IN THE COURT OF APPEALS OF IOWA

No. 1-177 / 00-0821
Filed May 9, 2001

FILED
MAY 0 9 2001
CLERK SUPREME COURT

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

D.L.W.,
Respondent-Appellant.

Appeal from the Iowa District Court for Johnson County, Kristin L. Hibbs, Judge.

D.L.W. appeals the district court's ruling affirming the judicial hospitalization referee's decision to involuntarily commit him for mental health treatment. **AFFIRMED.**

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

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

Considered by Sackett, C.J., and Huitink and Streit, JJ.

000340

STREIT, J.

Dennis W. appeals the district court's order affirming the judicial hospitalization referee's finding that he is seriously mentally impaired. We affirm.

I. Background Facts & Proceedings.

Dennis was admitted to a hospital on February 3, 2000, with malnutrition, rickets, anemia, edema, and other medical problems—including an inability to walk on his own. He apparently had been eating only eggs and hot cereal and had been overusing milk of magnesia, aspirin, and other over-the-counter medications. While at the hospital, he was uncooperative, verbally hostile, and insisted he was ready to leave despite his serious medical problems. He was initially diagnosed with schizophrenia.

On February 21, 2000, a referee found Dennis was seriously mentally impaired and ordered that he be hospitalized. The district court affirmed and ordered that Dennis be immediately placed in the Mental Health Institute in Cherokee for psychiatric evaluation and appropriate treatment. On appeal Dennis claims there was not clear and convincing evidence he is seriously mentally impaired.

II. Scope & Standard of Review.

An involuntary commitment proceeding is triable as an ordinary action at law. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998). We review challenges to the sufficiency of the evidence for errors at law. Iowa R. App. P. 4. The contention Dennis is seriously mentally impaired must be sustained by clear and convincing evidence. Iowa Code § 229.12(3) (1999).

III. The Merits.

A person found to have a serious mental impairment may be committed involuntarily. Iowa Code § 229.13.

> "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person 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 to remain 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 person with mental illness if the person with mental illness 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 physical injury, physical debilitation, or death.

Iowa Code § 229.1(15).

Dennis claims he does not have a mental illness. A "mental illness" for purposes of chapter 229 "means every type of mental disease or mental disorder, except that it does not refer to mental retardation, . . . insanity, diminished responsibility, or mental incompetency." Iowa Code § 229.1(8). Since being admitted to the hospital in February 2000, Dennis has been diagnosed with schizophrenia; psychotic disorder, not otherwise specified (NOS); paranoid schizophrenia with a somatic delusion; and paranoid psychosis, NOS, with a somatic delusion. While these diagnoses may be diagnoses of different disorders, they are all diagnoses of mental illness. There is clear and convincing evidence Dennis has a mental illness.

Dennis also claims he has sufficient judgment capacity to make responsible decisions concerning his hospitalization and treatment. However, two psychiatrists who evaluated Dennis concluded otherwise given Dennis's insistence he can care for himself, his refusal to take some of the steps necessary to address his medical problems, and his denial of his mental health problems. His resistance to hospitalization and treatment is apparently related to his belief that the hospital is simply holding him for money and "all [the hospital personnel] are trying to do is trip [him] up . . . [and] trying to get [him] to say something." *Cf. J.P.*, 574 N.W.2d at 343 (respondent's decision not to take her medication was not indicative of an impaired judgment capacity given she had an educational background in psychology and counseling and was concerned about the side effects of the new medication and had also indicated she preferred psychotherapy to chemotherapy). There is clear and convincing evidence Dennis lacks sufficient judgment capacity to make responsible decisions concerning his hospitalization and treatment.

Finally, Dennis claims he is not likely to inflict injury on himself or others if not treated. The district court made the following finding: "Dennis . . . is a danger to himself and others. The Court considers his poor judgment, paranoid thoughts, inability to take care of his needs, inability to cooperate, and his lack of insight in understanding his medical problems." The court did not specify whether its finding was based on section 229.1(15)(a) ("likely to physically injure [himself] or others if allowed to remain at liberty without treatment") or section 229.1(15)(c) ("unable to satisfy [his] needs for nourishment, clothing, essential

medical care, or shelter so that it is likely that [he] will suffer physical injury, physical debilitation, or death"). However, clear and convincing evidence supports either alternative. When Dennis was admitted to the hospital, his physical condition had deteriorated to the point he could no longer walk on his own and "had the clear potential to be life threatening." One psychiatrist involved in the case stated Dennis's inability to care for himself caused, in part, his initial hospitalization. He also stated he believed Dennis would not seek appropriate medical care on his own. Similarly, another psychiatrist stated the following:

> It is my firm neuropsychiatric opinion, to a reasonable degree of medical certainty, that [Dennis's] lack of insight and refusal or inability to understand the cause and effect of his medical problems leads to a clear and present danger to his physical and neuropsychiatric well-being. Certainly, if the process that was developing prior to coming to the hospital continued, it would certainly be lethal.

Both psychiatrists indicated Dennis should be committed. There is clear and convincing evidence Dennis is seriously mentally impaired. We affirm the district court.

AFFIRMED.