Circuit Court for Howard County
Case No. 13-C-15-103393

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2023

September Term, 2016

D.L.

v.

SHEPPARD PRATT HEALTH SYSTEM, INC., ET AL.,

Woodward, C.J.,
Nazarian,
Davis, Arrie W.,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Davis, J.

Filed:

An administrative law judge ("ALJ") ordered that D.L., Appellant, be involuntarily admitted to Sheppard Pratt at Ellicott City (the "Hospital") under Title 10, Subtitle 6, of the Health-General Article of the Maryland Code. Appellant petitioned for judicial review by the Circuit Court for Howard County, which dismissed the petition as moot, without a hearing. This Court remanded the case to the circuit court for a hearing on mootness, and the circuit court again dismissed the petition as moot. Appellant filed the instant appeal in which she posits the following question for our review:

> Did the lower court err in dismissing as moot the petition for judicial review of D.L.'s involuntary admission?

FACTS AND LEGAL PROCEEDINGS

Background and Involuntary Commitment

On March 26, 2015, Appellant was admitted to the Hospital from MedStar Southern Maryland Hospital where police brought her after she exhibited behavioral and physical presentations that permitted the conclusion that she was, at that time, suffering from a mental disorder. Appellant had fresh cut wounds on her left arm from her wrist to the elbow, as well as additional cuts and scars on her body from prior cuts. Appellant admitted that she had cut herself before. The cuts appeared to be superficial and to have been made by a razor blade. Appellant was examined and certified by two physicians at MedStar Southern Maryland Hospital, both diagnosing Appellant with a depressive disorder which included the symptoms of impulsiveness, disturbed eating and sleeping patterns, poor insight and judgment and engaging in self-mutilation. Appellant had a decreased level of

functioning and possessed feelings of helplessness and hopelessness.

On April 7, 2015, an ALJ ordered Appellant's involuntary admission. Appellant was 14 years old at the time. The Hospital's position was that Appellant posed a risk to herself and to others. Dr. Laura Seidel, the attending psychiatrist, testified that Appellant had a "severe" and "major depressive disorder." Dr. Seidel testified that Appellant needed in-patient care because "she exhibits symptoms of severe depression" with "decreased energy, hypersomnia" where she had remained in her bed for 24 hours at a time. Dr. Seidel further added that Appellant exhibited "some decrease in appetite" and "some hopelessness about . . . the discharge plans." When asked if she believed Appellant was a danger to herself, Dr. Seidel responded:

> I do, partly because she, she has been in like the three foster homes and the last one that she went in when she finally became hopeless, towards the end she ended up going to a store and bought a razor blade and cut herself actually in the store . . . [making] multiple marks on her arms. And I feel like she could be at risk of doing that again if she had access to a sharp object . . . given her level of depression and her hopelessness.

Dr. Seidel testified that she did not believe Appellant to be a danger to others.

When asked if she believed that there was a less restrictive alternative form of intervention than involuntary commitment, Dr. Seidel testified:

> No, I don't think there is because I have talked to Sharon Jones, the DSS worker this morning, and we are trying to place her back at Mann Residential Treatment Center at the Sheppard Pratt Towson campus where she has been before. At this point they're still working on the insurance authorization but she has been accepted and we're hoping that there will be a bed . . . [and] that the insurance will come through . . . by Friday of this week.
>
> The other option that Sharon Jones has presented is Stonebridge, which is a

> diagnostic treatment center and residential which there may be an opening today but there may not. *** [S]he would look into that if [Appellant] was released but she did not say that there was [a] definite spot at Stonebridge where she could be placed today.

Dr. Seidel testified that it was Appellant's desire to try a different therapeutic foster home, believing that it was partly "the personality and the nature of the last foster mother . . . that caused her to not be able to function in that home, to get more depressed leading to the self-injurious behavior." Dr. Seidel further testified that, although Appellant did not want to go to a residential treatment center[1] ("RTC"), *e.g.*, Mann RTC at Sheppard Pratt Towson or Stonebridge, there was a risk to Appellant's health and safety to go into another foster home considering the symptoms of her current mental state.

During direct examination, Dr. Seidel testified as follows:

> [HOSPITAL]: So right now I'm just trying to determine risk and safety for [D.L.], do you feel she's safe at this point to discharge being that she does not want to go to Mann RTC or Stonebridge and those are the places [] where she is going to most likely go?
>
> [DR. SEIDEL]: Right. Well I feel like she would be safe if she was going to go directly into a residential because—
>
> [Q]: I see.

