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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-332

Filed: 5 November 2019

Mecklenburg County, No. 18 SPC 7684

IN THE MATTER OF: E.L.

Appeal by Respondent-Appellant from order entered 24 August 2018 by Judge Lou Trosch, Jr., in Mecklenburg County District Court. Heard in the Court of Appeals 2 October 2019.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Nicholas C. Woomer-Deters, for Respondent-Appellant.

Attorney General Joshua H. Stein, by Assistant Attorney General Marilyn Fuller, for the State.

DILLON, Judge.

Respondent E.L. appeals from an order concluding that E.L. "is mentally ill . . . [and] dangerous to [her]self [and] to others" and ordering that E.L. "be committed [] to the inpatient 24-hour facility . . . for . . . 90 days." After careful review, we conclude that the trial court made sufficient findings of fact to involuntarily commit E.L.

I. Background

In April 2018, E.L. was committed to a behavioral health center in Charlotte after being removed from an airplane due to an altercation with a flight attendant. E.L. was examined by a doctor, who then signed an affidavit and filed a petition for the involuntary commitment of E.L.

In August 2018, an involuntary commitment hearing was held. Following the hearing, the trial judge issued an involuntary commitment order "conclud[ing] that [E.L.] is mentally ill . . . [and] dangerous to [her]self [and] to others" and ordering that E.L. "be committed [] to the inpatient 24-hour facility . . . for . . . 90 days." E.L. timely appealed.

II. Analysis

E.L. argues that the trial court erred by involuntarily committing her as its order was not supported by sufficient findings or evidence.[1]

We review an involuntary commitment order for whether the *ultimate* findings are supported by the trial court's underlying findings, "and whether those underlying findings, in turn, are supported by competent evidence." *In re W.R.D.*, 248 N.C. App. 512, 515, 790 S.E.2d 344, 347 (2016); *see In re Moore*, 234 N.C. App. 37, 42-43, 758 S.E.2d 33, 37 (2014). Unchallenged findings of fact are "presumed to be supported by

[1] We acknowledge that E.L.'s ninety (90) days of confinement has terminated. However, the present appeal is still properly before our Court. *See In re Whatley*, 224 N.C. App. 267, 270, 736 S.E.2d 527, 529 (2012) (holding that prior discharge does not render an appeal moot).

competent evidence and [are] binding on appeal." *Moore*, 234 N.C. App. at 43, 252 S.E.2d at 37 (internal citations omitted).

While E.L. urges our Court to review the order using a *de novo* standard, our Court has stated that "whether a person is mentally ill . . . and whether [s]he is imminently dangerous to [her]self or others, presents questions of fact." *In re Hogan*, 32 N.C. App. 429, 433, 232 S.E.2d 492, 494 (1977). Indeed, "[o]ur function on appeal is simply to determine whether there was *any* competent evidence to support the factual findings made." *In re Monroe*, 49 N.C. App. 23, 28, 270 S.E.2d 537, 539 (1980).

In order to involuntarily commit an individual, "the court shall find by clear, cogent, and convincing evidence that the [individual] is mentally ill and dangerous to self . . . or dangerous to others[.]" N.C. Gen. Stat. § 122C-268(j) (2018). One is dangerous to herself when she "has acted in such a way as to show . . . that [s]he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of [her] daily responsibilities and social relations . . . *and* [t]hat there is a reasonable probability of [her] suffering serious physical debilitation within the near future unless adequate treatment is given[.]"[2] N.C. Gen. Stat. § 122C-3(11) (2018) (emphasis added). One is dangerous to others when she "has inflicted or attempted

[2] Section 122C-3(11) goes on to state that "[a] showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for [her]self."

to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another . . . and . . . there is a reasonable probability that this conduct will be repeated." *Id.*

