

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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*In re* SHANE W. GILLETTE.

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UNPUBLISHED  
August 12, 2021

MARY HOLBROOK,

Petitioner-Appellee,

v

SHANE W. GILLETTE,

Respondent-Appellant.

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No. 355879  
Bay Probate Court  
LC No. 19-007960-MI

Before: SAWYER, P.J., and BOONSTRA and RICK, JJ.

PER CURIAM.

Respondent appeals by right the probate court’s continuing order for involuntary mental health treatment. We affirm.

I. BACKGROUND

Respondent has been diagnosed with schizophrenia. In June 2019, a registered nurse filed a petition to compel mental health treatment for respondent, alleging that he suffered from delusions, denied having a mental illness, and had a history of assaultive conduct. The court ordered 180 days of outpatient treatment. In November 2019, a second petition for mental health treatment was filed alleging that respondent continued to deny having a mental illness and that he became agitated with his prescriber. The court ordered respondent to undergo supervised outpatient treatment for one year. In November 2020, a petition was filed requesting a continuing mental health treatment order.

At the hearing on the most recent petition, a doctor who was received as an expert in psychiatry testified that respondent suffered from thought disorganization, agitation, and delusions. The doctor testified that respondent did not pose a threat of harm to anybody at that time because his illness was being well-managed by quarterly injections. The doctor testified that if respondent went off of his medication then his illness would return “with a vengeance.” The

nurse practitioner who was responsible for respondent's care testified that respondent did not believe that he was mentally ill and that respondent had told her multiple times that he intended to stop undergoing his treatment if he was released from the court order. Respondent testified that he did not believe he was mentally ill but that he would nonetheless continue taking the medication without the court order. The court found that respondent suffered from schizophrenia and that he was likely to cease treatment if the court order was lifted. Accordingly, the court granted the petition and ordered continuing mental health treatment.

## II. DISCUSSION

Respondent argues that the trial court clearly erred by finding that respondent was a person requiring treatment. We disagree.

We review for an abuse of discretion a probate court's dispositional rulings and review for clear error the factual findings underlying a probate court's decision. *In re Portus*, 325 Mich App 374, 381; 926 NW2d 33 (2018). "An abuse of discretion occurs when the probate court chooses an outcome outside the range of reasonable and principled outcomes." *Id.* (cleaned up). "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.* (cleaned up). We review de novo issues of statutory interpretation. *Id.*

The Mental Health Code, MCL 330.1001 *et seq.*, contains the specific procedures for obtaining continuing orders for involuntary mental health treatment on the basis of an individual's mental illness. *Id.* at 382. See MCL 330.1400 to MCL 330.1490. The probate court cannot enter a continuing order for involuntary mental health treatment unless it first finds that the respondent "continues to be a person requiring treatment . . . ." MCL 330.1472a(4); see also *Portus*, 325 Mich App at 385. "A judge or jury 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. MCL 330.1401(1)(c) defines a "person requiring treatment," in pertinent part, as follows:

An individual who has mental illness, whose judgment is so impaired by that mental illness, and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.

We conclude that clear and convincing evidence supported the probate court's finding that respondent was a "person requiring treatment" as defined by MCL 330.1401(1)(c). An expert in psychiatry testified that respondent suffered from schizophrenia. Respondent testified that he did not believe that he actually had schizophrenia. The nurse practitioner testified that respondent had told her that he did not have schizophrenia. Respondent testified that he would continue to take the medication without a court order. However, the nurse practitioner testified that respondent had stopped taking his medication twice before, that respondent told her that he did not need medication, and that she believed he would stop taking the medication without a court order. This Court defers "to the probate court on matters of credibility, and will give broad deference to findings made by the probate court because of its unique vantage point regarding witnesses, their

testimony, and other influencing factors not readily available to the reviewing court.” *Portus*, 325 Mich App at 397 (cleaned up).

Respondent argues that petitioner failed to establish by clear and convincing evidence that respondent presented “a substantial risk of significant physical or mental harm” to himself or others, as is required by the statute. MCL 330.1401(1)(c). When asked if respondent was “harmful to himself or others,” the doctor testified that, at the time of the hearing, respondent was not dangerous because he was taking his medication. The doctor testified that schizophrenia patients tend to have very severe relapses when treatment is interrupted and that this would often involve hospitalizations, incarcerations, and harm to the patient or others. Respondent argues that the trial court erred by relying on testimony from a doctor who never met respondent in person and had not spent significant time interacting with him. However, this is an issue of credibility, and we defer to the trial court on issues of credibility. *Portus*, 325 Mich App at 397.

Respondent raises a second issue alleging that the court abused its discretion by ordering treatment for a patient who had complied with past court orders. However, the crux of respondent’s argument is a rehash of his challenge concerning the court’s findings of fact. Respondent argues that the court abused its discretion by ordering treatment because there was not clear and convincing evidence that respondent was a person requiring treatment. Because we reject respondent’s first argument, we must also reject this one.

Affirmed.

/s/ David H. Sawyer  
/s/ Mark T. Boonstra  
/s/ Michelle M. Rick