IN THE COURT OF APPEALS OF IOWA

No. 2-066 / 11-1180
Filed February 15, 2012

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

J.R.,
Respondent-Appellant.

Appeal from the Iowa District Court for Marshall County, Kim M. Riley, District Associate Judge.

J.R. appeals from a district court's order that continues his involuntary commitment at the Iowa Veterans Home and authorizes the involuntary administration of medications. **AFFIRMED.**

Norma J. Meade of Moore, McKibben, Goodman, Lorenz & Ellefson, L.L.P., Marshalltown, for appellant.

Thomas J. Miller, Attorney General, Gretchen Witte Kraemer, Assistant Attorney General, Jennifer A. Miller, County Attorney, and Tara L. Hofbauer, Assistant County Attorney, for appellee State.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

DOYLE, J.

J.R. appeals from a district court order that continues his involuntary commitment at the Iowa Veterans Home and authorizes the involuntary administration of medications. He contends on appeal there is insufficient evidence to support the court's finding that he is likely to physically injure himself or others if released without treatment. We affirm.

***I. Background Facts and Proceedings*.**

J.R. has been a resident at the Iowa Veterans Home since June 2003 and under court commitment since 2004. At the commitment review hearing of June 30, 2011, Dr. Steenblock testified he had been involved in J.R.'s care since 2003. J.R. began receiving court-ordered involuntary injections of medication in 2005. He was switched to oral medication for a time, but stopped accepting the oral medication in 2008 for fear it was causing liver damage. J.R. would not permit any medical assessment or laboratory work to assess his concerns.

Recitation of J.R.'s bizarre beliefs and behaviors would serve no useful purpose here. Dr. Steenblock diagnosed J.R. as having paranoid schizophrenia and obsessive compulsive disorder. He noted J.R.'s pattern over the last six months of worsening delusions and increased irritability, hostility, belligerence, refusal of health care, and disordered eating patterns. Dr. Steenblock opined that J.R. could injure himself or others if he were not medicated. J.R. presented no medical testimony at the hearing.

The district court, after noting no requests were made at the hearing to discontinue commitment, concluded:

> There is abundant, clear and convincing evidence in this record that [J.R.] remains seriously mentally impaired and lacks sufficient judgment to make responsible decisions with respect to hospitalization or treatment, and if he is not properly treated on an involuntary basis, he is likely to injure himself or others.

The court continued J.R.'s commitment and ordered that "medical staff may involuntarily administer medications until such action is no longer deemed necessary." J.R. appeals.

***II. Discussion*.**

An involuntary civil commitment proceeding is a special action that is triable to the court as an action at law. *In re Oseing*, 296 N.W.2d 797, 800-01 (Iowa 1980). Therefore, we review challenges to the sufficiency of the evidence for errors at law. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998). Allegations made in an application for involuntary commitment must be supported by clear and convincing evidence. Iowa Code § 229.12(3)(c) (2011). "Clear and convincing evidence" means "there must be no serious or substantial doubt about the correctness of a particular conclusion drawn from the evidence." *J.P.*, 574 N.W.2d at 342. "The district court's findings of fact have the effect of a special verdict and will be upheld if there is substantial evidence to support them." *In re Mohr*, 383 N.W.2d 539, 541 (Iowa 1986). "We will not set aside the [district] court's findings unless, as a matter of law, the findings are not supported by clear and convincing evidence." *J.P.*, 574 N.W.2d at 342.

A person who is "seriously mentally impaired" may be committed involuntarily. Iowa Code § 229.6. To determine whether a respondent is "seriously mentally impaired," three elements must be found:

> The respondent must be found 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," to inflict serious emotional injury on a designated class of persons, or be unable to satisfy the person's physical needs.

J.P., 574 N.W.2d at 343; *see also* Iowa Code § 229.1(16). J.R. does not dispute that he is mentally ill. On appeal, J.R. asserts there is insufficient evidence to support the second and third elements.

A. Lack of Judgment.

J.R. first contends the district court should not have given any consideration to his rejection of prescribed medication. He testified he had an allergic reaction at the injection site resulting in soreness in his hip. He had no complaint about pain with the second injection, but said it caused dry mouth and throat, angina, shortness of breath, and labored breathing. Not all decisions rejecting medical treatment reflect a lack of judgment. "A decision, although medically inadvisable, may be rationally reached, and if so, it is not the court's place to second guess the decision." *J.P.*, 574 N.W.2d at 343. "Concern about the potential side effects of a medication is a reasonable apprehension." *Id.*

Here, although J.R. did complain about the potential side effects of the injections of the prescribed medication, his responses to the attempts to alleviate the side effects evidences his decision was not rationally reached. J.R. refused the doctor's offer to examine the injection site. J.R. refused the alternative of oral medication. J.R. previously stopped taking another oral medication believing there were side-effects, but refused to allow any medical assessment to address

his concerns. We find there is sufficient evidence to conclude J.R. lacks sufficient judgment to make responsible decisions as to his treatment.

***B. Likelihood of Inflicting Physical Injury*.**

Secondly, J.R. contends there is insufficient proof to support the required finding of dangerousness. The "endangerment" element consists of three alternative criteria: (a) the person is likely to physically injure the person's self or others if allowed to remain at liberty without treatment; (b) the person is likely to inflict serious emotional injury on members of the person's family or others; or (c) the person 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(17)(a)-(c). "Likely" is construed to mean "probable or reasonably to be expected." *Oseing*, 296 N.W.2d at 801. "[T]he endangerment element requires a predictive judgment, based on prior manifestations but nevertheless ultimately grounded on future rather than past danger." *Mohr*, 383 N.W.2d at 542 (citations and quotation marks omitted). The danger the person poses to himself or others must be evidenced by a "recent overt act, attempt or threat." *Id*. (citations omitted).

> In the context of civil commitment . . . an "overt act" connotes past aggressive behavior or threats by the respondent manifesting the probable commission of a dangerous act upon himself or others that is likely to result in physical injury.

In re Foster, 426 N.W.2d 374, 378 (Iowa 1988). Overt acts include behavior such as threats to kill. *See id*. at 379.

Dr. Steenblock specifically opined J.R. was "unable to meet some of his basic needs such as medical care and nutrition because of his mental illness." It was also his opinion J.R. could injure himself or others if he was not medicated. The doctor related instances of J.R.'s threats of violence to staff members and the doctor. We find sufficient evidence to conclude that without continued involuntary commitment and medical treatment, J.R. is likely to injure himself or others.

Because there is sufficient evidence to conclude J.R. lacks sufficient judgment to make responsible decisions as to his treatment and that without continued involuntary commitment and medical treatment, he is likely to injure himself or others, we agree with the district court that J.R. is "seriously mentally impaired." Consequently, the district court did not err in ordering continuation of J.R.'s involuntary commitment, nor did it err in authorizing involuntary medication. We therefore affirm.

AFFIRMED.