[1] MD. CODE ANN., HEALTH-GEN. § 19–301(p). "'Residential treatment center' means a psychiatric institution that provides campus-based intensive and extensive evaluation and treatment of children and adolescents with severe and chronic emotional disturbances who require a self-contained therapeutic, educational, and recreational program in a residential setting." *See also, Residential Treatment Centers*, MARYLAND COALITION OF FAMILIES, http://www.mdcoalition.org/resources/pages/residential-treatment-centers (last visited January 11, 2018) (describing RTCs, in addition to the statutory definition, as the "second-most restrictive" treatment for children and adolescents, "[n]ext to inpatient psychiatric hospitalization").

> [A]: —they do have the capacity to have supervision, to remove sharps, to watch her 24 hours a day.
>
> [Q]: But the reality is . . . that there's not one today—
>
> [A]: Right.
>
> [Q]: —correct?
>
> [A]: There's not one today that we know of.
>
> [Q]: Do you feel that she needs to remain in, in an acute setting until that is secure?
>
> [A]: Yes, I do, especially given the fact that she's had a change where now she's been in bed, you know, for the last, you know, kind of 12 to 36 hours not participating in treatment whereas before the weekend, I wasn't here on the weekend, she was much brighter in her affect. Participating, interacting with the other, with the other kids. So I've seen a change indicating a worsening of depression, even though she hasn't indicated that she's actually done something to physically hurt herself.

In response to questioning, Dr. Seidel described Appellant as "impulsive" and that she was a potential "runaway risk." Dr. Seidel also testified that the new medication Appellant would be placed on would require initial monitoring because of the potential for "suicidal thoughts."

Appellant also testified, at the hearing, that she would not engage in self-harm and that she had developed coping skills to handle stress.

In closing, the Hospital argued that there was no safe, definitive place for Appellant to go as neither potential RTC was available at the time of her release. Appellant's counsel argued the following:

> [She is] ready to go to a less restrictive setting and that, that less restrictive setting may well be right now available at Stonebridge and it may be there, so, therefore,

> we have a clear and convincing standard. The Hospital has to show clearly and convincingly that my client can't go to Stoneridge today and we know for a fact that she can go there today.

Appellant's counsel further reiterated that "[i]f there's an interim problem" with her placement and she had to be "bounced around" until the Mann RTC was available in a few day, his client could "accept" the stress.

The ALJ found as follows, on the record:

> After considering the evidence presented, I find that such evidence is clear and convincing that the evidence has, that the individual, [Appellant], has a mental disorder diagnosis major depressive disorder, that she is in need of institutional care or treatment at this time. ***
>
> She presents a danger to her own life or safety. *** [T]here's a risk if she were released that, that she would attempt to harm herself again. She is unable to be voluntarily admitted to the facility because she is a minor.
>
> There is no less restrictive form of intervention available that's been shown to be available that's consistent with [her] welfare and safety. I have the possibility that something might or might not be available today. That is not clear and convincing that the intervention is available.

It was at this point that Appellant's counsel interjected, leading to the following exchange:

> [COUNSEL]: Your Honor, my client doesn't have to prove that, that's their burden.
>
> [ALJ]: Yes, and their testimony was that it's not available.
>
> [COUNSEL]: No, their testimony was that it very well may be available, Your Honor.
>
> [HOSPITAL]: It might be available.
>
> [COUNSEL]: No, no, that—

[ALJ]: Counsel, you said that the fact is that it is available but then you hedged and said it might not be available.

I made it clear that we don't know if that's—and so did the doctor's testimony that we don't know—

[COUNSEL]: And then you say failed in their burden, Stonebridge very well may be available pursuant to the social worker.

[ALJ]: The clear and convincing evidence is to me that the social worker is not present to demonstrate that this placement is available and the hospital can't demonstrate that the placement is available.

[COUNSEL]: They have to prove that it isn't available. My client doesn't have to prove that it's available, Your Honor.

[ALJ]: I understand your client doesn't have to prove that it isn't available, but the Hospital is saying that they don't know if it's available and—

[COUNSEL]: They don't know that it's not available.

[HOSPITAL]: We don't know that it's available.

[ALJ]: No, they can't, they can't prove the negative, they're trying—I'm not going to go into argument with you, [counsel], but the evidence I have before me is that the hospital is attempting to work with the social worker regarding discharge planning, that they are not being able to effectively communicate with the social worker regarding discharge planning. Clearly discharge to a therapeutic foster care placement at this time is not sufficient to protect [D.L.'s] welfare or safety.

