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NO. COA12-148
NORTH CAROLINA COURT OF APPEALS

Filed: 17 July 2012

In the Matter of: Wake County
George Murrow No. 11-580

Appeal by Respondent from judgment entered 11 August 2011 by Judge James R. Fullwood in Wake County District Court. Heard in the Court of Appeals 5 June 2012.

*Parker Poe Adams & Bernstein, LLP, by Renee J. Montgomery and Matthew W. Wolfe, for Petitioner-appellee, Holly Hill Hospital.*¹

Appellate Defender Staples Hughes, by Assistant Appellate Defender Kristen L. Todd, for Respondent-appellant.

HUNTER, JR., Robert N., Judge.

¹ Although N.C. Gen. Stat. § 122C-272 provides that the State's interest is to be represented by the Attorney General in appeals from judgments ordering involuntary commitment, the record discloses that the State was not involved in this proceeding in the district court and apparently neither Respondent nor Holly Hill Hospital served notice of the appeal on the State. Thus, the State did not participate, and the issue of its non-participation was not raised in this appeal.

George Murrow ("Respondent") appeals from an involuntary commitment order. Respondent argues the district court erred by failing to record supporting facts for the court's finding that Respondent was mentally ill and dangerous to himself and others. We agree and reverse.

I. Factual & Procedural Background

On 3 August 2011, Respondent's mother petitioned for Respondent's involuntary commitment. Respondent's mother claimed that Respondent "had a psychotic break 6 weeks [before August 2011]" while in California and was "a danger to himself." Respondent was examined by two physicians who both recommended commitment, noting Respondent had "paranoid thoughts," that he "denies problems," and that his "family feels [he is a] danger to himself." A commitment hearing was held on 11 August 2011 in Wake County District Court, the Honorable James R. Fullwood, presiding. Petitioner's evidence tended to show the following.

Respondent's father testified that after graduating from the University of North Carolina at Chapel Hill, Respondent enrolled in a PhD program at the University of Utah but was later removed after showing signs of psychological problems including paranoia. Respondent's father testified that Respondent then worked as a lab assistant and later at a

restaurant in Salt Lake City, Utah but lost both jobs. By 1 January 2011, Respondent was sleeping in his car in San Diego, California. According to Respondent's father, Respondent called him for money. Respondent's father testified that he received a phone call from the San Diego police department about Respondent. Respondent's father asked the police to seek medical treatment for his son but they did not. He testified that Respondent "started driving up the coast of California, filing stalking reports with police departments," including in Monterrey and San Francisco. Respondent's father received calls from police in both Monterrey and San Francisco. According to Respondent's father, Respondent told his father that he was taken by police to a San Francisco area hospital and involuntarily admitted for six weeks.

Respondent's father testified that he went to California and stayed with Respondent during the six week hospitalization. Discharged in March 2011, Respondent returned to North Carolina to live with his father. Respondent's father testified that Respondent briefly went to a program but did not follow the instructions given to him by his doctors. Several weeks after being discharged, Respondent overdosed on prescription drugs and was taken to Lake Norman Hospital. On release, Respondent again

showed signs of paranoia. Respondent's father testified that Respondent printed articles at the local library about cyberstalking, experiments on humans, and research from the Secretary of the Navy regarding such experimentation. Respondent called his father one afternoon "panicked" that they "needed to change the password on [their] wireless router because [their] password had been compromised."

On 3 August 2011, Respondent told his father that he was leaving and would not return. Respondent packed his backpack and started walking down the road. Respondent's father testified that he followed Respondent in his car to a "homeless tent camp," five miles from Respondent's father's house, trying to get Respondent to go home with him. Respondent's father confronted Respondent in the camp but left "realizing that this was a very bad place to be[.]" Respondent's father testified that while at the tent camp, Respondent left his backpack, put on his bathing suit, and went swimming in a nearby lake. Respondent's father testified that Respondent "had a real naive feeling about being there. It was like he had arrived [at] Boy Scout camp and checked in." Respondent's father called the Sheriff's department; the Sheriff, four deputies, and a police dog were used to apprehend Respondent and remove him from the

camp. The Sheriff's department then took Respondent to Davis Hospital in Statesville and involuntarily admitted him.

Respondent's father testified that during a normal conversation with Respondent at Davis Hospital, Respondent became violent, would not stop shouting obscenities, covered the camera in his room so he could not be observed, and started throwing things, including trays, tables, and chairs around the room. Respondent was then transferred to Holly Hill Hospital.

