H. CIVIL COMMITMENT

H.1. Commitment Procedure

H.1. b Regular

TITLE: Matter of Commitment of R.L.

INDEX NO.: H.1.b.

CITE: (4-30-96), Ind. App., 666 N.E.2d 929

SUBJECT: Commitment procedure - Regular; following temporary commitment

HOLDING: Tr. Ct. had authority to order regular commitment of individual who had been subject of temporary commitment, despite limitation in statute making petition for regular commitment inapplicable to individuals already subject to temporary commitment. Ind. Code 12-26-7- 2, titled persons eligible to file petition for commitment, does not apply to commitment of individual has been temporarily committed under Ind. Code 12-26-6. However, Ind. Code 12-26-7-4 specifically authorizes commencement of proceedings for entering order of regular commitment following temporary commitment & provides proper procedural mechanism to do so. Here, Tr. Ct. & hospital followed procedure set forth in Ind. Code 12-26-7-4 allowing for regular commitment upon report, made under temporary commitment provision, recommending treatment for longer than 90 days. Statutory limitation of Ind. Code 12-26-7-2 applied only to particular method by which regular commitment could be obtained, not to entire chapter governing regular commitment. Held, judgment affirmed.

TITLE: Matter of Tedesco
INDEX NO.: H.1.b.
CITE: (1st Dist., 6-16-81), Ind. App., 421 N.E.2d 726
SUBJECT: Regular commitment procedure - probable cause hearing required
HOLDING: Although 14-day detention in state hospital without probable cause hearing was unreasonable & violated detainee's due process rights, such violation did not require reversal of Tr. Ct.'s judgment. In order for Tr. Ct. to order individual detained pending regular commitment hearing, probable cause hearing must be afforded within reasonable time. Time limitations prescribed in emergency detention statute are appropriate. However, here, when individual was unreasonably held, Tr. Ct. was acting pursuant to regular involuntary commitment procedures & not emergency commitment procedures. Because at time of commitment, regular involuntary commitment procedure did not require probable cause hearing, Tr. Ct. did not lose jurisdiction, & absent any indication that regular commitment hearing was tainted by unlawful prehearing detention, dismissal of proceedings would not be ordered. Held, judgment affirmed.

H. CIVIL COMMITMENT
H.2. Hearing and related due process rights

TITLE: A.A. v. Eskenazi Health/Midtown CMHC
INDEX NO.: H.2.
CITE: (5/17/2018), 97 N.E.3d 606 (Ind. 2018)
SUBJECT: Right to appear at involuntary commitment hearing
HOLDING: A mentally competent civil commitment respondent may personally relinquish the due process right to appear at a hearing with a knowing, voluntary and intelligent waiver, but respondents' attorneys may not waive the right to appear on their clients' behalf. Courts may not assume that a civil-commitment respondent is mentally incompetent just because the person is facing a claim of mental illness (disapproving of contrary holding in In re Commitment of M.E., 64 N.E.3d 855, 860-61 (Ind. Ct. App. 2016). Regardless, before accepting a personal waiver of appearance, the Tr. Ct. must find, through direct contact with the individual, that the respondent understands the nature and importance of the right, the consequences of waiving the right, the elements required to obtain an involuntary commitment, and the applicable burden of proof.

Ind. Code § 12-26-2-2(b)(3)(B) gives Tr. Ct.s authority to waive respondents' presence at civil-committment hearings if their presence "would be injurious to [their] mental health or well-being." If the Tr. Ct. exercises its independent waiver authority, it must do so at the outset of the proceeding. A respondent's right to appear — which is implicated before the proceeding begins — would not be adequately protected if the Tr. Ct. conducted the entire hearing before waiving the individual's presence. An improper waiver determination under Ind. Code § 12-26-2-2(b)(3)(B) is subject to harmless-error review. Harmlessness does not depend on whether the evidence supports commitment, but whether it supports waiver, which addresses whether being present at a hearing would be injurious to the respondent.

Here, A.A.'s due process right to be present at his commitment hearing was violated when his attorney waived his presence and Tr. Ct. agreed with the waiver. The error was not harmless, given the lack of evidence on whether A.A.'s appearance would have been injurious to his mental health or well-being. Held, transfer granted, Court of Appeals opinion at 81 N.E.3d 629 vacated, judgment remanded to vacate A.A.'s regular involuntary commitment order.

TITLE: Foucha v. Louisiana
INDEX NO.: H.2.
CITE: 504 U.S. 71, 112 S. Ct. 1780, 118 L.Ed.2d 437 (1992)
SUBJECT: Insanity acquittee - continued detention; due process
HOLDING: A state statute permitting an insanity acquittee who no longer suffers from mental illness to be indefinitely committed to a mental institution until he is able to demonstrate that he is not dangerous to himself, or others violates Due Process. D was charged with aggravated burglary and illegal discharge of a weapon and was found not guilty by reason of insanity. He was committed to a mental health facility, & nearly four years later the facility superintendent recommended that he be released. A hearing was convened, at which D had the burden of proving that he was not dangerous, & testimony & a written report of two doctors was presented indicating that, while D was in remission from mental illness, he had an antisocial personality disorder & they "would not feel comfortable certifying that [D] would not be a danger to himself or to other people." To obtain civil commitment, state must prove by clear & convincing evidence that individual is mentally ill, & that he/she is dangerous to self or others. Addington v. TX (1979), 441 U.S. 418. When individual is acquitted of crime by reason of insanity, these two facts may be inferred & Addington need not be separately satisfied. Jones v. U.S. (1983), 463 U.S. 354, 103 S.Ct. 3074, 77 L.Ed.2d 694. However, acquittee may be held only so long as he is both mentally ill & dangerous. Id. Kennedy, Rehnquist, Thomas, & Scalia, JJ., DISSENT.

