IN THE COURT OF APPEALS OF IOWA

No. 5-569 / 94-1793

FILED
APR 23 1996
CLERK SUPREME COURT

IN THE MATTER OF M. L. O., Alleged to be Seriously Mentally Impaired.

Appellant.

Appeal from the Iowa District Court for Buchanan County, James C. Bauch, Judge.

M. L. O. appeals the decision of the district court affirming the determination by a judicial hospitalization referee that she was seriously mentally impaired. **AFFIRMED.**

John E. Meyer, Independence, for appellant.

Robert J. Murphy, Assistant County Attorney, for appellee.

Considered by Habhab, P.J., and Cady and Huitink, JJ.

PER CURIAM

Marcie was involuntarily committed to a mental health institute by a judicial hospitalization referee. This decision was affirmed by the district court. She now appeals claiming there was insufficient evidence to support the hospitalization. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On October 7, 1994, a police officer filed an application alleging Marcie was seriously mentally impaired. The officer's affidavit in support of the application stated Marcie had placed a five year old boy in her garage and left him there against his will. Officers had previously received complaints from Marcie's neighbors because she had been yelling in the middle of the night outside her residence. Marcie heard voices which she thought were from God or aliens.

A psychiatrist, Dr. Aixa Blanco, diagnosed Marcie as having paranoid schizophrenia. Dr. Blanco found it was likely Marcie could injure herself or others. At the hearing on the application, Dr. Blanco testified Marcie's disjointed thinking could place her in some harmful situations. Dr. Blanco recommended she remain a full-time patient at the Mental Health Institute while her medication was adjusted.

The judicial hospitalization referee determined Marcie was seriously mentally impaired and ordered that she be placed in the Mental Health Institute for a complete evaluation and appropriate treatment. Marcie appealed to the district court, and this appeal was denied. She now appeals the district court's decision, claiming there was

insufficient evidence she was a danger to herself or others to support the involuntary commitment.

Under Iowa Code section 229.12(3) (1993) commitment is not warranted unless the elements of serious mental impairment are proven by clear and convincing evidence. *In re Oseing*, 296 N.W.2d 797, 799 (Iowa 1980). The district court's findings of fact have the effect of a special verdict and will be upheld if there is substantial evidence to support them. *In re Mohr*, 383 N.W.2d 539, 541 (Iowa 1986).

In order to find a person is likely to inflict injury on herself or others, the court must make a predictive judgment. *In re Foster*, 426 N.W.2d. 374, 376 (Iowa 1988). Evidence to support that judgment must come in the form of a recent overt act, attempt or threat. *Id.*

We find there is substantial evidence in the record to support the district court's ruling affirming the judicial hospitalization referee. The evidence showed Marcie engaged in a recent overt act of aggression by keeping a child in her garage against his will. Furthermore, Dr. Blanco testified Marcie's disjointed thinking could place her in harmful situations.

We affirm the decision of the district court and the judicial hospitalization referee.

AFFIRMED.