

IN THE COURT OF APPEALS OF IOWA

No. 6-916 / 05-2104
Filed December 28, 2006

**IN THE MATTER OF M.L.,
Alleged to Be Seriously
Mentally Impaired,**

M.L.,
Respondent-Appellant.

Appeal from the Iowa District Court for Johnson County, Denver D. Dillard,
Judge.

M.L. appeals the district court's decision to affirm a judicial hospital
referee's order for involuntary hospitalization. **AFFIRMED.**

L. Jay Stein of Stein, Moore, Egerton & Weideman, L.L.P., Iowa City, for
appellant.

Anne Lahey of Johnson County Attorney's Office, Iowa City, for appellee.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

A district court affirmed a judicial hospital referee's order for involuntary hospitalization of inmate M.L. On appeal, M.L. contends: (1) the district court failed to hold a "trial de novo," as prescribed by Iowa Code § 229.21(3)(c) (2005) and (2) the district court's ruling is not supported by clear and convincing evidence. *In re J.P.*, 574 N.W.2d 340, 342 (Iowa 1998).

On the first issue, the district court confirmed the obligation to conduct a de novo trial and fleshed out the parameters of that obligation with counsel. The court's findings of fact rely exclusively on evidence adduced at the de novo trial. Accordingly, we conclude the court satisfied its obligation under Iowa Code section 229.21(3)(c).

On the second issue, M.L. and the State agree that M.L. has a "mental illness" known as schizoaffective disorder and lacks "sufficient judgment to make responsible decisions with respect to [his] hospitalization or treatment." Iowa Code § 229.1(16); *In re J.P.*, 574 N.W.2d at 342-43. They disagree on whether he is likely to "physically injure [himself] or others if allowed to remain at liberty without treatment." Iowa Code § 229.1(16)(a). As to this element, the district court found that M.L. "made threats against other persons." The court also found that M.L. jeopardized his mental health by refusing to accept medication or participate in programs.

These findings are supported by clear and convincing evidence. One of M.L.'s treating physicians testified, "[h]e was really threatening and he was not able to get along with other people and he can get in fights." She also stated, "[t]here are times where . . . he will not be able to take care of himself." While

she acknowledged she did not have specifics about his assaults, she testified his threatening behavior occurred as recently as the day before the de novo trial. See *In re Mohr*, 383 N.W.2d 539, 542 (Iowa 1986) (requiring recent overt act, attempt, or threat). She said:

He was so threatening that we were not able to get him into the patient program. Most of the people who got committed they can come to a patient program, but because of his violence and agitation, we were not able to bring him in the hospital program so he was quite agitated and assaultive.

She said he was placed in seclusion because of his aggressive and assaultive conduct. We conclude the State satisfied the third element for involuntary hospitalization of M.L.

AFFIRMED.