Respondent was examined by a psychiatrist, Dr. Thomas Jones, for three consecutive days beginning on 8 August 2011. Dr. Jones testified Respondent was originally admitted due to a concern about "general paranoid ideation that was interfering with important functions in his life and making basic decisions about safety." Dr. Jones testified Respondent had "delusions" and Respondent believed "people were out to get him." At times, Respondent had taken "benzodiazepines for anxiety and stimulant medications, amphetamines, for ADHD." According to Dr. Jones, taking these drugs would increase Respondent's suspiciousness and make his condition worse. Respondent "was very angry that he was not getting benzodiazepines" while at Holly Hill Hospital, "pounding his fists and saying some things in a threatening manner."

Instead, Dr. Jones prescribed an anti-psychotic, Zyprexa, to reduce Respondent's suspiciousness. Dr. Jones testified that Respondent was clear that he did not want anti-psychotic medications because he felt they were harmful and made him more depressed. Dr. Jones stated that they waited one day for Respondent to agree to take Zyprexa and then forcefully administered it by injection. According to Dr. Jones, Respondent would not take any anti-psychotics if released from the hospital. Dr. Jones testified that, as of the time of the hearing, the medication had not had sufficient time to show its effectiveness.

Dr. Jones also testified that Respondent "presents quite well," and he is "an intelligent, thoughtful person" who has "many strengths" and "can do quite well at times." Dr. Jones stated that Respondent "has a side of him that's very sensitive to people's feelings" and has "many positive qualities." According to Dr. Jones, Respondent was "very sharp" and "articulate."

At the hearing, Respondent's evidence tended to show the following. Respondent testified he continued to receive psychiatric treatment after leaving the hospital in San Francisco. He testified he would not take any anti-psychotic

medications because they made him depressed and suicidal, but he would take other prescribed medications. Respondent stated that his previous drug overdose was based on a misunderstanding of the appropriate dosage.

Respondent testified that he met with Dr. Jones for a total of thirty minutes over two days. Though he had offers to stay with his parents or his friends, Respondent testified that he preferred to stay at a homeless shelter "as an adventure" because it was "the best way to adhere to my values and achieve my happiness." Finally, Respondent testified that he had attention deficit disorder and anxiety.

At the close of the evidence, the district court determined Respondent had a mental illness and there existed "a rational inference, clear, cogent, and convincing, [that Respondent was] dangerous to self or others." The district court ordered Respondent to complete fourteen days inpatient and 76 days outpatient commitment. On the involuntary commitment order, Judge Fullwood provided only these supporting facts: "THE RESPONDENT CONTESTS COMMITMENT. THE RESPONDENT IS MENTALLY-ILL, A DANGER TO SELF/OTHERS, AND IN NEED OF TREATMENT." Respondent entered timely notice of appeal.

II. Jurisdiction

As Defendant appeals from the final judgment of a district court, an appeal lies of right with this Court pursuant to N.C. Gen. Stat. § 7A-27(c) (2011).

III. Analysis

Respondent argues the district court erred by failing to record sufficient supporting facts for the court's ultimate finding that Respondent was mentally ill and dangerous to himself and others. We agree.

N.C. Gen. Stat. § 122C-268(j) (2011) provides that "[t]o support an inpatient commitment order, the court shall find by clear, cogent, and convincing evidence that the respondent is mentally ill and dangerous to self . . . or dangerous to others. . . . The court shall record the facts that support its findings." The findings that the Respondent is mentally ill and dangerous to himself or others are not conclusions of law but instead are "findings of the ultimate facts." *In re Hogan*, 32 N.C. App. 429, 433, 232 S.E.2d 492, 494 (1977). The question then becomes "whether the court's *ultimate findings* [of fact] are indeed supported by the 'facts' which the court recorded in its order as supporting its findings." *Id.* (emphasis added). Where insufficient supporting facts are recorded by the trial court, this Court "must reverse the trial court's order." *In re*

Booker, 193 N.C. App. 433, 437, 667 S.E.2d 302, 304 (2008) (reversing a commitment order because the facts that the respondent "was a 56 year old white male, with history of alcohol abuse/dependence, admitted with manic episode . . . [who] [c]ontinues to be symptomatic with limited insight regarding his illness . . . are insufficient to support the trial court's determination that [the r]espondent was dangerous to himself and to others" (quotation marks omitted) (third alteration in original)).

Here, the trial court's ultimate findings of fact are that the Respondent "is mentally ill" and "is dangerous to self" and "others." However, the district court did not record in its order sufficient facts to support these ultimate findings as required by N.C. Gen. Stat § 122C-268(j). The district court wrote only that Respondent "CONTESTS COMMITMENT" and "IS MENTALLY ILL, A DANGER TO SELF/OTHERS, AND IN NEED OF TREATMENT," and, therefore, based on this Court's clear precedent, we reverse.

IV. Conclusion

For the foregoing reasons, the district court's order is Reversed.

Chief Judge MARTIN and Judge ELMORE concur.

Report per Rule 30(e).