TITLE: In Re the Civil Commitment of B.N.

INDEX NO.: H.2.

CITE: (12/16/2022), Ind., 199 N.E.3d 360

SUBJECT: Trial courts must offer more than generic reasoning to find good cause for holding remote proceeding over party's objection

HOLDING: Responding to the COVID-19 pandemic, the Supreme Court issued an order in May 2020—later extended through 2022—that amended Indiana Administrative Rule 14 to expand trial courts' ability to conduct remote proceedings through audiovisual communication, often called "remote" or "virtual" hearings. Here, the Court considered the court's burden under Rule 14 to find good cause for holding a remote hearing when a party objects. It concluded that good cause requires particularized and specific factual support. Here, the trial court's bare mention of "the COVID-19 pandemic" failed to meet that standard when it conducted a party's commitment hearing virtually over her timely objection. Trial courts retain significant discretion to conduct remote proceedings over objection when there is good cause to do so. But they must offer something more than a one-size-fits-all, boilerplate pronouncement; good cause requires something specific to the moment, the case, the court, the parties, the subject matter, or other relevant considerations. To be sure, remote proceedings are here to stay and may be more efficient in various circumstances. But in-person evidentiary hearings are vital in certain proceedings, such as involuntary civil commitment hearings, where a party's liberty interests are at stake. In-person commitment hearings should be the norm, not the exception. But because the Court ultimately concluded the probable impact of the court's error in light of B.N.'s active participation during the virtual hearing, the lack of technological issues which may have adversely impacted her, and counsel's zealous advocacy was sufficiently minor, the failure to hold an in-person hearing in B.N.'s case was harmless. Held: transfer granted, Court of Appeals' memorandum opinion vacated, judgment affirmed.

TITLE: In Re Commitment of E.F.

INDEX NO.: H.2.

CITE: (6/13/2022), Ind., 188 N.E.3d 464

SUBJECT: Appellate courts should thoughtfully and thoroughly consider whether temporary civil commitment appeal is moot and whether an exception to mootness should apply before dismissing

HOLDING: The Court of Appeals dismissed this temporary civil commitment appeal as moot sua sponte, *citing* T.W. v. St. Vincent Hospital and Healthcare Center, Inc., 121 N.E.3d 1039 (Ind. 2019). The Supreme Court granted transfer to clarify that T.W. does not signal that appellate courts should rarely address the merits of appeals from expired temporary commitment orders. Instead, in a per curiam opinion, the Court held that in an appeal from an expired temporary commitment order, the appellate court should thoughtfully and thoroughly consider whether the case is moot and whether the public-interest exception to mootness should apply. Parties appealing in those cases should avail themselves of the opportunity to raise relevant issues, including any reasonable challenge to mootness or argument that an exception to mootness applies. Held: remanded for the Court of Appeals to consider any arguments the parties may have about mootness and the public-interest exception. Justice Slaughter dissented, believing the public interest exception to mootness is too broad and the appealing party should have to show specific adverse consequences arising from the commitment are likely to affect the patient in the future.

RELATED CASES: In re Commitment of J.G., 209 N.E.3d 1206 (Ind. Ct. App. 2023) (appeal of expired civil commitment order was moot and did not fall within an exception to the mootness doctrine); Commitment of E.F., 194 N.E.3d 1130 (Ind. Ct. App. 2022) (on remand, the Court of Appeals held that the issues the appellant raised involve questions of great public interest and are therefore not moot, but declined to find that temporary commitments are never moot); T.W. v. St. Vincent Hospital and Healthcare Center, Inc., 121 N.E.3d 1039 (Ind. 2019).

TITLE: In re Commitment of L.B.

INDEX NO.: H.2.

CITE: (7/15/2022), Ind. Ct. App, 191 N.E.3d 281

SUBJECT: Trial court erred in accepting civil commitment respondent's waiver of the right to counsel without an express finding of competence to waive the right