So if the, if there is not another supervised residential treatment facility available . . . to accept her today, then the evidence before me is clear and convincing that there is not a less restrictive form of intervention available that's consistent with the welfare or safety.

* * *

[D.L.] shall be retained as an involuntary patient at this facility.

Appellant was discharged from the Hospital on April 10, 2015.

Judicial Review and Mootness

On May 1, 2015, Appellant petitioned the circuit court for judicial review. She argued that the ALJ erred in finding that the Hospital had demonstrated by clear and convincing evidence that a less restrictive form of intervention was unavailable.

The Hospital moved to dismiss the petition, arguing that the case was moot because Appellant had been discharged on April 10, 2015. With respect to the merits of the petition, the Hospital argued, "The decision of the [ALJ] that there was no less restrictive placement available [was] supported by the testimony at the hearing."

On July 28, 2015, the circuit court dismissed the case as moot, without a hearing.

On August 12, 2015, Appellant moved the court to alter or amend the order, arguing that she was entitled to a hearing. On September 15, 2015, the circuit court denied the motion.

Appellant appealed to this Court. On May 9, 2016, this Court granted the parties' joint motion to remand the case to the circuit court for a hearing.

On October 13, 2016, the circuit court heard arguments on whether Appellant's discharge from the Hospital rendered moot her petition for judicial review.

The Circuit Court's Ruling

On November 2, 2016, in a Memorandum Opinion, the circuit court again dismissed the case as moot. The court was tasked with analyzing two issues: whether Appellant's Petition was moot and, if so, whether the Hospital's Motion to Dismiss should be granted, *i.e.*, should the merits of Appellant's claim be reviewed although she could no longer be

afforded a remedy. As to the first issue, the court concluded that, because Appellant had already been discharged from the hospital, her petition was moot. Specifically, the court noted:

> Neither party disputes that [Appellant] was discharged from the involuntary admission she appeals from; [Appellant] cannot be re-committed based on the April 7, 2015 Order. Neither party disputes that the April 7, 2015 involuntary admission decision will not impact any future involuntary admission hearings; if [Appellant] is certified for admission again, the ALJ will look solely to the facts present at that time and not to any prior admission. While [Appellant] claims the stigma of having been involuntarily admitted will stay with her, nothing this court can do will change that.
>
> Appellant complains about her involuntary admission, which no longer exists and which cannot be reinstituted absent a new finding for admission. The only status of which she complains no longer exists. Under these facts and circumstances, [Appellant's] Petition is moot.

The court declined to proceed with ruling on the merits of the moot claim. Quoting *Lloyd v. Supervisors of Elections*, 206 Md. 36, 43 (1954), the court noted the rarity of reviewing moot controversies and the fact that exceptions can be made

> " . . . only where the urgency of establishing a rule of future conduct in matters of important public concern is imperative and manifest, will there be justified a departure from the general rule and practice of not deciding academic questions . . . if the public interest clearly will be hurt if the question is not immediately decided, if the matter involved is likely to recur frequently, and its recurrence will involve a relationship between government and its citizens, or a duty of government, and upon any recurrence, the same difficulty which prevented the appeal at hand from being heard in time is likely again to prevent a decision, then the Court may find justification for deciding the issues raised by a question which has become moot, particularly if all these factors concur with sufficient weight."

The court found that Appellant had failed to meet the requirement under *Lloyd, supra*, specifically, that the "matter involved be likely to recur frequently." The court noted

that "[n]either in [Appellant's] Answer to the Motion to Dismiss, not in any representation made at oral argument, does she provide any indication that this matter will recur frequently."

The court further noted that, pursuant to Md. Code Ann., Health Gen. § 10–632(e)(2)(i–v), an involuntary commitment may occur only when the facility seeking the commitment can demonstrate, by clear and convincing evidence at the time of the hearing, that each of the five[2] following elements have been met:

> (i) the individual has a mental disorder;
>
> (ii) the individual needs inpatient care or treatment;
>
> (iii) the individual presents a danger to the life or safety of the individual or others;
>
> (iv) the individual is unable or unwilling to be involuntarily admitted to the facility;
>
> (v) there is no available less restrictive form of intervention that is consistent with the welfare and safety of the individual[.]

