

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* DAVID ALLEN ANDERSON.

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PEOPLE OF MICHIGAN,  
  
Petitioner-Appellee,

UNPUBLISHED  
November 29, 2018

v

DAVID ALLEN ANDERSON,  
  
Respondent-Appellant.

No. 343861  
Lapeer Probate Court  
LC No. 18-038915-MI

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Before: O'BRIEN, P.J., and TUKEL and LETICA, JJ.

PER CURIAM.

Respondent appeals as of right the probate court's order for involuntary mental health treatment. We affirm.

Respondent's father initially filed a petition with the probate court for mental health treatment for respondent. The petition, however, listed an incorrect date of birth for respondent and did not list respondent's social security number. That same day, the probate court entered an order for a peace officer to take respondent to McLaren Lapeer Region Hospital to be hospitalized and medically examined. That evening, Kelly Coulter, a registered nurse at McLaren Lapeer Region Hospital, completed—but did not file—a second petition for mental health treatment. Coulter noted in the petition that a "clinical certificate by a physician or licensed psychologist taken within the last 72 hours" was attached, although at the time, none was attached. The next day, Dr. K.V. Mathew, a licensed psychiatrist, examined respondent. And on April 16, 2018, Dr. Shai Bosh, a licensed psychologist, examined respondent. Both diagnosed him with unspecified psychiatric disorder, determined that respondent required medical treatment, and recommended hospitalization. Later on April 16, the second petition for mental health treatment that was executed by Coulter was filed with the probate court and was accompanied by both clinical certificates.

On appeal, respondent argues that the probate court abused its discretion by committing him to involuntary medical treatment because the second petition was executed before the clinical certificates were executed and the initial petition failed to list his correct date of birth and social security number. We disagree.

This Court reviews a probate court’s dispositional rulings for an abuse of discretion and the factual findings that underlie a probate court’s decision for clear error. *In re Portus*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW2d \_\_\_ (2018) (Docket No. 337980); slip op at 3. “An abuse of discretion occurs when the probate court ‘chooses an outcome outside the range of reasonable and principled outcomes.’” *Id.*, quoting *In re Bibi Guardianship*, 315 Mich App 323, 329; 890 NW2d 387 (2016). A probate court commits clear error when a reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Portus*, \_\_\_ Mich App at \_\_\_; slip op at 3. And this Court reviews matters of statutory interpretation de novo. *Id.*

Respondent first argues that the probate court’s decision to commit him to involuntary medical treatment was an abuse of discretion because at the time that the second petition was executed, the clinical certificates had not yet been executed. We disagree.

Generally, probate proceedings that seek an order of involuntary mental health treatment under the Mental Health Code for an individual on the basis of mental illness are referred to as “civil commitment” proceedings. *Id.* The specific requirements for filing a petition for hospitalization are governed by MCL 330.1434, which provides, in relevant part:

- (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment.
- (2) The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.
- (3) Except as provided in subsection (7), *the petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, an affidavit setting forth the reasons an examination could not be secured shall also be filed. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate shall have been executed by a psychiatrist.*
- (4) Except as otherwise provided in subsection (7) and [MCL 333.1455], *a clinical certificate that accompanies a petition shall have been executed within 72 hours before the filing of the petition, and after personal examination of the individual. [Emphasis added.]*

Respondent’s challenge to the validity of the second petition stems from the fact that Coulter filled out the second petition before respondent was examined by the licensed psychiatrist and the licensed psychologist. Respondent argues that the petition failed to comply with the statutory requirements of MCL 330.1434(3) and (4), which require that the petition be accompanied by at least one clinical certificate that was executed not more than 72 hours before the petition is filed. However, respondent’s understanding of MCL 330.1434(3) and (4) is

flawed; there is no mandate that the petitioner fill out the petition form only after the clinical certificates are executed.

On April 13, 2018, Coulter filled out the second petition for hospitalization, but did not file it with the probate court. On April 14, 2018, Dr. Mathew examined respondent and completed a clinical certificate, which recommended hospitalization. On April 16, 2018, Dr. Bosh examined respondent and completed a clinical certificate, which also recommended hospitalization. The second petition was then filed with the probate court on April 16, 2018. Since the clinical certificates were executed within 72 hours before the second petition was filed and accompanied the second petition, the statutory requirements of MCL 330.1434(3) and (4) were satisfied.

Respondent also argues that the probate court's decision to commit him to involuntary medical treatment was an abuse of discretion because the initial petition lacked his correct date of birth and social security number. We disagree.

As an initial matter, respondent fails to acknowledge that the second petition correctly stated his date of birth and social security number. This is important because the probate court recognized that two petitions were filed—one by Coulter and another by respondent's father—and clarified, for the record, that the second petition contained correct information about respondent's date of birth and social security number. The probate court also determined that respondent's date of birth and social security number were irrelevant for the purposes of ruling on the second petition. Thus, the fact that the initial petition included incorrect, irrelevant information is of no consequence, especially because the probate court ruled on the second petition, which included respondent's correct date of birth and social security number.

Moreover, MCL 330.1434(2) only requires that the petition "contain facts that are the basis for the assertion." Respondent's date of birth and social security were clearly not the bases for the second petition; respondent's paranoid behavior, refusal to accept medical care and medication, and signs of harming himself and others were the reasons for asserting that respondent has a mental illness and should be hospitalized. The purpose of the petition hearing was to determine whether respondent was a person who required treatment pursuant to MCL 330.1401. MCL 330.1401, which defines the situations in which an individual constitutes a "person requiring treatment," only considers an individual's mental illness, mental impairment, and behavior associated with mental illness or mental impairment. The probate court found that there was clear and convincing evidence to order respondent's involuntary mental health treatment pursuant to MCL 330.1401(a) and (c). Thus, respondent's social security number and date of birth—correct or not—were irrelevant for the purposes of determining whether respondent required involuntary mental health treatment.

Affirmed.

/s/ Colleen A. O'Brien  
/s/ Jonathan Tukel  
/s/ Anica Letica