HOLDING: A trial court must expressly find, on the record, that a civil-commitment respondent is capable of knowingly, voluntarily, and intelligently waiving the right to counsel before accepting the respondent's waiver of that right. Here, after experiencing "worsening, intensifying voices" and "wanting to escape the torture," L.B. threw his television out a window, shaved his head, and burned down his house. He was admitted to a hospital, diagnosed with schizo-affective disorder, and a petition for his involuntary commitment was filed. Before the commitment hearing began, L.B.'s appointed counsel informed the court that L.B. wished to represent himself at the hearing. After engaging in a brief colloquy with L.B., the trial court allowed him to proceed pro se. At the conclusion, the trial court granted the hospital's petition for a regular commitment. On appeal, L.B. challenged his commitment on due process grounds, arguing that the trial court erred in accepting his waiver of the right to counsel without first finding that he was competent to waive that right. The Court of Appeals agreed, relying on the Indiana Supreme Court's decision in A.A. v. Eskenazi Health/Midtown CMHC, 97 N.E.3d 606 (Ind. 2018), which held that a person may waive their right to be present at a civil commitment proceeding if they are "capable of knowingly, voluntarily, and intelligently making that decision." The Court of Appeals saw no reason to require a different procedure when a civil commitment respondent waives the right to counsel because both implicate the same due process rights. "Accordingly, we conclude that a trial court must expressly find, on the record, that a civil-commitment respondent is capable of knowingly, voluntarily, and intelligently waiving the right to counsel before accepting the respondent's waiver of that right. How that is done will depend on the circumstances of the case, as with waiver of the right to appear. When mental competency is more doubtful, the court may need to diligently observe and question the respondent in person. Other cases may not require such a deep inquiry." Slip op. 7. Here, the trial court asked one question that inquired into L.B.'s mental competency, and L.B.'s answer discussing the "war crime torture" he was experiencing did little to resolve the issue. Because the trial court did not establish that L.B. was capable of knowingly, voluntarily, and intelligently waiving the right to counsel before accepting his waiver of that right, L.B. was denied due process. The Court of Appeals rejected the hospital's argument that failing to obtain a valid waiver was harmless, noting invalid waivers of counsel are not subject to harmless error analysis. Held: reversed and remanded for a new commitment hearing.

TITLE: In re Mental Commitment of M.P.

INDEX NO.: H.2.

CITE: (7-23-87), Ind., 510 N.E.2d 645

SUBJECT: Hearing & related due process rights - involuntary administration of anti- psychotic medication

HOLDING: Indefinite administration of anti-psychotic medication is not permissible. In order to override involuntarily committed mental patient's refusal of treatment with anti-psychotic medication, State must demonstrate by clear & convincing evidence that: current & individual medical assessment of patient's condition has been made; assessment resulted in honest belief of psychiatrist that medication will be of substantial benefit in treating condition suffered, & not just in controlling behavior of individual; & probable benefits from proposed treatment outweigh risk of harm to, & personal concerns of, patient. At hearing to review State's decision to override involuntarily committed mental patient's refusal of treatment with anti-psychotic medication, testimony of psychiatrist responsible for treatment of individual seeking review must be presented & patient may seek contrary expertise. Ct. must determine that there exists no less restrictive alternative treatment that treatment selected is reasonable, within contemplation of committing decree, & that treatment is one which restricts patient's liberty in least degree possible. Held, case remanded to Tr. Ct. for evaluation.

TITLE: Jackson v. Indiana

INDEX NO.: H.2.

CITE: 406 U.S. 715, 92 S. Ct. 1845, 32 L.Ed.2d 435 (1972)

SUBJECT: Hearing & related due process rights - Length of pre-trial detention if incompetent

HOLDING: State deprived D of due process rights by subjecting D to more lenient commitment standard & to more stringent release standard than those generally applicable to all other persons not charged with offenses. This condemned D to permanent institutionalization without showing required for commitment or opportunity for release afforded by ordinary civil commitment procedures. State's indefinite commitment of criminal D solely on account of D's lack of capacity to stand trial violates due process. Such D cannot be held more than reasonable period of time necessary to determine whether there is substantial probability that he will attain competency in foreseeable future. If it is determined that D will not, State must either institute civil proceedings applicable to indefinite commitment of those not charged with crime, or release D. Held, judgment reversed & remanded.

TITLE: Jones v. State
INDEX NO.: H.2.
CITE: (2d Dist. 5 N.E.2d 6/85), Ind. App., 477 N.E.2d 353
SUBJECT: Civil commitment - due process rights
HOLDING: Commitment procedures for mentally ill persons require due process protection because of social stigma & possible loss of personal liberty which may result therefrom. Addington v. TX (1979), 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed.2d 323; In re Turner, App., 439 N.E.2d 201. Mentally ill person has right to be represented by counsel. Ind. Code 16-14-9.1-10(c). Although ultimate goal of civil commitment is beneficent one of providing aid to mentally ill person, commitment hearing itself is designed, in part, to be adversarial proceeding. Person has right to be present at hearing, to testify, & to present & cross-examine witnesses. Id. Here, D argued she was denied right to effective assistance of counsel. Court reviews counsel's actions & finds counsel effective. Court also finds evidence sufficient to support Tr. Ct.'s finding that D was dangerous. Psychiatrist testified D was verbally assaulting & physically threatening. Appellate court finds D demonstrated these same tendencies by her own testimony at trial. Held, commitment order affirmed. Sullivan CONCURS IN RESULT without opinion.

RELATED CASES: In re Turner, App., 439 N.E.2d 201 (although there was sufficient evidence to show D was mentally ill, failure to make such findings based on evidence, failure to advise D of right to counsel and right to have counsel appointed and failure to give proper notice required reversal).

TITLE: Kansas v. Crane

INDEX NO.: H.2.

