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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-171

Filed: 15 November 2016

Mecklenburg County, No. 15SPC4646

IN THE MATTER OF: M.C.

Appeal by respondent from order entered 5 August 2015 by Judge David Strickland in Mecklenburg County District Court. Heard in the Court of Appeals 25 August 2016.

*Attorney General Roy Cooper, by Assistant Attorney General Josephine N. Tetteh, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender David W. Andrews, for respondent-appellant.*

DIETZ, Judge.

Respondent appeals from the trial court's involuntary commitment order. She argues that the trial court's order fails to contain sufficient findings of fact to establish that she was dangerous to herself or others, and that the court's findings are not supported by the record. As explained below, the trial court made findings that Respondent suffered from a serious mental illness, that she wandered into a neighbor's home late at night, and that she exhibited odd behavior. These findings are supported by testimony and evidence in the record and they are sufficient to support the trial court's determination that Respondent posed a danger to herself.

Even if Respondent was not a threat, her unusual behavior, lack of awareness, and tendency to wander uninvited into the homes of others creates a substantial risk that she will be seriously injured, thus satisfying the statutory criteria for involuntary commitment. Accordingly, we affirm the trial court's order.

### **Facts and Procedural History**

On 30 July 2015, Jennifer Bradford, Respondent's neighbor and long-time friend, filed a petition for Respondent's involuntary commitment after becoming alarmed by Respondent's behavior. In a sworn affidavit accompanying the petition, Ms. Bradford testified that:

Respondent has been diagnosed as paranoid schizophrenic. She has been hospitalized for this problem several times over the last ten years, the most recent being last month. Respondent walks around her neighborhood and will walk into people's houses uninvited. Respondent appears agitated and anxious when talking to others. She refuses to take prescribed medication. She has tried to take other people's children. Neighbors are concerned for her safety and the safety of the neighborhood children.

The same day, Respondent was transported to an inpatient treatment facility and evaluated by a physician, who opined that Respondent was dangerous to herself and recommended 30 days of inpatient commitment. The evaluation noted that Respondent has a past diagnosis of schizophrenia, "has been wandering her neighborhood trying to get into her neighbor's homes," and "has not taken her prescribed medications or followed up with outpatient" treatment following her

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recent discharge from an inpatient treatment facility. The evaluation further noted that the physician had “trouble completing the interview due to [Respondent’s] irritable mood and paranoia” and that Respondent “[n]eeds further evaluation.”

On 31 July 2015, Respondent had a second evaluation with another physician, Dr. Ervin Thompson. Dr. Thompson made the following observations in his report:

On exam today, [Respondent] is flat, speaks in monotone, is avoidant of issues about threats prior to admission and blames her roommate for patient having to be in the hosp[ital]. She has an est. dx of schizoaffective disorder and numerous hosp. adm’n. Needs treatment to get stabilized.

On 4 August 2015, Dr. Thompson again evaluated Respondent. Dr. Thompson indicated in his evaluation that Respondent would become “capable of surviving safely in the community with available supervision”; “based upon the respondent’s treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3(11)”; and “the respondent’s current mental status or the nature of [her] illness limits or negates his/her ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment.” Dr. Thompson noted that Respondent “denies all allegations,” “claims she has no psych. problems,” “appears paranoid by refusing to answer most questions,” spoke in “an odd robot-like tone of voice,” and “appears to be covering over underlying psychotic processes.”

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On 5 August 2016, the trial court held a hearing on the involuntary commitment petition. Ms. Bradford, Dr. Thompson, and Respondent testified at the hearing.

Following the hearing, the trial court ordered Respondent to 14 days of involuntary inpatient commitment as well as 90 days of outpatient treatment. The trial court's order contained the following findings:

Respondent wandered into neighbor's home late at night and has demonstrated odd/unusual behavior. No insight into illness and has had 4 admissions in last 6 months. Takes oral medication and then quits taking meds upon her release. Petitioner has known her for 15 years and has seen various stages of deterioration with the respondent. Her odd behavior and high anxiety have led her to contact the authorities in this matter.

Based on those findings, the court determined that Respondent was dangerous to herself and others. Respondent timely appealed.

**Analysis**

Respondent argues that the trial court's findings of fact are insufficient to support its determination that Respondent is dangerous to herself or others, and that the court's findings are not supported by the record. As explained below, we hold that the trial court's findings are supported by the record and those findings, in turn, support its determination that Respondent posed a danger to herself.