The court noted that Appellant has stipulated to the first four elements and that the fifth element, *i.e.* the unavailability of a less restrictive form of intervention, was at issue. According to the court, Appellant interpreted Dr. Seidel's statement that there *could* be a placement at Stonebridge as a foreclosure on "a finding that there was no less restrictive placement and the ALJ's finding impermissibly shifted the burden onto [Appellant] to prove a bed at Stonebridge was available." The court was unpersuaded that this constituted

[2] There is a sixth element that concerns individuals 65 years of age and older, which is inapplicable in the instant case.

a "public concern," and that, if ruled upon, would not provide future guidance for other ALJs and parties. Therefore, the court declined to review the merits of the case and granted the Hospital's Motion to Dismiss.

The instant appeal followed.

STANDARD OF REVIEW

"We review the grant of a motion to dismiss *de novo*. We will affirm the circuit court's judgment 'on any ground adequately shown by the record, even one upon which the circuit court has not relied or one that the parties have not raised.'" *Sutton v. FedFirst Fin. Corp.*, 226 Md. App. 46, 74 (2015) (citations omitted), *reconsideration denied* (Dec. 24, 2015), *cert. denied sub nom. Sutton v. FedFirst Fin.*, 446 Md. 293 (2016).

DISCUSSION

In the instant case, the sole question on appeal is whether the issue is moot and not subject to one of the exceptions to the mootness doctrine. Appellant contends that the issue is not moot because she "faces substantial collateral consequences" from the lower court's involuntary admission order. Appellant maintains that, "[i]n Maryland, such consequences of involuntary admission are numerous." Appellant further contends that, even if the case is moot, there are several exceptions to the mootness doctrine applicable in the instant case that would require the case to be heard.

The Hospital, Appellee, responds that the case is moot, noting that "[t]here is no longer an existing controversy between these parties and there is no effective remedy the court could fashion." Appellee further responds that "Appellant will not suffer any direct

collateral consequences from the involuntary admission." Specifically, Appellee argues that Appellant's "involuntary admission has no impact on any potential future involuntary admission." Appellee also argues that "Appellant will not suffer any indirect collateral consequences from the involuntary admission[,]" or what Appellant characterizes as "collateral consequences." Appellee argues that the concerns are unfounded because of Appellant's age, time limits on searching records or because of Appellant's prior and subsequent institutional stays at residential treatment centers for mental illness.

Mootness

"'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.' Moot cases are generally dismissed without a decision on the merits." *G.E. Captial Mortg. Services, Inc. v. Edwards*, 144 Md. App. 449, 453 (2002) (quoting *Coburn v. Coburn*, 342 Md. 244, 250 (1996)). "Generally, appellate courts do not decide academic or moot questions." *Prince George's County v. Columcille Bldg. Corp.*, 219 Md. App. 19, 26 (2014) (quoting *Attorney Gen. v. Anne Arundel Cnty. Sch. Bus Contractors Ass'n*, 286 Md. 324, 327 (1979)). "Because we do not sit to give advisory opinions, we generally order that moot actions be dismissed without a decision on the merits." *In re Kaela C.*, 394 Md. 432, 454 (2006) (citing *In re Rosa A. Riddlemoser*, 317 Md. 496, 502 (1989)).

"Where, however, it seems apparent that a party may suffer collateral consequences from a trial court's judgment, the case is not moot." *Id.* at 453. In *Kaela, C.*, the Court of Appeals cited several examples from foreign jurisdictions where collateral consequences

rendered a case not moot. For example, the Court cited *In re Hatley*, 231 S.E.2d 633, 634–35 (1977) which determined that a claim that the petitioner was erroneously committed to a mental institution involuntarily was not moot, even though the commitment order had since expired, because petitioner faced potential adverse collateral legal circumstances as a result of the involuntary commitment. *Hatley*, in turn, cites *In re Ballay*, 482 F.2d 648, 651–52 (D.C. Cir. 1973) which provides a brief overview of the collateral consequences rationale and non-exhaustive examples.

> There is yet another independent reason why the present appeal is not moot—the collateral consequences of being adjudged mentally ill remain to plague appellant. *** We answered in the affirmative relying upon the multitude of legal disabilities radiating from the label "mentally incompetent." For example, while the commitment stands on the record, the party may face state constitutional and statutory restrictions on his voting rights; restrictions on his right to serve on a federal jury; restrictions on his ability to obtain a driver's license; and limitations on his access to a gun license. *** Such evidence will frequently be revived to attack the capacity of a trial witness. Depending upon the diagnosis, it may be admissible for impeachment purposes. Indeed, even in a criminal trial it may be available to attack the character of a defendant if he has put character in issue. Most significantly, records of commitments to a mental institution will certainly be used in any subsequent proceedings for civil commitment[.]