CITE: 534 U.S. 407; 122 S.Ct. 867; 151 L.Ed.2d 856 (2002)

SUBJECT: Civil commitment of dangerous sex offenders

HOLDING: To justify a civil commitment under the Kansas Sexually Violent Predator Act and Kansas v. Hendricks, 521 U.S. 346 (1997), due process under the Federal Constitution does not permit civil commitment of a dangerous sexual offender without any determination that the offender has difficulty in controlling his actions, but does not require a showing that the offender has a total or complete lack of control.

TITLE: Kansas v. Hendricks

INDEX NO.: H.2.

CITE: 521 U.S. 346, 117 S.Ct. 2072; 138 L.Ed.2d 501 (1997)

SUBJECT: Civil Commitment -- "Sexually Violent Predators" (SVP)

HOLDING: Kansas' SVP Act, which provides for involuntary and potentially indefinite commitment of "any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in ... predatory acts of sexual violence," and defines "mental abnormality" as a "congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others" sufficiently narrows class of persons eligible for commitment to afford substantive due process. Mere finding of future dangerousness is generally not sufficient. Finding of "mental illness" has provided necessary additional factor in other statutes which have been upheld, but majority writes that there is nothing "talismanic" about that term, and requirement of "mental abnormality" as defined here is sufficient. Majority notes that legal definitions of medical conditions need not mirror those of medical profession. As to ex post facto and double jeopardy issues, majority finds that commitment under statute is not punitive. Although it requires criminal conviction or charge, it uses them for evidentiary purposes and does not affix culpability for prior criminal conduct. Statute's focus on those who are unlikely to be deterred by threat of confinement, provision for immediate release if person is adjudged to be safe to be at large, fact that confinement conditions for those committed under statute are essentially those of other civilly committed individuals, and fact that commitment must be renewed annually, further support finding that statute is not punitive. Extensive procedural protections do not indicate that statute is criminal in nature; rather they indicate state's great care in identifying individuals to be confined. Breyer, Stevens, Souter, and Ginsburg, JJ., DISSENT.

TITLE: L.J. v. Health & Hosp. Corporation
INDEX NO.: H.2.
CITE: (10/18/2018), 113 N.E.3d 274 (Ind. Ct. App. 2018)
SUBJECT: Presiding judge failed to enter final commitment order
HOLDING: Commissioner does not have the authority to enter a final order of regular commitment. Ind. Code § 33-33-49-16(a), (3); Ind. Code § 33-23-5-9. Here, commissioner presided over civil commitment hearing and ruled in favor of petitioning hospital. L.J. alleged commitment order signed only by commissioner and not presiding probate court judge was invalid. Court of Appeals held that presiding judge's blanket "Approval Order" under a non-case matter cause number (with no facial connection to L.J.'s case) does not show the judge considered the merits of the involuntary commitment case or that he entered a final order as required by statute. As there is no final order, the appeal was dismissed and the case remanded for judge to "review whether the evidence in the record supports the commissioner's determination and enter a final order…" Held, appeal dismissed and remanded with instructions to presiding judge.

RELATED CASE: Matter of Civil Commitment of A.M., 116 N.E.3d 496 (Ind. Ct. App. 2018), T.W. v. St. Vincent Hosp. & Health Care Ctr., 113 N.E.3d 1257 (Ind. Ct. App. 2018) (Respondent waived issue regarding trial judge's failure to sign off on Order issued by Commissioner because he failed to object timely to the Order that was signed only by the Commissioner).

TITLE: Matter of R.P. v. Optional Behavior MHS
INDEX NO.: H.2.
CITE: (2/26/2015), 26 N.E.3d 1032 (Ind. Ct. App. 2015)
SUBJECT: Involuntary mental health commitment affirmed
HOLDING: Clear and convincing evidence established that R.P. presented a danger to others or was gravely disabled, thereby justifying an involuntary mental health commitment not to exceed 90 days pursuant to Ind. Code § 12-26-6-1. Although R.P.'s temporary commitment has expired, the Court addressed the issue because it is likely to recur and "Indiana statutory and case law affirm that the value and dignity of the individual facing commitment or treatment is of great societal concern." Although R.P. has no history of violence or using any firearms upon another individual, treating physician testified that on multiple occasions, R.P. had threatened to purchase a gun and to "kill people." He opined that the combination of R.P.'s mental illness (Schizoaffective Disorder), especially delusions of paranoia, and his intent to obtain a firearm make him a serious threat to other people. Temporary commitment was appropriate because R.P. did not acknowledge his mental illness and refused to take medication, and treatment plan was least restrictive plan likely to bring about an improvement in his condition. Held, judgment affirmed.

TITLE: State Ex Rel. Kiritsis v. Marion Probate Court
INDEX NO.: H.2.
CITE: (11-8-78), Ind., 381 N.E.2d 1245
SUBJECT: Hearing & related due process rights
HOLDING: Purpose of civil commitment proceeding is merely to inquire into mental & emotional status of individual to determine if he is mentally ill & either gravely disabled or dangerous & in need of treatment. Individual who was subject of civil commitment proceeding in probate Ct. was bound to comply with probate Ct. order directing him to submit to psychiatric examination, & his failure to do so subjected him to contempt power of probate Ct. Where probate Ct. which had subject matter jurisdiction of proceeding held hearing on contempt charge arising out of subject's failure to submit to court-ordered psychiatric examination & probate Ct. determined that subject's refusal to submit to examination was willful rather than manifestation of mental illness for which he was not responsible, probate Ct. complied with requirements of due process precluding action for writ of mandate & prohibition directing probate Ct. to discharge subject. Held, application denied; Pivarnik & Prentice, JJ., concurring on basis that subject waived his privilege against self-incrimination by pleading not guilty by reason of insanity at his trial.

