

Noncompliance: Patient With Violent History Committed To Assisted Outpatient Care.

The local county court refused to order the patient into an assisted outpatient setting where he could demonstrate compliance with his anti-psychotic medications as an alternative to being sent to a psychiatric hospital.

This patient's need for assisted outpatient treatment is established by clear and convincing evidence.

He had a history of "cheeking" his medication while in the psychiatric hospital and boasted he would not take his medication once freed. He decompensated when not on his medication.

There were two prior violent events, both while not taking his medication. He stabbed a hospital employee in 1997 and assaulted his sister in 1999.

NEW YORK SUPREME COURT,
APPELLATE DIVISION, 2001.

On appeal, the New York Supreme Court, Appellate Division, ordered him into the assisted outpatient setting.

There was a documented history of gamesmanship to avoid taking his meds and decompensation. There were two serious acts of violence while off his medications. Clear and convincing evidence established that the patient was a danger to others, the court ruled. ***Weinstock v. Hector A.***, 733 N.Y.S.2d 243 (N.Y. App., 2001).

Psychotic Patient: Court Says An Overt Act Is Needed To Prove The Patient Is A Danger To Self.

A psychiatric patient had been living in a group home but unexpectedly walked away one day for no apparent reason.

It was not clear who reported her to the police, but they found her, picked her up and took her to a hospital. She was discharged from the hospital and traveled by train and bus to her daughter's home. Her daughter took her back to the hospital and initiated proceedings for a long-term mental health commitment. The patient was being held in a state psychiatric hospital when her case went to court.

The Court of Appeals of Texas ruled there were not sufficient grounds to hold her and ordered her released.

The lower court's order to keep her locked up was based on a physician's testimony that focused on three areas: nutrition, wandering and medication.

Less Than Optimal Nutrition

The patient had paranoid psychotic delusions she was to subsist on nothing but chicken nuggets and cookies. While absent from the group home she ate only that for nearly four weeks before she was placed in the state hospital.

The Court of Appeals ruled that less than optimal nutritional choices are not sufficient evidence of the likelihood of self-harm to justify a psych commitment.

Wandering from Group Home

For this patient, wandering away from the group home and trying to live on her own, although highly inadvisable, was not actually harmful. It went against her caregivers' best judgments for her welfare but did not fall within the legal definition of harm to self to justify a psychiatric commitment.

Medication Noncompliance

The patient was not consistently taking her medications while living in the group home. However, the doctor who testified in favor of involuntarily committing her was unable to state what medications she was supposed to be taking, what her meds were indicated for, what they did for her and what specifically would happen

Expert psychiatric testimony confirming a diagnosis of mental illness, in and of itself, is not enough to justify holding and treating a patient involuntarily.

In addition to a diagnosis of mental illness there must be clear and convincing evidence the patient is a danger to self or to others.

Danger to self or to others must be proven on the basis of a recent overt act or a continuing pattern of behavior that confirms that self-harm is probable without mental health treatment.

COURT OF APPEALS OF TEXAS, 2001.

if she stopped taking them.

True, the court said, when a patient deteriorates from non-compliance with anti-psychotic medications there can be grounds for involuntary commitment, but the caregiver who testifies in court must do his or her homework to be able to specify what exactly will happen without them.

Overt Act Is Necessary

As a general rule the courts have to hear testimony about an overt act of actual or attempted self-harm to be satisfied that future acts of self-harm are probable without involuntary mental health treatment. Mere predictions of self-harm from mental-health examiners or caregivers, without actual examples, are not enough to justify holding a person against his or her will, the court ruled. ***D.J. v. State of Texas***, 59 S.W.3d 352 (Tex. App., 2001).