

FILED

AUG 23 1989

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE MATTER OF
HELEN STAGNER
ALLEGED TO BE SERIOUSLY
MENTALLY IMPAIRED,

HELEN STAGNER,

Appellant.

)
)
)
)
)

611

9-143
88-1425

Appeal from the Iowa District Court for Jasper County
(12-139B), J.W. Jordan, Judge.

The appellant appeals from a court order directing that
she be involuntarily hospitalized pursuant to Iowa Code
chapter 229. **AFFIRMED.**

Randal B. Caldwell, Newton, for the
respondent-appellant.

James Wilson, Jasper County Attorney, for the appellee
State.

Heard by Oxberger, C.J., and Schlegel and Sackett, JJ.

OXBERGER, C.J.

Helen Stagner appeals the district court's order directing she be involuntarily hospitalized pursuant to Iowa Code chapter 229. She challenges the sufficiency of the evidence to establish she suffers from serious mental impairment. We find substantial evidence to support the district court and the judicial hospitalization referee. We affirm.

Involuntary civil commitment proceedings are special actions triable to the court. Matter of Foster, 426 N.W.2d 374, 376 (Iowa 1988) (citing In re Mohr, 383 N.W.2d 539, 541 (Iowa 1986)). The district court's findings of fact are the equivalent of a special verdict and are binding on us if supported by substantial evidence. Id. Evidence is "substantial" if a reasonable mind would accept it as adequate to reach a conclusion. C.F. Sales, Inc. v. Amfert, Inc., 344 N.W.2d 543, 553 (Iowa 1983).

Before commitment is warranted, the applicant must establish by clear and convincing evidence all of the elements of "serious mental impairment" in Iowa Code section 229.1(2). Foster, 426 N.W.2d at 376 (citing Mohr, 383 N.W.2d at 541; Iowa Code § 229.12(3)). A presumption operates in favor of the respondent. Iowa Code § 229.12(3) (1987).

The condition "serious mental impairment" is described in section 229.1(2) as:

[T]he 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:

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

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.

This definition has three elements: The respondent must be found to be (1) "afflicted with a mental illness," consequently (2) to lack "sufficient judgment to make responsible decisions with respect to [the person's] hospitalization or treatment," and (3) to be likely, if allowed to remain at liberty, to inflict physical [self-injury or injury on others,] or to inflict emotional injury on the designated class of persons. Foster, 426 N.W.2d at 376-77 (citing In re Oseing, 296 N.W.2d 797, 799 (Iowa 1980)).

Helen Stagner is a seventy-five-year-old woman. Due to impaired vision and also to limited mobility resulting from arthritis, she received various services to maintain her in her home. These services included visits by a homemaker health aide three times a week for three hours, daily delivery of a hot noon meal, and the use of an emergency transmitter device allowing her to summon help at any time.

During the summer of 1988 the providers of these services, along with police, neighbors, and a doctor became concerned that Stagner was unable to care for herself.

Dr. Lewis, a licensed psychiatrist, testified Helen Stagner is suffering from a mental illness, specifically, senile dementia of the Alzheimer's type. His prognosis was the disease was not curable and Stagner would require full time care. Dr. Lewis testified to a specific instance where behavior consistent with his diagnosis had caused harm, that is, when Stagner took an overdose of Tylenol. The doctor testified Stagner required around-the-clock care or residential inpatient care. Dr. Lewis also testified to a number of other specific problems which Stagner had encountered: defecating in her clothing, having a bladder control problem, and numerous falls with problems getting up. Stagner had also been observed, on one prior occasion, working barefoot in the house while there was broken glass on the floor. Stagner is not malnourished and does not have an illness which would require hospitalization.

The judicial hospitalization referee ordered Stagner be kept at Skiff Medical Center until arrangements could be made for either twenty-four-hour care at the respondent's home, paid for by the respondent, or twenty-four-hour as provided for by programs of the Public Health Nurse or Skiff Medical Center. The record shows Stagner has sufficient funds to cover such costs.

We find substantial evidence the respondent is afflicted with the mental illness of senile dementia of the Alzheimer's type. We further find the evidence to indicate

Stagner lacks the sufficient judgment to make responsible decisions with respect to her hospitalization or treatment. Finally, we find substantial evidence in the record Helen Stagner is likely, if allowed to remain at home without around-the-clock supervision and care, to suffer physical injury. We find substantial evidence and affirm the district court and the referee.

AFFIRMED.