UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1021

September Term, 2016

IN RE J.C.N.

Meredith,
Graeff,
Reed,

JJ.

Opinion by Reed, J.

Filed: August 24, 2017

On December 1, 2015, Administrative Law Judge Thomas Welshko ("ALJ") ordered that J.C.N., appellant, be involuntarily admitted to University of Maryland Baltimore Washington Medical Center (the "Hospital"), appellee. Appellant petitioned for judicial review by the Circuit Court for Anne Arundel County, which affirmed the ruling of the ALJ. She filed this timely appeal and presents two questions for our review, which we rephrase and consolidate as one issue:[1]

1. Whether the ALJ erred in ordering appellant's involuntary admission.

For the reasons that follow, we affirm the judgment below.

FACTUAL AND PROCEDURAL BACKGROUND

In the summer of 2015, appellant suffered a stroke and a "thyroid-storm," "a very rare, but life-threatening condition" that results from an overactive thyroid. As a result, her brain swelled, she suffered partial paralysis, and she began treatment that involved physical and occupational therapy and prescription steroids.

[1] Appellant presented the following questions:

1. Was involuntary admission improper because the Hospital failed to comply with procedural requirements in Title 10, Subtitle 6, of the Health-General Article?

2. Was involuntary admission improper because the Hospital failed to prove by clear and convincing evidence that appellant was a danger to the life or safety of herself or others?

On November 17, 2015, Anne Arundel County police escorted appellant to the emergency department of the Hospital after a social worker filed an emergency petition.[2] She was admitted to the emergency department then transferred to the "telemetry unit" – "kind of an observation unit" – "due to medical issues." The attending physician diagnosed appellant with steroid-induced psychosis,[3] and requested consultations by an endocrinologist and neurologist to rule out possible psychological complications deriving from her recent stoke and thyroid-storm. On November 19, 2015, Drs. Sandeep Sidana and Anisha Bassi diagnosed appellant with bipolar disorder and signed certifications that appellant met the criteria for involuntary admission.[4] The doctors noted that appellant suffered from "Bipolar 1 Disorder episode manic, severe with psychotic symptoms, with a

[2] A person may file a petition for emergency evaluation of another individual if the petitioner believes that the individual has a mental disorder and "presents a danger to the life or safety of the individual or of others." Md. Code Ann., Health-Gen. §10-622(a). A lawfully executed petition permits police to take the individual "to the nearest emergency facility," where a physician must examine the individual within six hours. Md. Code Ann., Health-Gen. §10-624.

[3] Psychosis is "a serious mental illness (as schizophrenia) characterized by defective or lost contact with reality often with hallucinations or delusions." Merriam-Webster Medical Dictionary, "psychosis," available at https://www.merriam-webster.com/dictionary/psychosis (last visited Feb. 28, 2015).

[4] An application for involuntary admission must be in writing and include the certificates of two health care providers who have examined the individual and believe that the individual has a mental disorder, the individual needs impatient care, and admission to a facility "is needed for the protection of the individual or another." Md. Code Ann., Health-Gen. §10-615.

differential diagnosis of steroid-induced psychosis or substance-induced mood disorder with manic features."

The next day, November 20, 2015, the Hospital's discharge coordinator signed an application for appellant's involuntary admission to the Hospital. Due to limited space and her medical history, however, appellant was not transferred to the psychiatric unit of the Hospital until November 24, 2015. On the day of her transfer, the Hospital provided appellant with notice of her admission and the date of her involuntary admission hearing.

The hearing was held on December 1, 2015. Dr. Sidana, the attending psychiatrist, testified that appellant had "grandiose delusions and psychosis about her accomplishments . . . that she personally knew President Obama . . . and various high esteemed figures . . . attempted to purchase an apartment . . . [and] a car . . . that would have been financially disastrous to her . . ." Dr. Sidana further expressed his concern for appellant's safety stating:

> [Appellant] has shown very little insight or, actually, has shown no insight into her diagnosis, does not believe at all that she is manic, and therefore, has refused to take her psychiatric medications . . . [and] thyroid medications . . . my concern for her would be . . . she is already demonstrating to me that she is having impaired judgment managing her thyroid state.

Dr. Sidana confirmed that it was his expert opinion that appellant, should she be released, would quickly damage herself financially, and that she was a danger to herself and possibly others.

Based on the evidence produced at the hearing, the ALJ concluded that appellant met the statutory criteria for involuntary admission under Maryland Code by clear and convincing evidence and ordered appellant to remain hospitalized. Appellant filed a

Petition for Judicial Review with the Circuit Court for Anne Arundel County on December 10, 2015, asking for reversal of the ALJ's decision ordering her involuntary admission. The Hospital continued to monitor appellant's psychiatric and physical progress, and discharged her on December 14, 2015, well before the judicial review hearing.

The parties appeared in the Circuit Court for Anne Arundel County on June 20, 2016, and on June 24, 2016, the court issued its opinion affirming the decision of the ALJ. This appeal followed.