TITLE: W.S. v. Eskenazi Health
INDEX NO.: H.2.
CITE: (12/19/2014), 23 N.E.3d 29 (Ind. Ct. App 2014)
SUBJECT: Commitment - lack of evidence regarding forced medication
HOLDING: Evidence supported findings W.S. was mentally ill and gravely disabled to support continuing regular commitment, but Court remanded for Tr. Ct. to hear additional evidence on forced medication. There was a lack of evidence to prove the court-ordered medication would provide a substantial benefit in treating W.S.' schizophrenia, an absence of evidence as to whether alternative treatments were evaluated and rejected, and whether the Haldol Decanoate injections outweigh any risk of harm and represent the least restrictive treatment. Held, judgment affirmed in part regarding continuing regular commitment; remanded in part for additional evidence on medication issue.

TITLE: Wilson v. State

INDEX NO.: H.2.

CITE: (10-17-72), Ind., 287 N.E.2d 875

SUBJECT: Hearing & related due process rights - commitment procedure; individual charged with crime

HOLDING: In protecting society by providing involuntary confinement of dangerously insane, State must proceed by due process & equal protection of law. With but one exception to those regarded as dangerous to community, civil commitment procedures applicable to dangerously insane are same as those applicable to those who are insane, but not dangerous. Here, State, which enacted elaborate statutory safeguards to provide for protection of society from dangerously mentally ill could not, consistent with equal protection requirements, arbitrarily subject D, as person acquitted of crime by reason of insanity, to substantially different procedures relating to commitment & deny him protection & safeguard afforded others who may be equally insane & equally dangerous but concerning when possibility of such mental condition may have been differently manifested. Thus, it was unconstitutional for Indiana statute to subject D, who had been acquitted by reason of insanity, to different standard & procedures for civil commitment than mentally ill, who have never been convicted of crime. Held, judgment reversed & D discharged in accordance with opinion.

TITLE: United States v. Comstock

INDEX NO.: H.2.

CITE: 130 S.Ct. 1949 (05-17-10)

SUBJECT: Necessary and Proper Clause grants Congress constitutional authority to detain sexually dangerous persons

HOLDING: Congress's enactment of Title 18 U.S.C. ' 4248, which permits the civil commitment of mentally ill, "sexually dangerous" federal prisoners beyond their scheduled release dates, was a proper exercise of its authority to make laws "necessary and proper" to execute the enumerated powers the Constitution vests in the federal government. Five considerations, taken together, compel conclusion that Article I's Necessary and Proper Clause (Art. I, ' 8, cl. 18) grants Congress authority sufficient to enact Section 4248. First, the Clause constitutes a "broad" delegation of legislative authority and requires only that a statute be rationally related to the implementation of a constitutionally enumerated power, as shown by the explosion in federal criminal laws and penal system. Second, ' 4248 represents "a modest addition to a set of prison-related mental-health statutes that have existed for many decades." Third, it was reasonable of congress to extend its "longstanding civil-commitment system to cover mentally ill and sexually dangerous persons who are already in federal custody, even if doing so detains them beyond the termination of their federal sentence." Fourth, the statute properly accounts for states' interests, apparently because, as the Court sees it, the Necessary and Proper Clause as interpreted here gives Congress "broad authority" to intrude into traditionally state-governed areas. Fifth, Court found that the link between ' 4248 and Article I is "not too attenuated" because what is "necessary and proper" can be based on a series of inferences, and is not "too sweeping" because not that many people have been subjected to it yet. Held, Fourth Circuit decision at 551 F.3d 274 reversed; Kennedy, J., CONCURRING; Alito, J., CONCURRING; Thomas, J., joined by Scalia, J., DISSENTING, disagrees with the unlimited expansion of the Necessary and Proper Clause beyond what was previously deemed permissible by the Court.

NOTE: Majority opinion concludes with this limiting caveat: "We do not reach or decide any claim that the statute or its application denies equal protection of the laws, procedural or substantive due process, or any other rights guaranteed by the Constitution."

H. CIVIL COMMITMENT

H.3. Criteria for commitment

TITLE: B.N. v. Community Health Network, Inc.
INDEX NO.: H.3.
CITE: (12-20-19), Ind. Ct. App., 137 N.E.3d 330
SUBJECT: Involuntary commitment affirmed for "gravely disabled and dangerous" man
HOLDING: Clear and convincing evidence supported involuntary temporary commitment for a man found to be gravely disabled and dangerous to himself and others. B.N. argued that his due process rights were violated when trial court ordered him to commitment based in part on his own testimony given during the hearing. Specifically, B.N. asserted the trial court's consideration of his testimony, in which he agreed to follow the doctor's recommendations, reduced the hospital's burden of proving the involuntary commitment elements. But Court found no evidence that the trial court either explicitly or implicitly held the hospital to a lesser burden of proof. Doctor testified about B.N.'s mental illness diagnosis, how B.N. posed a danger to others, and how B.N.'s judgment had been impaired by his disorganized thoughts, erratic behavior, lack of insight, and religious preoccupation. He also discussed B.N.'s proposed treatment plan and the need for temporary commitment at the Hospital in order to improve B.N.'s condition and to stabilize his medication before moving him to outpatient treatment.

