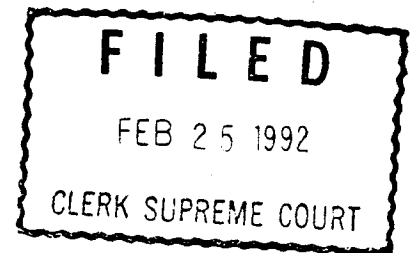


IN THE COURT OF APPEALS OF IOWA

No. 2-048 / 91-1016



IN THE INTEREST OF E.B., Alleged to be Seriously Mentally
Impaired,

29

Appellant.

Appeal from the Iowa District Court for Johnson County,
Thomas Horan, Judge.

E.B., a prisoner in the custody of the Iowa Department
of Corrections, appeals an involuntary commitment order.

AFFIRMED.

Mary K. Hoefer of the Mears Law Office, Iowa City, for
appellant.

Anne M. Lahey, Assistant County Attorney, for appellee.

Heard by Oxberger, C.J., and Hayden and Habhab, JJ.

HABHAB, J.

E.B. is a prison inmate serving up to twenty-five years for first-degree robbery. He was diagnosed as suffering from chronic undifferentiated schizophrenia. Anti-psychotic drugs were prescribed to control the symptoms of this disease. In recent years E.B. often refused to take this medication. He verbally threatened prison employees on many occasions. He has generally been restrained or segregated to protect others.

In June 1991 prison officials filed an application for involuntary hospitalization of E.B. pursuant to Iowa code chapter 229. Following a hearing, a judicial hospitalization referee determined that E.B. was "seriously mentally impaired" within the meaning of Iowa Code section 229.1(14). The referee directed that E.B. be committed to the prison system's Mental Health Institute at Mt. Pleasant, Iowa. The referee's order was upheld by a district court judge.

E.B. has now appealed from the involuntary hospitalization order. E.B. contends the State failed to carry its burden by the requisite clear and convincing evidence standard. He contends the evidence is insufficient to warrant involuntary hospitalization or prove he is "seriously mentally impaired", as that phrase is defined in Iowa Code section 229.1(14).

In particular, E.B. contends the State failed to prove he is likely to injure himself or others without

treatment. He asserts his prior conduct has generally been limited to verbal threats. He claims restraints or segregation are sufficient restraint to prevent him from performing acts of physical violence.

Our scope of review in this case is at law. The district court's findings of fact are the equivalent of a special verdict and are binding on us if supported by substantial evidence. In re Oseing, 296 N.W.2d 797, 801 (Iowa 1981). We review the district court's rulings to correct errors of law. B.A.A. v. University of Iowa Hospitals, 421 N.W.2d 118, 120 (Iowa 1988).

We construe the trial court's findings broadly and liberally. Grinnell Mut. Reinsurance Co. v. Voeltz, 431 N.W.2d 783, 785 (Iowa 1988). In case of doubt or ambiguity we construe the findings to uphold, rather than defeat, the judgment. Id. We are prohibited from weighing the evidence or the credibility of the witnesses. Id.

A finding of fact is supported by substantial evidence if the finding may be reasonably inferred from the evidence. In evaluating sufficiency of the evidence, we view it in its light most favorable to sustaining the court's judgment. We need only consider evidence favorable to the judgment, whether or not it was contradicted.

Briggs Transp. Co. v. Starr Sales Co., 262 N.W.2d 805, 808 (Iowa 1978).

Evidence is substantial or sufficient when a reasonable mind would accept it as adequate to reach the same findings. Waukon Auto v. Farmers & Merchants Sav. Bank, 440 N.W.2d 844, 846 (Iowa 1989). Evidence is not

insubstantial merely because it could support contrary inferences. Grinnell Mut. Reinsurance Co., 431 N.W.2d at 785.

We have reviewed the facts of this case. We determine the district court decision is supported by substantial evidence. We affirm.

I. Substantial Evidence.

E.B. asserts the trial court's decision is not supported by substantial evidence in the record. We first set out the statutory criteria for a finding of "severely mentally impaired" which would justify involuntary hospitalization.

"Seriously mentally impaired" or "serious mental impairment" describes the condition of a person who is afflicted with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment and who because of that illness meets any of the following criteria:

a. Is likely to physically injure the person's self or others if allowed at liberty without treatment.

b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the afflicted person if the afflicted person is allowed to remain at liberty without treatment.

c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer substantial physical injury, serious physical debilitation, or death within the reasonably foreseeable future.

Iowa Code § 229.1(14).

After examining the facts, we conclude substantial evidence supports involuntary commitment of E.B. under either "a" or "b".

Although E.B. is not "at liberty" in the commonly-understood sense of the term, what liberty he does enjoy in regular prison does allow him an opportunity to harm others. Therefore, we examine whether substantial evidence exists in the record to conclude E.B. poses a danger to himself or others considering the circumstances of his case.

