IN THE COURT OF APPEALS OF IOWA

No. 0-607 / 99-1705
Filed November 20, 2000

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CLERK SUPREME COURT

IN THE MATTER OF J.N.,
Alleged to be Seriously
Mentally Impaired,

J.N.,
Applicant-Appellant.

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

J.N. appeals the district court's order finding her seriously mentally impaired. **AFFIRMED.**

Lars G. Anderson of Holland Law Office, Iowa City, for appellant.

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

Considered by Zimmer, P.J., and Hecht and Vaitheswaran, JJ.

HECHT, J.

J.N. appeals the district court's order finding her seriously mentally impaired. She claims the district court erred in finding her mentally impaired and erred in finding she was a danger to herself or others. We affirm.

I. Factual Background and Proceedings. J.N. suffers from schizophrenia. On August 26, 1999, the Iowa City Police took her to the emergency room at the University of Iowa Hospitals and Clinics (UIHC) after she allegedly made threatening phone calls to a local radio station. J.N. denied making the calls but claimed the radio station was sending high voltage into her home, causing her to be "zapped." She was temporarily detained at UIHC and then taken into custody. Staff members from the hospital filed an application for involuntary hospitalization on August 30, 1999. At a hearing on September 3, 1999, the judicial hospitalization referee found J.N. to be seriously mentally impaired and ordered her to be committed at UIHC for evaluation and treatment. On September 13, 1999, J.N. appealed the referee's findings to the district court.

On September 14, 1999, J.N. was transferred from inpatient treatment to the partial hospitalization program, a nonresidential day treatment program. She attended the program for two days and then did not return. On September 21, 1999, while staying at her mother's house, J.N. became upset because she thought her mother was being "zapped" by the radio station as well. J.N. called the police in an attempt to help her mother and then apparently became angry when her mother did not believe her. Her mother felt J.N. was going to hit her, but an officer stopped her from doing so. J.N. then assaulted both a police

officer and a paramedic. The police brought her to the UIHC emergency room and she was readmitted to inpatient treatment. At that time, she was readmitted because of her delusional thinking and the concern she was not compliant with her medication. On September 30, 1999, the referee ordered J.N. to continue inpatient treatment. On October 6, 1999, she was again transferred to the partial hospitalization program.

After a hearing on October 7, 1999, the district court found J.N. to be seriously mentally impaired. The court also concluded she lacked sufficient judgment to make responsible decisions with respect to her treatment and was likely to present a risk to herself and others if the commitment was not continued. J.N. appeals that order.

II. Standard of Review. An involuntary hospitalization proceeding is triable as an ordinary action at law. *In re Melodie L.*, 591 N.W.2d 4, 6 (Iowa 1999). We review challenges to the sufficiency of the evidence for errors at law. Iowa R. App. P. 4. The allegations made in the application for involuntary commitment must be supported by clear and convincing evidence. Iowa Code § 229.12(3) (1999). Clear and convincing evidence is more than a preponderance of the evidence but less than evidence beyond a reasonable doubt. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998). There must be no serious or substantial doubt about the correctness of a particular conclusion drawn from the evidence. *Id.*

III. Merits. A person found to have a serious mental impairment may be committed involuntarily. Iowa Code § 229.6. A serious mental impairment is defined as:

> "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). The definition of a serious mental impairment has three elements that must be shown. The individual must be shown to have (1) 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 injury on "the person's self or others," or to inflict serious emotional injury on a designated class of persons. *In re Foster,* 426 N.W.2d 374, 376-77 (Iowa 1988).

Although J.N. challenges the district court's finding she suffers from a mental illness, it is clear from the record she has been diagnosed as suffering from schizophrenia. Her delusional thinking clearly and convincingly supports this diagnosis. We must then consider whether she lacks sufficient judgment to make appropriate decisions regarding the treatment of her mental illness. During the time from her initial hospitalization until the hearing before the district court,

J.N. had been hospitalized twice. Following each inpatient hospitalization, she was admitted to a partial hospitalization program. She attended the first program only twice and then failed to continue the treatment. At the time of the hearing, she had only recently been transferred to the second such program. Her treating physician expressed concern she was not compliant with her medication. Less than a week after she stopped attending the partial hospitalization program, evidence indicates she was again suffering from delusional thinking. Her anger and violence toward her mother, a police officer, and a paramedic necessitated another involuntary admission to the hospital. Her treating physician testified J.N. does not believe she suffers from a mental illness and does not believe the mental illness causes her delusions. From her testimony at the hearing, it is apparent J.N. is convinced of the validity of her delusions regarding the radio station. We conclude there is sufficient evidence supporting the district court's determination J.N. lacks judgment to make reasonable decisions regarding her medical treatment.

J.N. also challenges the district court's conclusion she was dangerous to herself or others. The danger a person poses to self or others must be evidenced by a recent overt act, attempt, or threat. *J.P.*, 574 N.W.2d at 344. An overt act connotes past aggressive behavior or threats by the respondent manifesting the probable commission of a dangerous act upon herself or others that is likely to result in physical injury. *Foster*, 426 N.W.2d at 378. The record indicates J.N. attempted to assault her mother approximately two weeks before the district court hearing. She also assaulted a police officer and a paramedic at

that time. We conclude such assaultive conduct is consistent with J.N.'s prior conduct when she became angry at others who did not believe her delusions. The district court's order finding J.N. to be seriously mentally impaired and continuing her involuntary commitment and treatment is supported by clear and convincing evidence in the record. Accordingly, we affirm the order in its entirety.

AFFIRMED.