(Some citations omitted).

Maryland law has made "clear that not all collateral legal consequences need be concrete, non-speculative, or statutory to have a preclusive effect on mootness. Indeed, only the *possibility* of collateral legal consequences is required." *Adkins v. State*, 324 Md. 641, 654 (1991) (emphasis supplied) (citations omitted).

In *Toler v. Motor Vehicle Admin*., 373 Md. 214, 219 (2003), the Court of Appeals held that the issue of whether the accused's driver's license was wrongly suspended was

not moot, although the suspension period had concluded and full driving privileges had been restored, because of the potential collateral circumstances the suspension could have caused, namely the accused was vulnerable to increased suspension periods if subsequent suspensions were incurred.

Appellant asserts several examples of potential collateral consequences of her involuntary commitment that may negatively impact her, *i.e.*, required federal registration with the FBI; ability to own and or purchase a firearm under State or Federal law; employment prospects where gun use or a background check is required; immigration status; driving privileges; ability to serve on a federal jury; status as a guardian or custodian of a child in need of assistance; and social stigma.

Appellee counters that Appellant's status as a minor, prior history of violent behavior and mental disorders disqualify her from a number of the aforementioned rights Appellant alleges are susceptible to the collateral consequences of her involuntary admission. Furthermore, Appellee asserts that Appellant has already been exposed to the potential collateral consequences from her previous and subsequent stays at "mental institutions," *i.e.*, the Mann RTC, which supersede any potential negative impacts of the involuntary admission at issue.

In the instant case, Appellant admitted to staying at the Mann RTC previously and, after she was released from the Hospital, once again stayed at the Mann RTC. Appellee asserts that, to the extent that there are any potential collateral consequences, they occurred prior to and after the involuntary commitment at issue. At first blush, it may appear that a

stay at an RTC is different from an involuntary commitment at an inpatient psychiatric hospital; however treatment and services are similar at both types of facilities,[3] and legally, the two types of institutions are often treated similarly. For example, Appellant argues that one type of potential collateral consequence she faces is that, pursuant to the Public Safety Article, facilities are required to report to the Department of Public Safety and Correctional Services the names and identifying information of individuals who have been involuntarily committed. MD. CODE ANN., PUB. SAFETY § 5–133.2(c). Subpart (a)(2) provides that the term, "facility" has the same meaning it does in § 10-101 of the Health-General Article. Subpart (g)(1) of the Health-General Article provides the following definition:

> Except as otherwise provided in this title, "facility" means any public or private clinic, hospital, *or other institution that provides or purports to provide treatment or other services for individuals who have mental disorders.*

(Emphasis supplied).

Similarly, Pub. Safety § 5–118(b)(3)(xi), which governs firearm applications, requires that the applicant have "never been involuntarily committed to a facility as defined in § 10-101 of the Health-General Article[.]" Pub. Safety § 5–205(b)(10), which governs the possession of a rifle or shotgun by persons with mental disorders, prohibits such possession if the individual "has been involuntarily committed to a facility as defined in § 10-101 of the Health--General Article[.]" Pub. Safety § 5–133(b)(10) prohibits the

[3] *Residential Treatment Centers*, DATA RESOURCE GUIDE 2014, MD. DEPT. OF JUVENILE SERVICES, 142, n. 1 (2014) http://djs.maryland.gov/Documents/Full_2014_DRG.pdf. ("Psychiatric Hospitals and Diagnostic Unit/CEUs are included on the RTC table because similar services are provided at these facilities.").

possession of regulated firearms by an individual who "has been involuntarily committed to a facility as defined in § 10-101 of the Health-General Article[.]"

Furthermore, federal statute 18 U.S.C. § 922(d)(4)[4] provides that it is "unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person" "has been adjudicated as a mental defective or has been committed to any mental institution[.]" As discussed, *supra*, RTCs are "psychiatric institution[s]." MD. CODE ANN., HEALTH-GEN. § 19–301(p). Accordingly, both the State and Federal level definitions of "facilities" and "mental institutions" would permit the conclusion that any potential collateral consequences that may negatively impact Appellant concerning gun ownership or possession were incurred before and/or after her involuntary commitment to the Hospital by her stays at the Mann RTC, which as discussed, *supra*, are involuntary commitments because Appellant is a minor.

