

IN THE COURT OF APPEALS OF IOWA

No. 0-022 / 09-1282
Filed February 10, 2010

**IN THE MATTER OF B.M.,
Alleged to be Seriously Mentally
Impaired,**

B.M.,
Respondent-Appellant.

Appeal from the Iowa District Court for Dubuque County, Lawrence H. Fautsch, Judge.

B.M. appeals from the district court order affirming the decision of a magistrate that found him to be seriously mentally impaired and in need of inpatient treatment. **AFFIRMED.**

Steven J. Drahozal of Drahozal & Schilling, Dubuque, for appellant.

Thomas J. Miller, Attorney General, Gretchen Witte Kraemer, Assistant Attorney General, Ralph Potter, County Attorney, and Matthew Noel, First Assistant County Attorney, for appellant.

Considered by Vogel, P.J., Eisenhauer, J., and Zimmer, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

EISENHAUER, J.

B.M. appeals from the district court order affirming the decision of a magistrate finding him to be seriously mentally impaired and in need of inpatient treatment. While conceding he is seriously mentally impaired, he contends inpatient treatment is not the least restrictive environment and he should be permitted to obtain or to participate in outpatient treatment. An involuntary commitment proceeding is an ordinary action at law and therefore our review is for errors at law. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998).

B.M. is eighteen years old, has been diagnosed as schizophrenic, and has a history of commitments. When he stops taking medication, he becomes increasingly withdrawn and aggressive. In June 2009, B.M. became destructive, knocking holes in a wall of his parents' home, throwing objects, and breaking windows. He kicked his mother in the leg and struggled with his father before fleeing. His behavior led his mother to file an application alleging serious mental impairment. His father filed an affidavit supporting the application. After B.M. was taken to the University of Iowa Hospitals, he made several bomb threats.

On July 9, 2009, a magistrate found B.M. to be seriously mentally impaired and in need of inpatient residential treatment. He was then transferred to a residential treatment facility where he was to receive Haldol injections to treat his condition. The district court affirmed the order on July 29, 2009.

In order to involuntarily commit B.M., the State was required to prove the following elements by clear and convincing evidence: (1) B.M. has a mental illness, (2) he lacks "sufficient judgment to make responsible decisions with

respect to the person's hospitalization or treatment,” and (3) he is likely, if allowed to remain at liberty, to inflict physical injury on himself or others, to inflict serious emotional injury on a designated class of persons, or be unable to satisfy his physical needs. *J.P.*, 574 N.W.2d at 342-43. B.M. does not dispute these elements have been proved.

On appeal, B.M. contends inpatient commitment is not the least restrictive environment in which to treat his mental illness. “It is not only the customary procedure, but the constitutionally and statutorily mandated requirement, to treat even seriously mentally impaired persons in the least restrictive environment medically possible.” *Leonard v. State*, 491 N.W.2d 508, 512 (Iowa 1992). When his parents sought commitment on June 29, 2009, alleging the acts of violence and isolation, he had not received a medication injection since April 21, 2009. Two physicians testified B.M. required inpatient treatment. Given B.M.’s consistent refusal to take his medication and his behavior when not taking medication, the evidence supports the court’s finding inpatient treatment is necessary to monitor his progress until he is stable. Previous outpatient commitments have been unsuccessful. The court committed no error in concluding inpatient treatment is necessary. Accordingly, we affirm the order committing B.M. to inpatient treatment.

AFFIRMED.