RELATED CASES: Matter of A.O., 206 N.E.3d 1191 (Ind. Ct. App. 2023) Respondent's delusional behavior at hospital supported temporary involuntary civil commitment).

TITLE: Commitment of J.B. v. Midtown Mental Health Center
INDEX NO.: H.3.
CITE: (5th Dist., 11-19-91), Ind. App., 581 N.E.2d 448
SUBJECT: Criteria for commitment - dangerousness
HOLDING: Involuntary commitment on ground that person is mentally ill & dangerous to herself must be supported by clear & convincing evidence indicating that behavior used as index of person's dangerousness would not occur but for that person's mental illness. Here, there was no constitutional basis for confining mentally ill person who was not dangerous & could live safely in freedom. Patient's decision to put herself at risk by running away into traffic & hitchhiking in order to avoid her mother did not warrant finding of dangerousness. Held, judgment reversed & remanded; Sharpnack, J., dissenting.

TITLE: Deal v. State
INDEX NO.: H.3.
CITE: (1st Dist. 3/8/83), Ind. App., 446 N.E.2d 32
SUBJECT: Commitment - criteria for following NRBRI verdict
HOLDING: Evidence of dangerousness is clear & convincing where respondent charged with attempted murder & found not responsible by reason of insanity was diagnosed by psychiatrist as suffering from organic brain deterioration & evidenced paranoid ideation which could lead to further dangerous/destructive behavior. Here, D thought his lawyers had sold his house to the man he stabbed, that people were trying to steal his social security checks, & that he had been vindicated at trial. His diagnosis was (1) organic dementia, moderate chronic, progressive probably due to senility & prolonged excessive use of alcohol & (2) paranoid ideation. A psychiatrist testified that D was dangerous to other people. Held, Tr. Ct. did not err in ordering regular commitment.

TITLE: In re Commitment of J.M.
INDEX NO.: H.3.
CITE: (10/27/2016), 62 N.E.3d 1208 (Ind. Ct. App. 2016)
SUBJECT: Involuntary civil commitment affirmed
HOLDING: In affirming involuntary mental health commitment, Court held that reasonable fact-finder could have concluded J.M. presented substantial risk to herself or others based on: Testimony she was delusional and hallucinatory and had made threats against family which made them fearful; she "did not recognize her own daughter"; she was "'religiously preoccupied, . . . explosive,' 'paranoid'; and not trusting of her care providers or their qualifications"; she had been "'belligerent' and 'threatening to staff' such that she had to be 'restrain[ed]' and 'seclude[d]' on 'various occasions'"; and she had "no clear shelter or ability to care for herself, and had not been willing to take necessary medications." Held, judgment affirmed.

Note: Although the term of J.M.'s commitment in mental health facility had already expired and appeal was moot, Court addressed merits as a matter of great public importance.

TITLE: In re: G.M.
INDEX NO.: H.3
CITE: (12-13-11), Ind. Ct. App., 938 N.E.2d 302
SUBJECT: Civil commitment -- alternative grounds for "gravely disabled" determination
HOLDING: Tr. Ct.'s conclusion for the basis of its order to involuntarily commit G.M.--that he was incapable of providing himself food, clothing, shelter, or other essential human needs-- was not supported by the evidence. However, G.M. may be determined to be gravely disabled under another definition set forth in statute, i.e., that he is unable to function independently. See Ind. Code 12-7-2-96. A reasonable determination from petitioning psychiatrist at hospital is that if G.M. is released into an unsupervised environment, his history indicates that he will go off his prescribed medication, be unable to function independently and thus will relapse into his drug and alcohol addictions and exacerbate his paranoid schizophrenia. Held, remanded for a current review of G.M.'s care and treatment pursuant to Ind. Code 12-26-15-1.

RELATED CASES: A.M., 959 N.E. 2d 832 (Ind. Ct. App 2011) (sufficient evidence supported Tr. Ct.'s findings that A.M. was gravely disabled, and that involuntary commitment was appropriate).

TITLE: Matter of Commitment of Linderman
INDEX NO.: H.3.
CITE: (4th Dist., 3-16-81), Ind. App., 417 N.E.2d 1140
SUBJECT: Criteria for commitment - non-dangerous individuals
HOLDING: Although evidence was sufficient to prove that D suffered from mental illness, State failed to prove by clear & convincing evidence that D was dangerous or greatly disabled & therefore evidence was insufficient to support involuntary commitment order. Ct. may not commit non-dangerous individual who is capable of surviving safely in freedom by himself, or with help of willing & responsible family members or friends. State, in seeking to involuntarily commit non-dangerous individual on basis that he or she is in danger of coming to harm because of his or her inability to provide for food, clothing, shelter or other essential human needs, has burden to prove reasonable attempt has been made to contact family members who could take care of D. Here, because State failed to make any such attempt, State failed to prove by clear & convincing evidence that individual was dangerous or gravely disabled. Held, judgment reversed.