Additional facts will be discussed in our analysis.

DISCUSSION

A. Parties' Contentions

Appellant argues that her involuntary admission was improper for two reasons: (1) the Hospital's failure to comply with procedural requirements of the Health-General Article of the Maryland Code, and (2) its failure to prove by clear and convincing evidence that appellant was "a danger to the life or safety of [herself] or of others." Md. Code Ann., Health-Gen. §10-617(a)(3).

The Hospital first moves to dismiss this appeal as moot "because there is no current controversy between the parties and no effective remedy for Appellant." It maintains that since appellant was released from the Hospital on December 14, 2015, this appeal should

be dismissed as a matter of course.[5] Alternatively, the Hospital argues that it established, by clear and convincing evidence, that appellant met the criteria for involuntary admission.

B. Standard of Review

The scope of our review of an administrative agency action is narrow; the Court should refrain from substituting its judgment for the expertise of the individuals who constitute the administrative agency. *See T-UP, Inc. v. Consumer Protection Div*., 145 Md. App. 27, 801 A.2d 173 (2003). We review the agency's decision directly, not the decision

[5] The Hospital makes a good argument. "A case is moot when there is no longer an existing controversy between the parties at the time it is before the court so that the court cannot provide an effective remedy." *Albert S. v. Dep't of Health & Mental Hygiene*, 166 Md. App. 726, 743, 891 A.2d 402, 412 (2010) (quoting *Coburn v. Coburn*, 342 Md. 244, 250, 674 A.2d 951, 954 (1996)). Furthermore, "[a]ppellate courts do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decisions are dismissed as a matter of course." The Hospital asks that we take judicial notice of our decision in *Don Martin Fleming v. Shore Health System, Inc.*, 2013 WL No. 2422 (No. 2422, Sept. Term, 2013) *cert. denied* 443 Md. 235, 116 A.3d 474 (2015), *cert. denied* 136 S. Ct. 1158, 194 L. Ed. 2d 187 (2016). In *Fleming*, a case with similar facts to this appeal, we held:

> The ALJ's decision found that [appellant's] involuntary admission for treatment was lawful. The order's effect was that [appellant] remained involuntarily admitted for an additional six days. That time has now passed and reversal of the order cannot give the six days back to [appellant], even if the order were erroneous. Ruling now that the ALJ's order should have gone the other way does not release [appellant on the date of the hearing]. There is no effective remedy.

Id. at 6. Here, appellant remained involuntarily admitted for an additional two weeks after the ALJ's ruling. Reversing that decision will have no effect on her release. In her reply brief, appellant lists many collateral consequences that could result from the order of involuntary admission. However, appellant does not argue that she has actually suffered from any of those consequences.

of the circuit court. *Marks v. Crim. Injuries Compl. Bd*., 196 Md. App. 37, 55 (2010). The role of this Court is limited to determining whether there is substantial evidence in the record, as a whole, to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law. *Maryland Dep't of Health & Mental Hygiene v. Brown*, 177 Md. App. 440, 461, 935 A.2d 1128, 1140 (2007).

C. Analysis

We find merit in the mootness argument presented by the Hospital. There does not appear to be an effective remedy for appellant here. Appellant was released from the Hospital on December 14, 2015. Even if we conclude that the ALJ's order was erroneous, which we do not, appellant's involuntary admission ended long ago. Nonetheless, we address the merits of appellant's contentions.

1. Procedural Requirements

Appellant argues that her involuntary admission to the Hospital was improper because the Hospital failed to comply with several procedural requirements. Specifically, appellant asserts that the Hospital failed to timely: (1) examine appellant to determine her eligibility for involuntary admission, (2) begin the process for involuntary admission, (3) give appellant notice of her admission and attendant rights, or (4) provide a hearing on involuntary admission, and therefore, we must reverse. We disagree.

Involuntary admissions are governed by Title 10, Subtitle 6, of the Health-General Article of the Maryland Code. Section 10-624(b) provides that a physician shall examine

an individual within 6 hours after arrival at the emergency facility to determine whether the individual meets the requirements for involuntary admission. Md. Code Ann., Health-Gen. §10-624(b). If the individual meets those requirements, "the examining physician shall take the steps needed for involuntary admission of the emergency evaluee to an appropriate facility[.]" §10-625(a). "Within 12 hours after [an individual's] initial confinement," a hospital must provide the individual notice of his or her admission and of various rights, including the right to consult with a lawyer. §§10-631(a)-(b). The notice includes the date of the involuntary admission hearing which "shall be conducted within 10 days of the date of the initial confinement of the individual." §10-632(b).

Appellant arrived at the Hospital on November 17, 2015. There is nothing in the record to suggest she was not examined within 6 hours of her arrival. The examining physician determined that due to appellant's medical condition – recent stroke and thyroid-storm – she needed to remain on the medical floor for observation and consultations before addressing any psychiatric issues. The emergency room staff considered it "essential" that appellant receive an MRI to see if brain swelling was the cause of her behavior. [E. Appellant's somatic concerns took priority. While addressing appellant's physical health, "there were frequent consultations by [the Hospital's] psychiatric staff," and once she was stable the Hospital promptly determined that appellant was eligible for involuntary admission.

