

RENDERED: January 23, 2004; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-002528-MR

R.C.

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE BARRY WILLETT, JUDGE
ACTION NO. 02-CI-008022

HONORABLE JACQUELINE ECKERT,
JUDGE AND COMMONWEALTH OF KENTUCKY,
REAL PARTY IN INTEREST

APPELLEES

OPINION
AFFIRMING
** ** * * * * *

BEFORE: KNOPF, TACKETT, AND VANMETER JUDGES.

TACKETT, JUDGE: R.C. appeals from an order of the Jefferson Circuit Court denying her request for a writ of prohibition against the Jefferson District Court which extended an order for forced medication. We affirm.

At a hearing on August 8, 2002, the district court found beyond a reasonable doubt that R.C. met the statutory criteria pursuant to Kentucky Revised Statute (KRS) 202A.026 for

involuntary hospitalization in a psychiatric facility. R.C. was committed to Central State Hospital in Louisville, Kentucky, for a period not to exceed sixty days. Subsequently, R.C., who is diagnosed with a bipolar schizoaffective disorder, refused to comply with the hospital's treating decisions or to take any psychotropic medication. The district court entered an order on August 22, 2002, allowing forced medication, pursuant to KRS 202A.196(3), not to exceed the period of the present involuntary commitment.

Prior to the expiration of the sixty-day commitment, the hospital filed a new petition asking for a 360-day involuntary commitment, pursuant to KRS 202A.051. Another division of the Jefferson District Court held a preliminary hearing and determined that there was probable cause for R.C. to remain hospitalized involuntarily. The order set the matter for a final hearing on October 24, 2002; however, the district court stated that the forced medication order would be extended as the period of involuntary commitment had not ceased. R.C. petitioned the Jefferson Circuit Court for a writ of prohibition against the district court's order continuing forced medication. The circuit court found that the district court had adequately reviewed the hospital's treatment plan for R.C. and that R.C. had been voluntarily taking the prescribed medication since the final hearing on October 22. The circuit court denied the

request for a writ of prohibition stating that R.C. had received all procedural and substantive due process protections available. This appeal followed.

R.C. argues that the district court failed to comply with the statutory procedures, outlined in KRS Chapter 202A, for forcible medication and, therefore, the circuit court erroneously denied the request for a writ of prohibition. Our standard of review is whether the circuit court abused its discretion by denying R.C.'s request for a writ of prohibition. Commonwealth v. Stephenson, Ky., 82 S.W.3d 876 (2002). In order to be entitled to a writ of mandamus, R.C. must show three things: that the lower court was about to proceed outside its jurisdiction or within its jurisdiction, but erroneously; that R.C. has no other adequate remedy by way of appeal; and that R.C. will suffer an irreparable injustice if the writ is not issued. Evans v. Humphrey, 135 S.W.2d 915 (1940); Tipton v. Commonwealth, Ky. App., 770 S.W.2d 239 (1989). It is this second threshold requirement that R.C. fails to meet: that no adequate remedy exists by way of appeal. The forced medication order entered on August 22, 2002, was a final and appealable order as was the district court's ruling on October 9, 2002, which extended the forced medication on the basis that R.C. remained involuntarily committed. In addition, KRS 202A.141(2) specifically provides for an expedited appellate process when

appealing from any order entered pursuant to Chapter 202A. R.C. elected to file for a writ of prohibition instead of appealing either the August 22, 2002 order allowing forced medication or the October 9, 2002 order continuing forced medication. Consequently, R.C. failed to exhaust available appellate remedies and was, therefore, not entitled to have the circuit court grant a writ a prohibition against the district court.

For the forgoing reasons, the judgment of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Frank Wm. Heft, Jr.
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BRIEF FOR APPELLEE

COMMONWEALTH OF KENTUCKY:

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NO BRIEF FOR APPELLEE

HONORABLE JACQUELYN P. ECKERT