RELATED CASES: In re D.W.H., App., 411 N.E.2d 721 (where D had been working for fourteen hours a day, seven days a week, to be successful in business, there was not clear & convincing evidence that D's "disassociative reaction" impaired his ability to function).

TITLE: In re: The Mental Commitment of W. W.
INDEX NO.: H.3.
CITE: (5th Dist. 06/10/92), Ind. App., 592 N.E.2d 1264
SUBJECT: Civil Commitment - criteria
HOLDING: This decision, upholding involuntary commitment of W.W., contains extensive recitation of testimony & relies very heavily on doctor's testimony that W.W. had considerable difficulty functioning. Court found Tr. Ct. could have found from evidence that W.W. was "gravely disabled" as well as suffering from mental illness. In very lengthy dissent, Justice Miller also reviews considerable evidence & finds that while it may have shown W.W. had difficulty coping, it did not show inability to function, & therefore did not meet test of Addington v. Texas (1979), 441 U.S. 418.

TITLE: T.K. v. Dep't of Veterans Affairs

INDEX NO.: H.3.

CITE: (3/19/2015), 27 N.E.3d 271 (Ind. 2015)

SUBJECT: Improper involuntary civil commitment - courts should apply "clear and convincing" standard of proof

HOLDING: Clear and convincing evidence was not presented at T.K.'s civil commitment hearing to establish that he was either dangerous or gravely disabled, as required by Ind. Code § 12-26-2-5(e). In so holding, the Court disapproved of several recent Court of Appeals' decisions that have not applied "clear and convincing" standard in their analysis but rather have affirmed civil commitment orders merely if such an order "represents a conclusion that a reasonable person could have drawn, even if other reasonable conclusions are possible."

Here, T.K. was aggressive, loud, talked in a coarse manner that was inappropriate, and proactively sought to shame someone by placing flyers on people's windshields. He made no physical outbursts, destroyed no property, did not put himself or others in actual danger with idiosyncratic behavior. The Department's expert witness acknowledged that he did not believe T.K. would be a danger to self or others. Moreover, evidence did not clearly and convincingly show that T.K.'s refusal to take medication and recognize his illness constitutes grave disability by resulting in such a "substantial impairment or an obvious deterioration of [T.K.'s] judgment, reasoning, or behavior that...[he is unable] to function independently." Ind. Code § 12-7-2-96(2). Held, transfer granted, Court of Appeals' memorandum opinion vacated, judgment reversed.

RELATED CASES: Matter of Commitment of C.N., 116 N.E.3d 544 (Ind. Ct. App. 2019) (D had the ability to function independently and his idiosyncratic behavior and extreme interest in law enforcement did not rise to the level of grave disability); P.B., 90 N.E.3d 1199 (Ind. Ct. App. 2017) insufficient evidence P.B. was "gravely disabled," where there was no evidence that P.B. was unable to function independently or that she was in danger of not providing for her own needs), T.D., 40 N.E.3d 507 (Ind. Ct. App. 2015) (insufficient evidence T.D. was "gravely disabled" as required by statute, where only evidence in record was T.D's refusal to seek treatment, her psychiatrist's recommendation, the fact that she lived in a hotel, and an incident in which she intentionally flooded her own hotel room).

H. CIVIL COMMITMENT

H.4. Post-hearing procedure/review/termination

TITLE: Galloway v. State
INDEX NO.: H.4.
CITE: (1st Dist. 6/18/85), Ind. App., 480 N.E.2d 223
SUBJECT: Commitment - post-hearing procedures
HOLDING: Court rejects D's attacks upon procedures & sufficiency of review. Ind. Code 33-5-43-29 allows Vanderburgh Circuit judge to sit in superior court. Thus, Judge Miller granted D's petition to transfer jurisdiction from circuit to superior court but continued to preside as reviewing judge. Court rejects D's contention that statute conflicts with TR 79, finding neither an application for special judge nor a reason for disqualification. Court notes Ind. Code 16-14-9.1-10 allows for change of judge, in that patient is entitled to same rights at hearing as set forth in Ind. Code 16-14-9.1-9(f). Reviewing court did not abuse discretion by allowing prosecutor to intervene in hearings, despite absence of statutory authority for such intervention. Although attending/treating physician twice stated D did not meet statutory requirements for civil commitment (not dangerous to self/others, not gravely disabled), court finds sufficient evidence to justify continued commitment (mental state controlled with medication). Held, no error.

RELATED CASES: Galloway, App., 485 N.E.2d 637 (under Ind. Code 16-14-9.1-10(g), D is entitled to change of judge at annual review hearing; TR 76(3) 30-day time limitation for requesting change of judge applies; court determines D's motion was untimely; therefore, denial of change of judge was not error).

