IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-164

Filed: 2 July 2019

Burke County, No. 18 SPC 50079

IN THE MATTER OF:

K.W.

Appeal by respondent from order entered 17 August 2018 by Judge Clifton Smith in Burke County Superior Court. Heard in the Court of Appeals 5 June 2019.

Attorney General Joshua H. Stein, by Assistant Attorney General M. Elizabeth Guzman, for the State.

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

YOUNG, Judge.

Respondent ("K.W.") appeals from the trial court's order of involuntary commitment which committed him to Broughton Hospital for 100 days. We affirm the trial court's order.

I. Factual and Procedural Background

On 13 April 2018, Dr. O'Connell of Central Prison filed an affidavit and petition for involuntary commitment of K.W. The same day, K.W. was taken to Broughton Hospital for a 90-day commitment. Previously, K.W. was diagnosed with schizophrenia while imprisoned at Central Prison. He was serving a 12-year sentence for a second-degree murder conviction. Following the 90-day commitment, the trial court set a rehearing for 17 August 2018.

At the hearing, K.W. testified that his real identity was Brandon Bernard Holcomb and that he worked for the DEA. He also acknowledged that he had been imprisoned at Central Prison and that he was taking medication while at Broughton Hospital. At the same hearing, Dr. Berkowski, K.W.'s psychologist, testified that K.W. was a high risk for "both serious violence and other aggressive acts," if released into the community. K.W. had attempted suicide twice and banged his head to the extent that he needed medical attention. Dr. Berkowski also testified that K.W. made threats against his father and had attempted to kill his mother. The trial court found that K.W. was mentally ill and dangerous to himself and others. He was committed to Broughton Hospital for 100 days. Following the trial court's order, K.W. filed a written appeal.

II. Standard of Review

This Court reviews the trial court's commitment order to determine whether the ultimate finding concerning the respondent's danger to self or others is supported

by the court's underlying findings, and whether those underlying findings, in turn, are supported by competent evidence. *See In re Booker*, 193 N.C. App. 433, 437, 667 S.E.2d 302, 304-5 (2008). To support an involuntary commitment order, the trial court is required to "find two distinct facts by clear, cogent, and convincing evidence: first, that the respondent is mentally ill, and second, that he is dangerous to himself or others." *In re Lowery*, 110 N.C. App. 67, 71, 428 S.E.2d 861, 863-4 (1993); N.C. Gen. Stat. § 122C-268(j) (2017).

III. Analysis

Respondent contends that the trial court erred when it involuntarily committed him because the court's ultimate finding that K.W. was a danger to himself was not supported by underlying findings. As explained below, we disagree.

Under N.C. Gen. Stat. § 122C-3(11)(a)(1)(I) (2017), a respondent is a danger to himself if he would be

> unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety.

Additionally, a respondent is a danger to himself if

> there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given . . . ; or the individual has attempted suicide or threatened suicide and there is a reasonable probability of suicide unless adequate treatment is given . . . ; or the individual has mutilated himself or attempted to mutilate himself and there is a reasonable probability of serious self-

> mutilation unless adequate treatment is given . . . Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

N.C. Gen. Stat. § 122C-3(11)(a)(1)(II)-(3).

Respondent argues that the trial court failed to show supporting evidence that his conduct created a reasonable probability of serious physical debilitation unless adequate treatment was provided. However, the commitment order notes that K.W. would not take his medication if he was not forced to do so and that he has attempted suicide by stabbing himself and running into traffic. Although there is no mention of the frequency of his suicide attempts, the psychiatrist's reported findings are sufficient to create an inference of a reasonable probability of suicide or serious physical debilitation unless K.W. continued to receive adequate treatment. Furthermore, the psychiatrist's report was incorporated by reference into the order. In the report, she notes that K.W. was delusional, had extreme paranoia, and had no insight into his illness. These findings are sufficient to support the court's ultimate finding that K.W. was a danger to himself. Therefore, the court did not err in its ultimate finding that K.W. was a danger to himself.

Where the Court held there was sufficient evidence to conclude that K.W. was a danger to himself, this Court need not address his other argument, regarding danger to others, because the statute only required proof that he was a danger to himself *or* others. *In re Moore*, 234 N.C. App. 37, 45, 758 S.E.2d 33, 38 (2014).

AFFIRMED.

Judges MURPHY and TYSON concur.

Report per Rule 30(e).