the rear of a tow truck, as well as two additional vehicles, but continued driving. About five to seven miles down the road, the defendant crashed the vehicle and came to a stop. A nurse who was driving by stopped to assist the defendant, who was visibly injured. The defendant tried to kiss her hand and grabbed the door handle of her minivan, but he relented when she said her children were inside. The defendant then entered one of the cars involved in the crash and tried to drive away, but the car would not move. Officers arrived at the scene and eventually placed the defendant under arrest after firing a stun gun at him nine times. The pickaxe was recovered from inside the Chevrolet Equinox that the defendant had taken.

While in an ambulance en route to the hospital to treat his injuries, the defendant's demeanor changed. He became visibly upset and remorseful. He told the State police trooper who was accompanying him that he had been having mental health issues and had been living in the parking lot of the treatment center where he had been receiving help. He also told the trooper that he was driving because he thought someone was trying to kill him.

In August 2018, a Middlesex County grand jury returned a twelve-count indictment charging the defendant with two counts of armed carjacking and multiple related charges.[5] The defendant was held on bail from his arrest until his bail was reduced in December 2018, and he was released with the requirement that he wear a global positioning system monitoring bracelet. He remained out of custody until trial without issue. Once released, he participated in a nonresidential mental health program until the program closed in April 2019. At the time of trial, the defendant was on two different waiting lists to continue outpatient treatment, although he had not been able to access care due to long waiting lists at providers that accepted his insurance.

Before trial, the defendant was evaluated by two forensic psychologists. At the jury-waived trial on October 1, 2019, Dr. John Daignault testified for the defendant, and Dr. Andrea Buonaugurio testified on behalf of the Commonwealth. Both experts also submitted written reports to the court. Both

[5] Specifically, the defendant was charged with two counts of armed carjacking, G. L. c. 265, § 21A; two counts of carjacking, G. L. c. 265, § 21A; one count of assault by means of a dangerous weapon, G. L. c. 265, § 15B (b); one count of larceny of motor vehicle, G. L. c. 266, § 28; three counts of attempted larceny of a motor vehicle, G. L. c. 274, § 6; one count of leaving the scene after causing property damage, G. L. c. 90, § 24 (2) (a); one count of operating a motor vehicle to endanger, G. L. c. 90, § 24 (2) (a); and one count of resisting arrest, G. L. c. 268, § 32B.

experts opined that at the time of the incident, the defendant lacked criminal responsibility. At the conclusion of the trial, the judge found the defendant not guilty for lack of criminal responsibility.

Following that finding, the Commonwealth moved that the defendant be hospitalized for evaluation pursuant to G. L. c. 123, § 16 (a), and stated that depending on the results of that evaluation, it might move for a six-month commitment under § 16 (b). In anticipation that the defendant would be found not criminally responsible, the Commonwealth's expert, Dr. Buonaugurio, had testified at trial on the issue of "hospitalization" under § 16 (a).[6] Buonaugurio testified that the defendant did not currently present an "imminent risk of

[6] Although the language of § 16 (a) does not require a hearing regarding hospitalization before a judge temporarily commits someone, the judge here allowed testimony and argument concerning whether the defendant should be hospitalized under § 16 (a). Because the findings of both experts showed that a verdict that the defendant was not criminally responsible was likely, the judge allowed the evidence regarding hospitalization for purposes of § 16 (a) to be introduced during the criminal trial, instead of after the verdict. The defendant and the Commonwealth both assented to this procedure.

The defendant's expert, Dr. Daignault, did not testify on the issue of hospitalization, as he had not evaluated the defendant since April and June of 2018, whereas Dr. Buonaugurio's evaluation had occurred more recently, in July and August of 2019.

harm" to himself or others.[7] The judge did not explicitly discredit this conclusion, and it is unclear from the record exactly what he determined regarding the defendant's risk of future harm. He said, "[T]here's nothing in the record that gives me any comfort that this won't happen again," and "sooner or later, the combination of [a] lack of treatment and serious mental . . . illness [could lead] to a . . . horrendous situation with criminal conduct." The judge's findings appear to be based on Buonaugurio's testimony that the defendant was currently unmedicated and out of treatment, which were similar to the preconditions leading to his criminal conduct. The judge, over the defendant's objection, ordered that the defendant be hospitalized at a facility for forty days for observation and examination pursuant to § 16 (a).