We first note that Respondent's appeal is not moot despite the expiration of the period of involuntary commitment ordered by the trial court. Our Supreme Court

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has held that such an appeal from a commitment order is not moot due to “[t]he possibility that respondent’s commitment in this case might likewise form the basis for a future commitment, along with other obvious collateral legal consequences.” *In re Hatley*, 291 N.C. 693, 695, 231 S.E.2d 633, 635 (1977).

In an involuntary commitment order, a trial court is required to find two distinct facts by clear, cogent, and convincing evidence: (1) that the respondent is mentally ill; and (2) that she is dangerous to herself or others. *In re Lowery*, 110 N.C. App. 67, 71, 428 S.E.2d 861, 863-64 (1993); N.C. Gen. Stat. § 122C-268(j). “These two distinct facts are the ‘ultimate findings’ on which we focus our review.” *In re W.R.D.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 790 S.E.2d 344, 347 (2016). “But unlike many other orders from the trial court, these ‘ultimate findings,’ standing alone, are insufficient to support the order; the involuntary commitment statute expressly requires the trial court also to record the facts upon which its ultimate findings are based.” *Id.*

To find danger to self under our involuntary commitment statutes, the trial court must find facts sufficient to show a reasonable probability that the Respondent will suffer “serious physical debilitation within the near future” without involuntary commitment. N.C. Gen. Stat. § 122C-3(11)(a). Evidence of “behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired

insight and judgment shall create a prima facie inference that the individual is unable to care for himself.” *Id.*

Here, the trial court made three findings relevant to Respondent’s dangerousness to herself: (1) that “Respondent wandered into neighbor’s home at night,” (2) that Respondent “demonstrated odd/unusual behavior,” and (3) that Respondent refuses to acknowledge her mental illness and “quits taking meds upon her release” from in-patient mental treatment.<sup>1</sup>

The findings concerning Respondent wandering into a neighbor’s home and exhibiting unusual behavior are sufficient to support involuntary commitment based on dangerousness to self. This behavior demonstrates the sort of impaired insight and inability to control her actions that requires commitment. Wandering onto other people’s property, particularly late at night and while susceptible to bouts of odd behavior, creates a substantial risk that Respondent could be harmed, even if she poses no actual threat herself. Thus, the court’s findings demonstrate that there is a “reasonable probability” that Respondent will suffer serious injury without treatment

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<sup>1</sup> The trial court also incorporated by reference Dr. Thompson’s report. The involuntary commitment statute provides that “[t]he Court shall record the facts that support its findings.” N.C. Gen. Stat. § 122C-268(j). This Court has previously indicated that this statutory provision permits the trial court to incorporate by reference other documents as part of its findings and that both the incorporated doctor’s report and the trial court’s own findings will be considered in determining the sufficiency of the findings of fact. *In re Webber*, 201 N.C. App. 212, 225, 689 S.E.2d 468, 477 (2009). However, we find that the trial court’s findings, without considering the report, are sufficient to support the commitment order.

and thus meets the criteria for involuntary commitment as a danger to herself. N.C. Gen. Stat. § 122C-3(11)(a).

The court's findings also are supported by evidence in the record. Jennifer Bradford, Respondent's friend and neighbor, filed an affidavit with the petition for involuntary commitment stating that "Respondent walks around her neighborhood and will walk into people's houses uninvited" and "has tried to take other people's children." At the hearing, Ms. Bradford testified that Respondent "roams the streets late at night." Ms. Bradford also described other irrational behavior by Respondent and observed that Respondent's mental state seemed to have deteriorated and that recently, when Respondent failed to take her medication, her behavior was particularly unusual.

Dr. Thompson testified that while examining Respondent, she displayed "abnormal behavior" and "lack[s] any awareness of her behavior." Dr. Thompson concluded that Respondent "is dangerous by virtue of impairment in her judgment as a result of her psychotic state so that she places herself in dangerous positions and possibly could be harmed." This testimony and evidence supports the trial court's findings in its commitment order.

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In sum, we hold that the trial court's findings are supported by the record, and that those findings support the trial court's determination that Respondent was dangerous to herself. Accordingly, we affirm the trial court's commitment order.<sup>2</sup>

**Conclusion**

We affirm the trial court's order.

AFFIRMED.

Judges HUNTER, JR. and McCULLOUGH concur.

Report per Rule 30(e).

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<sup>2</sup> Because we affirm the trial court with respect to Respondent's dangerousness to herself, we need not address the trial court's additional finding that Respondent was dangerous to others. *See In re Moore*, 234 N.C. App. 37, 45, 758 S.E.2d 33, 38 (2014).