In the present case, the trial court not only incorporated a psychiatrist's report concerning an examination and recommendation regarding involuntary commitment of E.L., but also made findings of fact based on another physician's testimony and testimony from E.L., herself. Essentially, the report, testimony, and facts show that E.L. was involved in an altercation with a flight attendant on an airplane, which stemmed from her "numerous delusions" that the flight attendant, and public figures, such as Beyoncé, Barack Obama, the CIA, and the FBI, are stalking her and have implanted devices in her brain. These delusions and paranoia date back seven years and continue to manifest themselves – E.L. "remain[s] actively psychotic and delusional[,]" screaming at those trying to provide her assistance "to the point that security has to be called to protect doctors and staff" and "insist[ing] she is pregnant (though all tests are negative)[.]" Such "agitation" continued and manifested at the hearing regarding E.L.'s involuntary commitment.

While E.L. likens these findings of fact and circumstances to those in *In re Whatley*, 224 N.C. App. 267, 736 S.E.2d 527 (2012), we conclude that the underlying facts are distinguishable from those in *Whatley*.

In *Whatley*, our Court concluded that it could not "uphold the trial court's commitment order on the basis that [the r]espondent was dangerous to herself" when the trial court failed to "indicate that [the r]espondent's illness or any of her aforementioned symptoms will persist and endanger her within the near future." *Whatley*, 224 N.C. App. at 273, 736 S.E.2d at 531. Likewise, the trial court's "findings that [the r]espondent was exhibiting psychotic behavior that endangered . . . her newborn child and – as incorporated from [the doctor's] report – that [the r]espondent had been admitted with psychosis while taking care of her two month old son" were inadequate to prove that the respondent was "dangerous to others[.]" *Id.* at 274, 736 S.E.2d at 531-32.

Here, the findings of fact regarding E.L.'s commitment are supported by competent evidence and meet the statutory requirements set out in Sections 122C-3(11) and 122C-268(j). *Monroe*, 49 N.C. App. at 28, 270 S.E.2d at 539. Specifically, the trial court found that E.L "got into an altercation with a flight attendant[,]" "has numerous delusions, mainly centered upon 'gang stalking[,]' " has had "numerous paranoid delusions" for "[seven] years[,]" "has refused all treatment[,]" has "remained actively psychotic and delusional[,]" gets extremely agitated "to the point that security has to be called to protect [those trying to assist her,]" and "continue[s] to insist she is pregnant (though all tests are negative) and that her delusional beliefs are in fact actually still continuing to occur."

These findings are supported by a report, incorporated by reference into the trial court's order, regarding E.L.'s misconduct and mindset and suggesting E.L. be committed. Further, an additional psychiatrist testified regarding E.L.'s paranoia, delusions, false beliefs that she is being stalked, false beliefs that she is pregnant, false beliefs that "the government put recording devices in everyone's head to monitor . . . them[,]" refusal to take medicine, "symptoms of mania, including agitation, racing thoughts, increased energy, decreased need for sleep, flight of ideas with her thoughts[,]" "physical aggression[,]" "mood instability," "confrontation that could lead to violence," "potential danger to others," and "inability to care for herself."

Moreover, E.L. testified at the hearing that she was pregnant, despite negative pregnancy tests, continued to contend that she has been working with law enforcement and attorneys in Washington, D.C., regarding her being "gang stalked[,]" which she purports dates back to her living in Houston, where both she and one of her purported stalkers, Beyoncé, are from. This testimony shows present-day symptoms that are persisting and pose an interference with her "self-control, judgment, and discretion in the conduct of [her] daily responsibilities and social relations," and may endanger her, or others, within the near future. *See Whatley*, 224 N.C. App. at 273, 736 S.E.2d at 531; *see also* N.C. Gen. Stat. § 122C-3(11).

III. Conclusion

The trial court made sufficient findings of fact, supported by competent evidence, to involuntarily commit E.L. for ninety (90) days.

AFFIRMED.

Judges STROUD and YOUNG concur.

Report per Rule 30(e).