The defendant filed a petition pursuant to G. L. c. 211, § 3, requesting relief from confinement. While the petition was pending, he was released from hospitalization because the § 16 (a) period had expired. The facility's forensic psychologist concluded that the defendant did not meet the

[7] Dr. Buonaugurio stated that, although the provision of § 16 (a) referring to "a facility" does not contain a standard, the practice was to import the standard from § 16 (b) requiring a likelihood of serious harm.

requirements for involuntary commitment. In total, the defendant was confined for forty-two days.[8]

Following his discharge, the defendant filed a motion to modify the relief sought in his petition, maintaining that he had an ongoing interest in the merits. A single justice of this court denied the defendant's petition, stating that the judge's hospitalization order under § 16 (a) did "not constitute an error of law or abuse of discretion." The defendant filed a timely notice of appeal, and his appeal was entered in this court.

Discussion. 1. Review under G. L. c. 211, § 3. A single justice faced with a G. L. c. 211, § 3, petition first decides whether, in his or her discretion, to review the substantive merits of the petition, and then if so, issues a decision on the merits. Commonwealth v. Fontanez, 482 Mass. 22, 24, 28 (2019). Here, the single justice exercised his discretion to reach the merits, holding that the trial judge's hospitalization order pursuant to § 16 (a) did not constitute an error of law or abuse of discretion. In reviewing the single justice's decision, we look to whether "the single justice abused his or her discretion or made a clear error of law" (citation omitted). Commonwealth

[8] It is not clear why the defendant was hospitalized for forty-two days; § 16 (a) allows hospitalization only for a period of forty days.

v. Ruiz, 480 Mass. 683, 685 (2018). Because the defendant raises an issue of law, we review the single justice's decision de novo.[9] See id.

2. Mootness. "Ordinarily, litigation is considered moot when the party who claimed to be aggrieved ceases to have a personal stake in its outcome." Matter of a Minor, 484 Mass. 295, 299 (2020), quoting Commonwealth v. Dotson, 462 Mass. 96, 98 (2012). Because individuals temporarily committed under § 16 (a) have a personal stake in litigating a wrongful temporary commitment, even after release from confinement, we conclude that appeals from an order pursuant to § 16 (a) are not moot.

"When considering other statutory provisions that allow involuntary civil commitment, we have determined that the continuing stigma of a potentially wrongful commitment alone sufficed to defeat a claim of mootness." Matter of a Minor, 484 Mass. at 299 (appeals from commitment orders under G. L. c. 123 § 35). See Pembroke Hosp. v. D.L., 482 Mass. 346, 351 (2019)

[9] The Commonwealth contends that the defendant's claim is not properly before this court because there is an adequate alternative remedy under G. L. c. 278, § 28, and because the defendant did not comply with the requirements of S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), after his appeal was entered in the full court. Because it is doubtful that the statute applies in these circumstances, and because in any event the single justice exercised his discretion to reach the merits of the petition, we do not address these contentions.

(same for appeals challenging involuntary commitment orders under G. L. c. 123, § 12); Matter of M.C., 481 Mass. 336, 343 (2019) (same for appeals challenging extensions of commitment orders under G. L. c. 123, § 16 [b]). A temporary commitment under § 16 (a), like other civil commitments, carries with it a stigma. Thus, the defendant has a surviving interest in the matter.

Moreover, even absent the defendant's surviving interest, "it is well established that cases involving the confinement of mentally ill persons present classic examples of issues that are capable of repetition, yet evading review, which thus warrant appellate review even after the confinement ends" (quotations and citation omitted). Pembroke Hosp., 482 Mass. at 351. Thus, we reach the merits of the case.

3. Due process. At the heart of this case is whether the defendant's involuntary hospitalization at a facility other than Bridgewater, as permitted by the first clause of G. L. c. 123, § 16 (a), violates due process.[10] There is no doubt that this

[10] We do not address the portion of § 16 (a) that allows a temporary commitment to Bridgewater, because that does contain a standard requiring a finding of present dangerousness ("failure to retain him in strict security would create a likelihood of serious harm by reason of mental illness, or other mental defect"). We also do not address the portion of § 16 (a) allowing temporary commitments of incompetent defendants, because such circumstances present different compelling interests. See Commonwealth v. Calvaire, 476 Mass. 242, 246

clause raises due process concerns. "The right of an individual to be free from physical restraint is a paradigmatic fundamental right." Matter of E.C., 479 Mass. 113, 119 (2018), quoting Commonwealth v. Knapp, 441 Mass. 157, 164 (2004). We have previously described a temporary hospitalization as short as three days under G. L. c. 123, § 12, as a "massive curtailment" of liberty (citation omitted). Newton-Wellesley Hosp. v. Magrini, 451 Mass. 777, 784 (2008) (patient involuntarily confined for eleven days was entitled to emergency hearing). Permitting a forty-day involuntary hospitalization, § 16 (a) necessarily implicates a fundamental right.

a. Strict scrutiny. The question, then, is whether the defendant's temporary commitment was narrowly tailored to a compelling government interest to satisfy strict scrutiny. See Knapp, 441 Mass. at 164 (when government action impairs fundamental right, that action must be "narrowly tailored to further a legitimate and compelling governmental interest").

