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IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-364

No. COA20-574

Filed 20 July 2021

Durham County, No. 20SPC275

IN THE MATTER OF: C.G.F.

Appeal by Respondent from order entered 14 February 2020 by Judge Patricia Evans in Durham County District Court. Heard in the Court of Appeals 10 March 2021.

*Attorney General Joshua H. Stein, by Assistant Attorney General Jessica Macari, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Wyatt Orsbon, for Respondent-Appellant.*

DILLON, Judge.

¶ 1 Respondent appeals from an involuntary commitment order committing him to an inpatient facility for a period not to exceed thirty (30) days.

I. Background

¶ 2 On 12 February 2020, a medical doctor filed an affidavit and petition for the involuntary commitment of Respondent C.G.F., alleging that C.G.F. was mentally ill

and dangerous to self or others. He was taken into custody. C.G.F.'s involuntary commitment hearing was conducted on 4 February 2020 in Durham County.

¶ 3 When C.G.F.'s case was called by the trial judge, no representative appeared on behalf of the State. The doctor who filed the petition was present, along with C.G.F., his counsel, and the trial judge. C.G.F.'s counsel objected at the beginning of the hearing, arguing that the hearing could not proceed without a representative from the State. The judge overruled the objection and proceeded with the hearing.

¶ 4 The trial judge called the doctor as a witness, asking open-ended questions. C.G.F.'s attorney had the opportunity to cross-examine the doctor. C.G.F. was also called as a witness by his attorney. At the conclusion of the hearing, the judge concluded that C.G.F. was mentally ill and dangerous to self, involuntarily committing him to thirty (30) days of inpatient treatment. C.G.F. appealed from the trial judge's involuntary commitment order.<sup>1</sup>

## II. Analysis

¶ 5 On appeal, C.G.F. argues that the trial judge violated his right to an impartial tribunal by assuming the role of prosecutor by presenting the State's case when the

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<sup>1</sup> C.G.F.'s appeal is not moot even though his period of involuntary commitment has expired. *See In re Hatley*, 291 N.C. 693, 695, 231 S.E.2d 633, 635 (1977) ("The possibility that respondent's commitment in this case might likewise form the basis for a future commitment, along with other obvious collateral consequences, convinces us that this appeal is not moot.").

State failed to appear at his involuntary commitment hearing.<sup>2</sup>

¶ 6 This appeal and five others from Durham County involving involuntary commitments were heard by this panel on 10 March 2021. In each case, the State did not send a representative to the hearing, apparently as part of a new policy in Durham County. In each matter, the respondents have raised the issue presented by C.G.F. in this appeal.

¶ 7 For the reasons stated in the majority opinion and concurring opinion addressing the “Due Process Concerns” issue in *In re C.G.*, \_\_\_ N.C. App. \_\_\_, 2021-NCCOA-344, one of the other cases heard by this panel on 10 March 2021, we affirm the trial court’s order.

AFFIRMED.

Judge HAMPSON concurs.

Judge GRIFFIN dissents.

Report per Rule 30(e).

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<sup>2</sup> We grant Respondent’s Petition for Writ of Certiorari to consider these issues.

No. COA20-574 – *In re: C.G.F.*

GRIFFIN, Judge, dissenting.

¶ 8

I dissent from the majority opinion for the reasons stated in Part I, Sections A, C, and D, and Part II of my dissenting opinion in *In re C.G.*, \_\_\_ N.C. App. \_\_\_, 2021-NCCOA-344, a companion case heard by this panel on 10 March 2021.