TITLE: In re Kirkland
INDEX NO.: H.4
CITE: (4th Dist., 6-1-81), Ind. App., 420 N.E.2d 1352
SUBJECT: Post-hearing review - review hearing can cure defective commitment
HOLDING: Where appellant was represented by counsel at regular civil involuntary commitment review hearing, appellant did not seek to challenge sufficiency of evidence which led Tr. Ct. to order her regular commitment continued & there was absence of any other indication that review hearing was tainted by prior, procedurally defective commitment procedures, independent determination at review hearing that appellant was mentally ill & gravely disabled would stand. At least annually, Tr. Ct. which has ordered involuntary commitment must determine whether individual is still mentally ill & either dangerous or gravely disabled. Ind. Code 16-14-9.1-10. Here, appellant's initial regular commitment hearing was defective. However, because both initial commitment & review hearings had same procedural safeguards & concerned same issue of mental illness, appellant's commitment review hearing could serve as basis for present involuntary commitment. In addition, appellant waived issue of whether Tr. Ct. had personal jurisdiction to order her initially committed. There was no indication that appellant challenged Tr. Ct.'s personal jurisdiction to proceed with later regular commitment review hearing, & appellant did not petition Tr. Ct. for writ of habeas corpus, despite availability of that remedy. Held, judgment affirmed.

TITLE: In Re Mental Commitment of M.P.

INDEX NO.: H.4

CITE: (2d Dist. 11/18/86), Ind. App., 500 N.E.2d 216, modified on other grounds by 510 N.E.2d 645

SUBJECT: Challenging sufficiency of regular commitment/forcible medication

HOLDING: Tr. Cts. must apply "exclusion of every reasonable hypothesis of innocence" test to evidence before them in favor of D when considering whether allegedly mental ill person may be hospitalized against his/her will. On appeal, reviewing court need only find substantial evidence to support Tr. Ct.'s findings. Here, court rejects several of D's sufficiency claims because D failed to cite specific pages in record where questioned testimony appeared. Court finds Tr. Ct. correctly continued M.P.'s hospitalization, citing Ind. Code 16-14-9.1-10(d). Held, Tr. Ct. affirmed. Sullivan DISSENTS, taking issue with majority's framing of standard of proof. Sullivan believes state has failed to assume its administrative or legislative duty to articulate standards & guidelines for confinement & treatment of mental patients.

TITLE: K.W. v. Logansport State Hospital
INDEX NO.: H.4.
CITE: (1-25-96), Ind. App., 660 N.E.2d 609
SUBJECT: Post-hearing review - challenging appropriateness of treatment
HOLDING: Although hospital is not required to show at recommitment hearing that involuntary committee is receiving appropriate or effective treatment, recommitment hearing may be appropriate forum for consideration of patient's particular treatment program, assuming that patient has clearly presented issue to Ct. Here, mental involuntary committee's letter to Tr. Ct. requesting hearing was not based on refusal of treatment or challenge of appropriateness of his treatment under statutes so as to raise issue of appropriateness of committee's placement in sex offender program & render improper Tr. Ct.'s failure to consider appropriateness of treatment at recommitment hearing. Focus of letter was request for hearing to determine whether committee was fit for release. In addition, during hearing, committee did not specifically object to his placement in sex offender program, but merely denied molesting his niece, expressed his frustration with his ongoing commitment, & asserted that if he were released, he could take care of himself & control his self-destructive behavior. Held, judgment affirmed.

Note: Committee, who wants to challenge appropriateness of treatment, has two other courses of actions under Ind. Code § 12-27-8-2 & Ind. Code § 12-27-5-2. Thus, failure to present issue of appropriateness during recommitment hearing does not waive issue.

H. CIVIL COMMITMENT

H.7. Remedies on Appeal

TITLE: Matter of Binkley
INDEX NO.: H.7.
CITE: (1st Dist., 11-13-78), Ind. App., 382 N.E.2d 952
SUBJECT: Emergency detentions - standard of proof
HOLDING: Proper standard of proof to be applied by Tr. Ct. in proceedings on petition for emergency detention of person alleged to be mentally ill is that of preponderance of evidence. Here, in proceedings for emergency detention in psychiatric hospital of respondent who had graduated in upper fourth of his law school class, who recently had resided in tent made of plastic garbage bags & eaten rotten food from dumpsters, & who was said by psychiatric testimony to be suffering schizophrenia, split personality manifested by social cultural withdrawal, delusions & possible hallucinations, evidence was sufficient to support judgment ordering respondent committed to state hospital. Held, judgment affirmed.

RELATED CASES: F.J., App., 411 N.E.2d 372 (probable cause report is mandatory where emergency detainee is temporarily committed); Radcliff v. County of Harrison, 627 N.E.2d 1305 (county sheriffs were immune from false imprisonment claims of emergency detainee who was found to be sane & released from hospital); GPH v. Giles, App., 578 N.E.2d 729 (even if patient may not have been able to read portions of contents of physician's emergency statement & application for emergency detention, subsequent Tr. Ct. order was very clear as to time, place, date, & purpose of patient's pending commitment hearing).

TITLE: Peterson v. State
INDEX NO.: H.7.
CITE: (4th Dist., 9-18-84), Ind. App., 468 N.E.2d 556
SUBJECT: Emergency detentions - who may sign application
HOLDING: Signing with authority of administrator's name to application by employee after he had been told by judge that only administrator could sign application neither violated law nor constituted contempt of Ct. In order for person to be detained in psychiatric hospital or center for period not exceeding 72 hours, written application must be made to hospital or center by health or police officer. Ind. Code § 16-14-9.1-7. Here, contempt proceeding was brought against residential care facility's administrator when one of its employee signed administrator's name to application for emergency 72-hour mental health detention. However, employee who signed application had authority to do so. Held, judgment reversed & remanded with instructions.