We have held that certain temporary detentions satisfy due process when justified by compelling government interests such as protecting the public from harm, securing a defendant's

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(2017) (confinement of incompetent defendants under § 16 [f] "narrowly tailored to allow the Commonwealth some time to pursue the legitimate and proper purpose of prosecuting charged crimes, but not for a period of time longer than is reasonably necessary to ascertain the defendant's chances of regaining competency").

presence in court, or preserving the integrity of the judicial process. See, e.g., Knapp, 441 Mass. at 164-165 (temporary confinement before G. L. c. 123A sexually dangerous person commitment trial is narrowly tailored to compelling interest of protecting public from harm by persons likely to be sexually dangerous); Querubin v. Commonwealth, 440 Mass. 108, 114 (2003) (detention without bail of defendant who poses serious risk of flight permissible because securing defendant's presence at trial is "of fundamental importance to the basic functioning of the judiciary"); Paquette v. Commonwealth, 440 Mass. 121, 131 (2003), cert. denied, 540 U.S. 1150 (2004) (bail revocation following charge of crime committed while on release "narrowly tailored to further the Commonwealth's legitimate and compelling interests in assuring compliance with its laws[] and in preserving the integrity of the judicial process"); Mendonza v. Commonwealth, 423 Mass. 771, 780-781 (1996) (pretrial detention based on dangerousness under G. L. c. 276, § 58A, satisfies due process).

In the mental health context, it is unconstitutional to confine a nondangerous person against his or her will merely to provide treatment. See O'Connor v. Donaldson, 422 U.S. 563, 575 (1975) ("there is still no constitutional basis for confining such persons involuntarily if they are dangerous to no one and can live safely in freedom"); Williams v. Steward Health Care

Sys., LLC, 480 Mass. 286, 293 (2018). That a person may benefit from mental health treatment is not alone a sufficient basis to restrict his or her liberty. See O'Connor, supra. With this in mind, we conclude that the only potential compelling government interest justifying a temporary commitment under § 16 (a) of a person found not criminally responsible is to protect the individual and the community from harm.

Although the United States Supreme Court has noted that a not guilty by reason of insanity verdict[11] "certainly indicates dangerousness," Jones v. United States, 463 U.S. 354, 364 (1983), a "'not guilty by reason of insanity' verdict is backward-looking, focusing on one moment in the past, while commitment requires a judgment as to the present and future." Id. at 377 (Brennan, J., dissenting). Thus, the constitutional basis to detain an insanity acquittee evaporates when he or she is no longer dangerous. Foucha v. Louisiana, 504 U.S. 71, 77-78 (1992).[12]

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[11] When discussing United States Supreme Court cases, we use the terminology it employed, such as "not guilty by reason of insanity."

[12] We acknowledge that the United States Supreme Court has noted in dicta that "insanity acquittees may be initially held without complying with the procedures applicable to civil committees," Foucha, 504 U.S. at 76 n.4, even though the "acquittee is entitled to release when he . . . is no longer dangerous" (citation omitted), id. at 77. See Jones, 463 U.S. at 366 (hearing within fifty days of commitment after insanity

In this case, there was no constitutionally adequate justification to temporarily commit the defendant under § 16 (a). Because a fundamental right was implicated triggering strict scrutiny, the Commonwealth bears the burden of showing the restriction of liberty was narrowly tailored to a compelling government interest. Commonwealth v. Weston W., 455 Mass. 24, 26 (2009). Yet the Commonwealth's own expert testified that the defendant presented no risk of imminent harm at the time of trial. Moreover, prior to trial, the defendant had been at liberty for more than ten months without any issues.

While the judge did not explicitly reject the expert's conclusion, he appeared to think there was at least some likelihood of future harm, albeit a very nebulous one.[13] This conclusion appears to be based on the Commonwealth's expert's testimony that the defendant's current status of being

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acquittal assures acquittee "has prompt opportunity to obtain release if he [or she] has recovered"). We need not determine whether the defendant's temporary commitment was justified under Federal law in these circumstances. We base our holding on the "more emphatic" due process guarantees in arts. 1, 10, and 14 of the Massachusetts Declaration of Rights. See Mendonza, 423 Mass. at 780 (text and structure of arts. 1, 10, and 14 indicate they provide "more emphatic" due process protection than Federal Constitution).