The Hospital then began "the process for involuntary admission." Appellant was diagnosed and certifications for her involuntary admission were signed on November 19,

2015. Appellant's family requested that she be transferred to Johns Hopkins Hospital or Sheppard Pratt Health System. After both facilities denied those requests and a bed opened up, the Hospital admitted appellant to the psychiatric unit on November 24, 2015. Appellant received notice of her admission and attendant rights on the same day. There is no evidence that she received notice more than 12 hours later. Therefore, we hold that the Hospital provided timely notice. Appellant's involuntary admission hearing was held on December 1, 2015, within 10 days of appellant's confinement to the psychiatric unit. Ultimately, we do not find any procedural errors here. Appellant's physical health needs tolled the time to meet these procedural requirements.

2. Presents a Danger to the Life or Safety of the Individual or of Others

At the involuntary admission hearing, the hearing officer is required to consider all the evidence and testimony of record, and order the release of the individual from the facility unless the record demonstrates by clear and convincing evidence that:

> (1) The individual has a mental disorder;
> (2) The individual needs inpatient care or treatment;
> (3) *The individual presents a danger to the life or safety of the individual or of others*;
> (4) The individual is unable or unwilling to be admitted voluntarily; and
> (5) There is no available, less restrictive form of intervention that is consistent with the welfare and safety of the individual.

Md. Code Ann., Health-Gen. §10-632(e) (emphasis added). Appellant argues that the Hospital failed to present sufficient evidence of how she "presents a danger to the life or

safety of the individual or of others." We conclude from our review of the administrative record that there was substantial evidence to support the ALJ's findings.

The ALJ heard testimony from Dr. Sidana and appellant. Dr. Sidana explained his diagnosis and appellant's symptoms. He also stated that it was his expert opinion that appellant was a danger to her own safety because she refused to take her medication and failed to acknowledge her diagnosis. Furthermore, he testified that appellant's manic behavior and delusions of grandeur would be disastrous to her professional life and finances based on her recent actions. Dr. Sidana summarized a letter from appellant's family expressing the same concerns, and indicating that appellant was under the mistaken impression that she was able to drive, which was a safety concern.[6] Dr. Sidana concluded that it was his opinion that appellant presented a danger to her life or safety and that of others.

After the appellant testified, the ALJ made his ruling as follows:

> I will now address the merits. Ms. [J.C.N.], I find that you do have a mental disorder that is Bipolar Disorder type 1. This is characterized by your having grandiose delusions. Dr. Sandeep [Sidana] described those delusions in detail. Some of them involve contacting people of some note. Some of them involved your idea that you have been invited to give talks at prestigious institutions, and will be paid money for doing so, but some things that did come into play in making my decision are this:
>
> You had a – you even recounted your having a stroke in June, having a thyroid storm, you needed to take thyroid – take

[6] The record indicates that appellant is unable to drive due to her stroke. She has damage to the right side of her body, "foot drop," inability to use her right hand very well, and partial loss of sight in her right eye.

> steroids. You were suffering from hyperthyroidism. Your thyroid hormone returned to normal, but that doesn't – the doctor said that doesn't tell the whole story. You have problems, as you are demonstrating – I know you did some hand exercises. There are some problems with your vision, but the doctor also testified that you still – you don't have any insight into your mental illness, and that you might decide to drive a motor vehicle. That is inadvisable at this time.
>
> I – but I believe his testimony – his expert testimony and it is by clear and convincing evidence, the record as a whole, with your lack of judgment, lack of insight, and these issues about finances as well, my question is and the answer to that question is, do you have the sufficient judgment to maintain yourself out of an institutional setting and my answer to that question is no, based on the entire record.
>
> This is an atypical case where there is not one particular incident, or one particular idea of threatening behavior, or being a danger because one is fighting with other individuals, or threatening someone with a weapon, or so forth, but the entire global nature of this case, your lack of insight, and the things that you are indicating that you might do, and I believe it is credible that you might do these things. You are not taking any medication now. Depakote and Risperdal have been prescribed.
>
> So, I conclude that you do present a danger to your own safety and life, and the life of others, particularly if you decide to drive and you are not fit to do so.

We agree with this decision. As appellant notes, "[t]he statute does not specify what type of harm is sufficient to establish 'a danger to the life or safety of the individual or of others.'" Therefore, the ALJ was free to consider all harm. The record and testimony adduced at trial show evidence that appellant presented a danger to her life and safety physically, financially, and professionally. We hold that there is substantial evidence in the record, as a whole, to support the agency's findings and conclusions, and that the

administrative decision was not based upon an erroneous conclusion of law. Appellant's involuntary admission was proper.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.