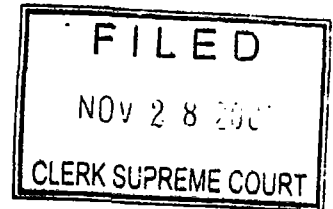


IN THE COURT OF APPEALS OF IOWA

No. 1-466 / 00-1596
Filed November 28, 2001



IN THE MATTER OF D.K., Alleged to be Seriously Mentally Impaired,

D.K.,
Appellant.

Appeal from the Iowa District Court for Linn County, Larry J. Conmey,
Judge.

D.K. appeals from a district court ruling finding she was seriously mentally
impaired and continuing her involuntary commitment. **APPEAL DISMISSED.**

Thomas J. O'Flaherty of the O'Flaherty Law Firm, Swisher, for appellant.

Jason Besler, Assistant County Attorney, for appellee.

Heard by Sackett, C.J., and Mahan and Hecht, JJ.

MAHAN, J.

Dawn appeals from a district court ruling finding she was seriously mentally impaired and continuing her involuntary commitment. She argues there was not clear and convincing evidence she lacked sufficient judgment to make responsible decisions regarding hospitalization or treatment. We dismiss the appeal as moot.

Background Facts and Proceedings. Dawn has suffered from a major depressive disorder and brittle diabetes since she was a teenager. Dawn has periodically been admitted to hospitals to care for her conditions. She currently is given eleven different prescribed medications to treat her conditions. In September 1999 Dawn was released from the hospital, and she fell down a flight of stairs resulting in a serious head injury. She was still suffering ongoing lingering effects from the head injury at the time of the district court hearing.

In July 2000 Dawn was admitted to Mercy Hospital. At the time of admission, her doctor characterized her condition as a "delirium looking picture" since she was very confused, falling and unsteady. It was also noted that she was incapable of monitoring her medication. In August 2000 her doctor reported that Dawn was experiencing cognitive decline and had a sensitivity to medications. These problems in conjunction with her diabetes mandated continuing rehabilitation.

On August 24, 2000, an application for involuntary hospitalization was filed alleging Dawn was mentally impaired and believed to be a danger to herself and to others. See Iowa Code § 229.6 (1999). On the same date, an order for her

immediate custody was entered pursuant to Iowa Code section 229.11. A hearing was held on August 28, 2000, before a judicial hospitalization referee. The referee found Dawn was seriously mentally impaired as defined in section 229.1(15) and ordered her committed to Mercy Hospital.

A de novo trial on Dawn's appeal was held before the district court on September 18, 2000, pursuant to section 229.21(3)(c). The district court affirmed the referee's decision and found that Dawn was seriously mentally impaired as defined in section 229.1(15)(c) and continued her commitment. In March 2001 Dawn's commitment was terminated.

Mootness of the Present Appeal. An appeal "is moot if it no longer presents a justiciable controversy because [the contested issue] has become academic or nonexistent." *In re M.T.*, 625 N.W.2d 702, 704 (Iowa 2001) (quoting *In re D.C.V.*, 569 N.W.2d 489, 494 (Iowa 1997)). "The test is whether the court's opinion would be of force or effect in the underlying controversy." *Id.* As a general rule, we will dismiss an appeal "when judgment, if rendered, will have no practical legal effect upon the existing controversy." *Id.* (quoting *Christensen v. Iowa Dist. Ct.*, 578 N.W.2d 675, 679 (Iowa 1998)).

There is an exception to this general rule "where matters of public importance are presented and the problem is likely to recur." *Id.* Under these circumstances, our court has discretion to hear the appeal. *Id.* An important factor to consider is "whether the challenged action 'is such that often the matter will be moot before it can reach an appellate court.'" *Id.* at 705 (quoting *Christensen*, 578 N.W.2d at 679).

There is no dispute that this case is moot. Dawn's commitment has been terminated. However, Dawn contends this case presents an issue of ongoing public concern. She contends the appeal presents an issue concerning the extent to which evidence of a physical disability can be used to support a commitment for a mental disorder.

We acknowledge our supreme court recently stated, "The conduct of an involuntary civil commitment hearing is of public importance." *Id.* However, in *M.T.*, our supreme court reviewed questions regarding alleged violations of a committee's statutory due process rights. *Id.* at 705-06. Our supreme court recognized the issue of a committee's ability to be present at involuntary commitment proceedings is likely to reoccur and therefore exercised its discretion to reach the merits of the issue raised by the appellant. *Id.*

In contrast to *M.T.*, this appeal does not present a broader issue capable of repetition because the issue here is whether the evidence is sufficient to support the commitment order. We find the evidence is sufficient with, or without, reliance on a physical disability. Therefore, we agree with the State that the narrow issue raised by Dawn need not be addressed at this time especially under the record presented in this case.

We conclude Dawn's appeal is moot.

APPEAL DISMISSED.