

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE PINAL COUNTY MENTAL HEALTH
No. MH201300149

No. 2 CA-MH 2013-0008
Filed May 6, 2014

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c); Ariz. R. Civ. App. P. 28(c)

Appeal from the Superior Court in Pinal County
No. S1100MH201300149
The Honorable Joseph R. Georgini, Judge

AFFIRMED

COUNSEL

Camille Hernandez, Florence
Counsel for Appellant

M. Lando Voyles, Pinal County Attorney
By Geraldine Roll, Deputy County Attorney, Florence
Counsel for Appellee

MEMORANDUM DECISION

Judge Miller authored the decision of the Court, in which Chief Judge Howard and Presiding Judge Vásquez concurred.

M I L L E R, Judge:

¶1 Appellant appeals from the trial court's order that she undergo involuntary mental health treatment pursuant to A.R.S. § 36-540(A)(2). *See also* A.R.S. § 36-533. She argues there was insufficient evidence to support the court's finding that she was persistently or acutely disabled, specifically in relation to whether there was a substantial probability of harm if she were left untreated and whether she was unable make an informed decision regarding her treatment. We affirm.

¶2 Following court-ordered evaluations, one of appellant's evaluating psychiatrists petitioned for court-ordered treatment asking the court to order a combination of inpatient and outpatient treatment and averring appellant suffered from bipolar disorder and was persistently and acutely disabled. After an evidentiary hearing, the court found, by clear and convincing evidence, that appellant was persistently and acutely disabled as defined by A.R.S. § 36-501(32). Thus, the court ordered combined inpatient and outpatient treatment upon finding that appellant was unable or unwilling to accept treatment and that there were "no appropriate and available alternatives other than Court-ordered treatment."

¶3 A trial court is permitted to order involuntary treatment if it finds "by clear and convincing evidence that the proposed patient, as a result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and in need of treatment, and is either unwilling or unable to accept voluntary treatment." § 36-540(A). A person is persistently or acutely disabled if he or she has a mental disorder that:

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(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person's capacity to make an informed decision regarding treatment, and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

§ 36-501(32). "We view the facts in a light most favorable to upholding the court's ruling and will not reverse an order for involuntary treatment unless it is 'clearly erroneous and unsupported by any credible evidence.'" *In re MH2009-002120*, 225 Ariz. 284, ¶ 17, 237 P.3d 637, 643 (App. 2010), quoting *In re MH 2008-000438*, 220 Ariz. 277, ¶ 6, 205 P.3d 1124, 1125 (App. 2009).

¶4 Appellant first argues there was insufficient evidence of a substantial probability of severe harm if she were not treated because the evidence did not identify a "risk of harm to [her] or the community" and showed she was willing to stay on her current medication. We disagree because the credible evidence from which the trial court could order involuntary treatment includes the following: Appellant suffers from bipolar disorder that significantly

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impaired her judgment and distorted her perception. She falsely believed her family had been plotting against her – for example, she accused her son of breaking into her bedroom and standing over her as she slept and her husband of “pack[ing] a suitcase with lingerie in an attempt to prove she was having an affair.” She showed marked changes in personality and behavior, including making threats of physical violence against her family.

¶5 Additionally, there was evidence that she had been spending money irresponsibly, had concealed the fact she had stopped taking prescribed medication, and had denied having bipolar disorder at all. And both evaluating physicians stated in affidavits that the appellant’s judgment was impaired and, absent treatment, she would suffer harm. Although appellant suggests those evaluations lacked specificity, she does not explain what extra information was required in light of the evidence presented.

¶6 Further, there was evidence appellant’s symptoms would not improve absent proper treatment. Despite her belief that her current medication was sufficient, both evaluating physicians disagreed. This evidence is sufficient to show a “substantial probability” that, if she did not obtain treatment for her mental disorder, appellant would “suffer . . . severe and abnormal mental, emotional or physical harm that significantly impairs [her] judgment, reason, behavior or capacity to recognize reality.” § 36-501(32)(a).

¶7 Appellant further claims there was insufficient evidence her disorder impaired her ability to make informed decisions about her treatment, *see* § 36-501(32)(b), because she was willing to take her current medication (lamictal) – an anti-seizure medication “sometimes used to stabilize mood” – and there was no evidence that the recommended treatment “was the only treatment capable of producing therapeutic results.” “[A]s a predicate to [the court] determining whether a mentally-ill person is capable of engaging in a rational decision-making process” concerning treatment, “the doctors must explain the advantages and disadvantages of *accepting* treatment[] and . . . the alternatives to such treatment and the

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advantages and disadvantages of such alternatives.” *In re MH 91-00558*, 175 Ariz. 221, 225, 854 P.2d 1207, 1211 (App. 1993).

¶8 As we noted above, neither evaluating psychiatrist believed appellant’s current medication alone could resolve her symptoms. The evidence showed she had been advised that limiting her treatment to lamictal and acupressure was insufficient; further, she would have been advised about alternatives when she refused to take the recommended medication. One psychiatrist testified that appellant had “made it clear to [him] . . . that she would refuse everything but [her current medication] and acupressure.” Although the appellant claimed she had not been thoroughly advised of alternatives, it is for the trial court to resolve conflicts in the evidence. *In re Pima Cnty. Mental Health No. MH 2010-0047*, 228 Ariz. 94, ¶ 17, 263 P.3d 643, 647 (App. 2011). Because there is evidence that appellant had been advised about the proposed treatment and the alternatives but nonetheless refused all appropriate treatment, sufficient evidence supported the court’s determination pursuant to § 36-501(32)(b).

¶9 For the reasons stated, we affirm the trial court’s order that appellant undergo mental health treatment.