

STATE OF MICHIGAN
COURT OF APPEALS

In re LLB.

OFFICER JAMES BRITTON,

Petitioner-Appellee,

v

LLB,

Respondent-Appellant.

UNPUBLISHED

June 17, 2021

No. 355068

Marquette Probate Court

LC No. 20-034732-MI

Before: JANSEN, P.J., and M. J. KELLY and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals by right the probate court's order for mental health treatment. Because the probate court did not abuse its discretion by ordering that respondent could be placed into adult foster care, we affirm.

I. BASIC FACTS

Petitioner sought court-ordered mental health treatment for respondent after respondent was hospitalized following a suicide attempt. Respondent had been involved in Pathways counseling for approximately 17 months and during that time had seven hospitalizations for suicidal ideations and attempts. Respondent's Pathways therapist authored a report regarding alternative mental health treatment for respondent, and she concluded that respondent posed a very high risk of danger to herself. The therapist opined that independent living was no longer appropriate for respondent and recommended that she be placed in adult foster care. A board-certified psychiatrist diagnosed respondent with depression and agreed that she needed additional support to keep her stable. Respondent acknowledged that she needed inpatient treatment, but objected to being placed in adult foster care because she would lose her apartment, belongings, and nearness to her place of worship. Respondent testified that she would comply with alternative treatment plans.

The therapist identified two available alternative treatment programs at Pathways: one that offered daily check-ins and another that would encourage respondent to make healthy eating and exercise choices. However, respondent did not qualify for the first program and the therapist concluded that the second program would not be enough to clinically help respondent. The probate court ordered respondent to combined hospitalization and assisted outpatient treatment for no longer than 180 days, including no more than 60 days' hospitalization. The court also ordered that respondent would live in "Pathways approved housing." The court noted that it hoped Pathways could keep respondent in her home with services or direct case management because there was no adult foster care placement available at the time of the hearing. However, respondent was eventually placed in adult foster care.

II. INVOLUNTARY MENTAL HEALTH TREATMENT

A. STANDARD OF REVIEW

Respondent argues that the probate court abused its discretion by entering an order that allowed respondent to be involuntarily placed in adult foster care because the decision was not supported by a preponderance of the evidence. "This Court reviews for an abuse of discretion a probate court's dispositional rulings and reviews for clear error the factual findings underlying a probate court's decision." *In re Portus*, 325 Mich App 374, 381; 926 NW2d 33 (2018) (quotation marks and citation omitted). "An abuse of discretion occurs when the probate court chooses an outcome outside the range of reasonable and principled outcomes." *Id.* (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). A probate court's determinations regarding an individual's treatment and placement must be supported by a preponderance of the evidence. *Id.* at 393.

B. ANALYSIS

The Mental Health Code, MCL 330.1001 *et seq.*, provides for a probate court to order involuntary mental health treatment for a person that requires treatment. MCL 330.1469a provides that before ordering hospitalization, a court must review a statutorily-required report regarding alternatives to hospitalization to

(a) Determine whether a treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent harm that the individual may inflict upon himself or herself or upon others within the near future.

(b) Determine whether there is an agency or mental health professional available to supervise the individual's treatment program.

(c) Inquire as to the individual's desires regarding alternatives to hospitalization.

If the court determines that there is an alternative treatment program that satisfies these requirements, the court must issue an order for assisted outpatient treatment, with or without combined hospitalization. MCL 330.1469a(2).

In this case, respondent agrees that she required mental health treatment, and it is undisputed that the therapist authored an alternative mental health treatment for respondent that concluded that adult foster care placement would be appropriate. Nevertheless, respondent argues that the probate court's decision to allow her to be placed in adult foster care was not supported by a preponderance of the evidence. We disagree.

The record reflects that respondent had been hospitalized at least seven times for suicidal ideations over the course of 17 months despite ongoing treatment at Pathways. Respondent's therapist concluded that because of respondent's history and behavior, independent living was not appropriate for her, but adult foster care placement would provide respondent with support. The therapist made it clear that alternative programs were either unavailable or not enough to protect respondent. Respondent's treating psychiatrist shared similar concerns about respondent's outpatient compliance and agreed that respondent needed additional community support. Although the probate court expressed hope that Pathways could keep respondent in her home with services, it did not suggest that adult foster care placement was unsupported by the evidence. Further, although respondent did not want to be placed in adult foster care and indicated that she would participate in available programs, respondent repeatedly demonstrated that she posed a danger to herself. Therefore, the probate court's determination that respondent should live in Pathways-approved housing, including placement in adult foster care, was supported by a preponderance of the evidence and the probate court did not abuse its discretion.

Affirmed.

/s/ Kathleen Jansen
/s/ Michael J. Kelly
/s/ Amy Ronayne Krause