STATE OF MICHIGAN

COURT OF APPEALS

In re NICHOLAS MOSTAFA HEIDARISAFA.

CHAD WARD, L.M.S.W.,

Petitioner-Appellee,

and

JASON EGGERSTEDT,

Petitioner,

v

NICHOLAS MOSTAFA HEIDARISAFA, also known as NICHOLAS MOSTIFA HEIDARISAFA and NICHOLAS M. HEDARISAFA,

Respondent-Appellant.

UNPUBLISHED
March 11, 2021

No. 353582
Calhoun Probate Court
LC No. 2018-001115-MI

Before: MURRAY, C.J., and M. J. KELLY and RICK, JJ.

PER CURIAM.

In this civil commitment action, respondent appeals as of right the probate court's continuing order for mental health treatment. Because there are no errors warranting reversal, we affirm.

I. BASIC FACTS

This is respondent's third appeal regarding his civil commitment. In his first appeal, this Court set forth the following factual background:

> On February 26, 2018, police took respondent to Bronson Battle Creek Hospital following a welfare check at his residence. Respondent proceeded to threaten the lives of multiple officers and nurses, and while waiting to see a physician, respondent made several grandiose, paranoid, and persecutory comments. Respondent stated that he was going to start a war with Iran, that he had nuclear bombs, that he was the king of all religion, that Adolph Hitler was "out to get him," and that he had been tortured and raped by "satanic cops." Respondent then assaulted a security officer and, while being detained by police officers, proceeded to punch, kick, and bite at them.
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> Respondent was charged with two counts of resisting and obstructing a police officer and two counts of assault and battery, and ultimately found not guilty by reason of insanity. Following respondent's acquittal, Officer Jason Eggerstedt filed a petition in the probate court asking that respondent be involuntarily hospitalized because of his mental illness. The probate court granted that petition on December 6, 2018, ordering respondent to hospitalization at the Center for Forensic Psychiatry [CFP] for a period of no more than 60 days.
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> Prior to the expiration of the initial order for hospitalization, on January 10, 2019, Sabeena Abraham, a licensed master of social work [L.M.S.W.], filed a second petition for treatment that sought continued hospitalization. On January 15, 2019, an ATR [Alternative Treatment Report] was filed with the probate court by a hospital liaison. The liaison indicated that, at that point in time, there were no alternatives to hospitalization that could be recommended for respondent. The following day, the probate court held a hearing on the second petition for hospitalization.
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> Dr. Linda Marion testified at the hearing that respondent suffered from a schizoaffective disorder, that he presented symptoms of psychosis and significant mania, and that he suffered from bizarre delusions, thoughts of persecution, and auditory hallucinations. Dr. Marion testified that it could be reasonably expected that respondent would intentionally or unintentionally seriously physically injure himself or others as a result of his mental illness if he were to discontinue his treatment, and that without an order for continued hospitalization, respondent could be expected to discontinue his treatment and relapse. Dr. Marion further testified that respondent lacked insight into his mental illness, and that she was unsure as to whether respondent would be able to attend to his own basic physical needs if he were released from hospitalization. On the same day as the hearing, the probate court ordered continued involuntary hospitalization for a period of up to 90 days. [*In re Heidarisafa*, unpublished per curiam opinion of the Court of Appeals, issued September 12, 2019 (Docket No. 347600), pp 1-2.]

This Court affirmed the probate court's order continuing respondent's involuntary hospitalization. *Id*. at 4. Thereafter, Abraham filed a third petition to continue respondent's involuntary hospitalization on March 27, 2019, which was granted by the probate court and affirmed by this

Court on appeal.[1] On March 12, 2020, Chad Ward, L.M.S.W., petitioned the probate court for another continuing order for involuntary hospitalization. Following a hearing, the probate court granted Ward's petition, finding respondent continued to be a person requiring treatment under MCL 330.1401(1)(a) and (c).

II. PERSON REQUIRING TREATMENT

A. STANDARD OF REVIEW

Respondent argues the probate court erred by finding he was a person requiring treatment. We review the probate court's dispositional rulings for an abuse of discretion and the factual findings underlying its ruling for clear error. *In re Portus*, 325 Mich App 374, 381; 926 NW2d 33 (2018). "A probate court abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes." *In re Bibi Guardianship*, 315 Mich App 323, 329; 890 NW2d 387 (2016) (quotation marks and citation omitted). "A probate court's finding is clearly erroneous when a reviewing court is left with a definite and firm conviction that a mistake has been made, even if there is evidence to support the finding." *Id*. (quotation marks and citation omitted).

B. ANALYSIS

Before a probate court may order an individual to receive involuntary mental health treatment, it must find that the individual is "a person requiring treatment." *Portus*, 325 Mich App at 385. "A judge . . . shall not find that an individual is a person requiring treatment unless that fact has been established by clear and convincing evidence." MCL 330.1465. The mental health code defines a person requiring treatment three ways. See MCL 330.1401(1). Relevant to this appeal, only the definition in MCL 330.1401(1)(a) is pertinent. It defines a person requiring treatment as "[a]n individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation."

On appeal, respondent does not dispute that he has a mental illness. Instead, he contends that the February 2018 acts, which occurred approximately two years before the present hearing, were too remote to support a finding that he is a person requiring treatment under MCL 330.1401(a)(a). Yet, there is no language in the statute prohibiting a court from considering acts that occurred prior to a current involuntary hospitalization. Rather, the statutory language focuses on whether the acts—regardless of when they occurred—are "substantially supportive of the expectation" that the respondent can be reasonably expected within the near future to injure himself or others.

[1] *In re Heidarisafa*, unpublished per curiam opinion of the Court of Appeals, issued October 17, 2019 (Docket No. 348671), pp 2, 4.

Here, at the March 2020 hearing, Dr. Oris Christopher Newman, a psychiatrist who had been treating respondent since July 2019, testified that respondent had schizoaffective disorder, a substantial disorder of both thought and mood. Moreover, Dr. Newman testified that respondent could reasonably be expected to physically injure himself or others. Dr. Newman explained that based on the February 2018 incident it was

> evident that he easily could have been injured significantly by his altercation with police. Again, that was driven by paranoia, psychosis, and likewise he did injure the police officers. And, as I said, this is not who [respondent] is when he's not symptomatic, but symptoms of his illness cause this kind of behavior and these kind [sic] of experiences for him, and they do endanger him and others.

Dr. Newman explained that respondent understands he has a mental illness requiring medication, and respondent had been fully compliant with medications while hospitalized. However, Dr. Newman, who was admitted as an expert witness, testified that respondent "had difficulty with cannabis use in the community which is a very strong risk factor for resurgence of his issue." And, he opined that "the past history is more predictive of future behavior than—than his current statements however well intended and honest they are at this time." On the basis of Dr. Newman's testimony, the probate court found that respondent was a person requiring treatment. Thus, notwithstanding the remoteness of respondent's 2018 acts, the trial court credited Dr. Newman's testimony and found that respondent was a person requiring treatment under MCL 330.1401(1)(a). Because that finding was supported by the record, we are not left with a definite and firm conviction that a mistake has been made.[2]

Affirmed.

/s/ Christopher M. Murray
/s/ Michael J. Kelly
/s/ Michelle M. Rick

[2] Because a person need only qualify as a person requiring treatment under one clause of MCL 330.1401(1) to support an order for continuing mental health treatment, see MCL 330.1472a(1) and MCL 330.1401(1), we do not consider respondent's argument in regard to the probate court's finding as to MCL 330.1401(1)(c).