Appellant also asserts potential collateral consequences with employment prospects. Under COMAR 29.04.08.03(C)(6), an applicant for a private detective card may be denied if the individual "[h]as been confined to a mental institution for treatment of a mental disorder or disorders[.]" Similarly, pursuant to COMAR 29.04.01.02(E)(6), an applicant for a security guard license may be denied if the individual "[h]as been confined

[4] Subpart (g)(1) unconstitutional as applied by *Binderup v. Attorney General United States of America* 3rd Cir.(Pa.) Sep. 07, 2016.

to a mental institution for treatment of a mental disorder or disorders[.]" Here, mental institution would also include both psychiatric hospitals and RTCs. Additionally, both provisions provide mitigation to the prohibition if there is a physician's certification attached to the application stating that the applicant is not a harm to himself or to others, thereby alleviating any potential collateral circumstances in these instances.

Appellant also cites 18 U.S.C. § 175(b) as a potential collateral consequence to employment prospects, but the federal statute concerns prohibitions with respect to "biological weapons," which does not include development for "prophylactic, protective, bona fide research, or other peaceful purposes." § 175(c). Legitimate federal employment would not be governed by this statute.

Furthermore, Appellant references page 84 of the United States Office of Personnel Management Questionnaire for National Security Positions [5] in asserting that an involuntary commitment could provide potential collateral consequences if she sought employment requiring a security clearance. Page 84 references if a court or administrative agency has ever declared the applicant "mentally incompetent." Pages 89–91 concern whether the applicant has ever been hospitalized for or diagnosed with a mental disorder. However, page 84 does expressly state that "[e]very day individuals with mental health conditions carry out their duties without presenting a security risk" and that, although "there may be times when such a condition can affect a person's eligibility for a security

[5] *Questionnaire for National Security Positions*, U.S. OFFICE OF PERSONNEL MANAGEMENT (2016) https://www.opm.gov/Forms/pdf_fill/SF86.pdf.

clearance" it is by no means expressly prohibited anywhere in the Questionnaire. Moreover, Appellant has not cited a federal statute that would support such a harsh penalty. We reiterate that Appellant's prior and subsequent commitments to the Mann RTC would also qualify under the Questionnaire and, therefore, any potential collateral consequences would not solely stem from the involuntary commitment at issue.

We are also persuaded that Appellant's assertions concerning social stigma, State driving privileges, *i.e.*, driver's license would also be impacted by her prior and subsequent stays at the Mann RTC. Appellant's assertion that citizenship status may be impacted as well appears to be inapplicable, as Appellant has not asserted that this is an issue that currently impacts her or could in the future.

Accordingly, we hold that the instant involuntary commitment does not generate potential collateral consequences that were not already created by Appellant's prior and subsequent commitments. Therefore, the issue is moot.

Exceptions to Mootness

Although the issue is moot, our analysis does not end here. As discussed, *supra*, courts will not review a case that is moot. "In rare instances, however, we address a moot case if it 'presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct,' or the issue presented is 'capable of repetition, yet evading review.'" *G.E. Captial Mortg.*, 144 Md. App. at 453–54 (quoting *Stevenson v. Lanham*, 127 Md. App. 597, 612 (1999)).

On appeal, Appellant asserts that both exceptions to the mootness doctrine are at

play, *i.e.*, public concern and an issue capable of repetition, yet evading review. However, in her briefs and before the circuit court, at the remanded hearing, the capable of repetition, yet evading review argument was not proffered. "Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]" MD. RULE 8–131(a). Accordingly, we hold that this argument has not been preserved for our review.

The remaining exception to the mootness doctrine concerns matters of public concern. Appellate courts, "in rare instances . . . may address the merits of a moot case if we are convinced that the case presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct." *Coburn v. Coburn*, 342 Md. 244, 250 (1996). The Court of Appeals "stated, in *Lloyd v. Supervisors of Elections*, 206 Md. 36 (1954), that if 'the matter involved is likely to recur frequently' and 'the same difficulty which prevented the appeal at hand from being heard in time is likely again to prevent a decision,' we would be justified in deciding a moot issue." *Id.*

In the instant case, Appellant has not illustrated that her involuntary commitment is an event "likely to recur frequently" or that any future commitments would be for a duration as short as the one at issue. We also acknowledge the rationale of the circuit court and Appellee that, in the State of Maryland, involuntary commitments are adjudged anew, based on the specific facts of the circumstances at issue, not based on the history of prior commitments as is the case with some jurisdictions. Accordingly, we hold that the specific facts of Appellant's case do not meet the standard of a matter of public concern.

We affirm the circuit court's grant of the motion to dismiss the matter as moot.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.