[13] Specifically, the judge said, "sooner or later, the combination of [a] lack of treatment and serious mental . . . illness [could lead] to a . . . horrendous situation with criminal conduct."

unmedicated and out of treatment was similar to his circumstances prior to his criminal conduct.

Even if it was reasonable for the judge to reject the Commonwealth's own expert's uncontroverted testimony,[14] the paltry evidence of the defendant's likelihood of future dangerousness does not satisfy the Commonwealth's burden of showing a compelling government interest. See Commonwealth v. Bruno, 432 Mass. 489, 502-504 (2000) (temporary commitment under G. L. c. 123A, § 12 [e], constitutional because it was not based solely on prior criminal conduct, but rather on "sufficient showing" of "evidence before the court" that person was likely to commit future harm). Cf. Sharris v. Commonwealth, 480 Mass. 586, 602 (2018) ("A statute is not narrowly tailored to achieve a compelling government interest where the stated interest is not at stake"). The mere fact that the defendant was unmedicated and out of treatment, combined with prior criminal conduct, was not sufficient to show that he posed a likelihood of harm to himself or others sufficient to justify a massive

[14] We leave for another day whether expert testimony is required in § 16 (a) hearings. We note, however, that we have held that expert testimony is required for temporary commitments under G. L. c. 123A, § 12 (e), because "the predictive behavioral question of the likelihood that a person suffering from such a condition will commit a sexual offense, [is a matter] beyond the range of ordinary experience and require[s] expert testimony." Commonwealth v. Bruno, 432 Mass. 489, 511 (2000).

curtailment of his liberty. The judge's concern for the defendant and the community -- encapsulated by the statement "I don't feel comfortable letting him [go]" -- though understandable given the lack of guidance provided by the statute, is not a constitutionally adequate basis to restrict a defendant's liberty for forty days. Cf. Foucha, 504 U.S. at 82 (expert's testimony that "I don't think I would feel comfortable in certifying that he would not be a danger to himself or to other people" not constitutionally adequate basis for long-term commitment).

"[C]onfinement without legal justification is never innocuous" (citation omitted). Commonwealth v. G.F., 479 Mass. 180, 196 (2018). Thus, because there was not a constitutionally adequate finding of likelihood of future dangerousness, the defendant's substantive due process rights were violated.[15]

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[15] Nothing in our holding today is intended to affect the statutory scheme in G. L. c. 123, § 15. Under that section, a judge may order an evaluation of a defendant by a court clinician before trial if the judge doubts whether the defendant is competent to stand trial or criminally responsible by reason of mental illness (§ 15 [a] evaluation). That examination is typically brief and takes place in the court house or in a place where the defendant is being detained before trial. There is no separate and independent detention of the defendant for that purpose. After the § 15 (a) evaluation, the judge may then order that the person be involuntarily hospitalized for up to twenty days, for observation and a more detailed examination, if, based on the court clinician's evaluation, the court "has reason to believe that such observation and further examination are necessary in order to determine whether mental illness or

b. Looking forward. We decide the defendant's case based only on the narrow facts before us, where there was insufficient evidence to support a conclusion that the defendant posed a present likelihood of serious harm. Yet he has called our attention to a problem with broader implications: the first clause of § 16 (a) contains no standard. The Commonwealth asks us to read in a standard from other portions of the statute, while the defendant asks us to strike down the first clause of § 16 (a) entirely. We doubt whether our tools of statutory interpretation would allow us to follow the Commonwealth's proposed course, especially where legislative history suggests that the Legislature might not have intended to include a

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mental defect have so affected a person that he is not competent to stand trial or not criminally responsible." G. L. c. 123 § 15 (b).

Hospitalization under § 15 (b) is distinguishable from that under § 16 (a) for two reasons. First, it is narrowly tailored. By the time a hospitalization is ordered under § 15 (b), there already has been an initial evaluation under § 15 (a) and a determination based on it that the hospitalization is needed. Thus, only defendants for whom a longer period of observation and examination is needed will be hospitalized against their will. Second, there is a compelling government interest. Because the criminal case is ongoing, an evaluation under § 15 to determine the defendant's competency or lack of criminal responsibility is designed help ensure that a defendant is not tried while incompetent or found guilty when he or she lacks criminal responsibility. See Commonwealth v. Robidoux, 450 Mass. 144, 152 (2007) (subjecting incompetent defendant to trial would violate due process rights).

standard at all.[16] See Aime v. Commonwealth, 414 Mass. 667, 683-684 (1993) (declining to engage in "massive rewriting" of bail statute, especially where doing so would infringe on apparent legislative intent). These concerns loom over § 16 (a).