E.B. was diagnosed as having chronic undifferentiated schizophrenia. He has repeatedly threatened others with bodily harm. He has even threatened to kill one of the prison staff members. Only a month before this involuntary commitment hearing, E.B. assaulted a prison staff member.

E.B. exhibits apparently uncontrollable behaviors. He spits on others. He apparently speaks to himself for hours while looking in the mirror. E.B. has consistently refused to take his anti-psychotic medicine. However, he is apparently unable to moderate his behavior without these medicines. There is evidence he has to be restrained on a continuous basis. He has been segregated to protect other inmates and staff members from his actions.

E.B.'s behavior clearly indicates he is a danger to himself and others, even considering the particular circumstances of his case. We determine the district court's finding of serious mental impairment and order of

involuntary commitment is supported by substantial evidence in the record.

II. Due Process.

Although the existence of substantial evidence is the only issue specifically raised by E.B. on his appeal, a due process issue was tangentially raised. We will address the due process issue.

The United States Supreme Court has recently considered a case analogous to the one presently before us. Washington v. Harper, 494 U.S. 210, 110 S. Ct. 1028, 108 L. Ed. 2d 178 (1990). In Harper, the Supreme Court stated "We have no doubt that . . . respondent possesses a significant liberty interest in avoiding the unwanted administration of anti-psychotic drugs under the Due Process Clause of the Fourteenth Amendment." Id., 494 U.S. at 221-22, 110 S. Ct. at 1036, 108 L. Ed. 2d at 198. The Supreme Court in Harper found the State's procedure and criteria were adequate under the due process clause. Id., 494 U.S. at 221-23, 110 S. Ct. at 1037, 108 L. Ed. 2d at 198-99. The Court balanced the State's interest and the prisoner's medical interest. Id. The proper standard, according to the Court, is whether the prison regulation is "reasonably related to legitimate penological interests." Id. The proper standard is one of reasonableness. Id.

Our earlier determination to adopt this standard of review was based upon the need to reconcile our long-standing adherence to the principle that inmates retain at least some

constitutional rights despite incarceration with the recognition that prison authorities are best equipped to make difficult decisions regarding prison administration.

Id., 494 U.S. at 223, 110 S. Ct. at 1038, 108 L. Ed. 2d at 199.

We determine the procedures followed in the present case were adequate to meet due process procedural requirements under the fourteenth amendment. E.B. was provided an attorney. An evidentiary hearing was held. A psychiatrist diagnosed E.B. as having chronic undifferentiated schizophrenia. That psychiatrist was subject to cross-examination by E.B.'s attorney. Evidence was presented showing E.B. was a danger to others.

In line with Harper, we determine the procedures utilized in this case meet the standard of reasonableness under the due process clause of the fourteenth amendment.

E.B. argues that physical restraints, such as a private cell or other type of restraint, are sufficient. He contends the use of anti-psychotic drugs against his will is an infringement on his liberty right to be free of medical treatment, including anti-psychotic drugs, without his voluntary consent. The United States Supreme Court addressed this issue in Harper as well.

The alternative means proffered by respondent for accommodating his interest in rejecting the forced administration of anti-psychotic drugs do not demonstrate the invalidity of the State's policy. . . . A rule that is in no way responsive to the State's legitimate interests is not a proper accommodation, and can be rejected out of hand. Nor are physical restraints or seclusion "alternative[s] that fully accommodat[e]

the prisoner's rights at de minimus cost to valid penological interests." Physical restraints are effective only in the short term, and can have serious physical side effects when used on a resisting inmate, as well as leaving the staff at risk of injury while putting the restraints on or tending to the inmate who is in them. Furthermore, respondent has failed to demonstrate that physical restraints or seclusions are acceptable substitutes for anti-psychotic drugs, in terms of either medical effectiveness or their toll on limited prison resources.

Id., 494 U.S. 226-27, 110 S. Ct. at 1039, 108 L. Ed. 2d at 201 (citations omitted).

We determine E.B. has failed to show that physical restraints or seclusion are acceptable alternatives to the administration of anti-psychotic drugs. We further determine the procedures followed by the state in this case are reasonable and adequate under the due process clause. He has been evaluated by a psychiatrist. As in Harper, we believe the medical profession, as opposed to the judiciary, is better able to evaluate the necessity of anti-psychotic drugs in a given situation. See id., 494 U.S. at 228-29, 110 S. Ct. at 1040-44, 108 L. Ed. 2d at 202-07.

We determine E.B. has been accorded both his procedural and substantive due process rights in this case. There is substantial evidence in the record supporting the district court's determination of this matter. E.B. has failed to show seclusion or physical restraints are an acceptable alternative.

We affirm the district court on all issues.

AFFIRMED.