The Legislature may wish to address this point by amending § 16 (a) to include a legal standard to guide judges as to when they can order a temporary commitment for observation after a verdict of not criminally responsible. To satisfy substantive due process concerns, any change would need to reflect a compelling government interest, narrowly tailored. See Knapp,

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[16] The language in § 16 (a) has remained essentially unchanged since it was first enacted in the predecessor to the current G. L. c. 123 as part of the mental health reform act of 1970 (Reform Act). See St. 1970, c. 888, § 4. Prior to the Reform Act, defendants who were acquitted as not guilty by reason of insanity were subject to automatic indefinite civil commitments. Walker, Mental Health Law Reform in Massachusetts, 53 B.U. L. Rev. 986, 1008 (1973). In the years before the Reform Act, we issued two decisions calling into question the constitutionality of the prior law. See Commonwealth v. Druken, 356 Mass. 503 (1969); Rohrer, petitioner, 353 Mass. 282 (1967). In Rohrer, petitioner, supra at 285-286, we distinguished indefinite commitments from "temporary commitments for observation and diagnosis," implying that the latter did not necessarily require notice and a hearing to satisfy due process. See Druken, supra at 508.

"The Legislature is presumed to be aware of the prior state of the law as explicated by the decisions of this court" (citation omitted). Commonwealth v. Montarvo, 486 Mass. 535, 541 (2020). Thus, when the Legislature enacted the Reform Act, it may well have thought that a temporary commitment for observation and examination need not include the same due process protections as a longer-term commitment. The absence of a standard in the first clause of § 16 (a), then, may have been intentional.

441 Mass. at 164. Focusing on a present or future likelihood of serious harm -- and not solely the conduct that gave rise to the criminal charges -- would ensure that a genuine compelling government interest is at stake. Our substantive due process cases also detail a requirement that judges consider less restrictive means. See Matter of a Minor, 484 Mass. at 308-311 (requiring judge to find, by clear and convincing evidence, that there is no appropriate less restrictive alternative before granting G. L. c. 123, § 35, petition for substance use commitment).

Further, although we do not reach the issue of procedural due process, we note that any change to the statute would need to satisfy procedural due process as well. "'Procedural due process' requires that a statute or governmental action that has survived substantive due process scrutiny be implemented in a fair manner." Aime, 441 Mass. at 674, citing United States v. Salerno, 481 U.S. 739, 746 (1987). See Mathews v. Eldridge, 424 U.S. 319, 335 (1976). Aime is instructive. There, we noted that certain amendments to the bail statute did not contain procedures designed to "further the accuracy" of a judge's determination of dangerousness and thus "essentially grant[ed] the judicial officer unbridled discretion." Aime, supra at 682,

quoting Salerno, supra at 751.[17] Section 16 (a), as presently written, similarly appears to grant unfettered discretion to judges considering defendants who fall within the ambit of its first clause.

Conclusion. The matter is remanded to the county court for entry of a judgment allowing the defendant's petition pursuant to G. L. c. 211, § 3, and ordering that the Superior Court judge's order hospitalizing the defendant under § 16 (a) be vacated.

So ordered.

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[17] Among other absent procedural safeguards, the statute at issue in Aime, 414 Mass. at 681-682, did not state a required quantum of proof for the showing that an arrestee's release would endanger the community. If the Legislature were to choose to amend § 16 (a), it appears that clear and convincing evidence would satisfy the appropriate quantum of proof. We have condoned its use for other short-term detentions. See, e.g., Matter of G.P., 473 Mass. 112, 119-120 (2015) (G. L. c. 123, § 35, short-term substance use commitment); Mendonza, 423 Mass. at 784 (pretrial detention under G. L. c. 276, § 58A). Because "the length of time an involuntary commitment may last is key among the factors that may bear on the determination of what standard applies," Matter of G.P., supra at 119, the quantum of proof beyond a reasonable doubt required for longer-term commitments may not be necessary. See Commonwealth v. Nassar, 380 Mass. 908, 916 (1980) (G.L. c. 123, § 16 [b], commitments); Superintendent of Worcester State Hosp. v. Hagberg, 374 Mass. 271, 275-277 (1978) (G.L. c. 123, §§ 7, 8, commitments). Because either of these two standards appears to satisfy the Declaration of Rights, the choice is a quintessential legislative prerogative.