Circuit Court for Anne Arundel County
Case No. C-02-CV-23-000842

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2330

September Term, 2023

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IN THE MATTER OF T.M.

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Wells, C.J.,
Graeff,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Meredith, J.

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Filed: April 22, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This case stems from a decision by an administrative law judge ("ALJ") certifying the involuntary admission of a psychiatric patient, appellee T.M., to Baltimore Washington Medical Center ("BWMC"), appellant. T.M. subsequently sought judicial review of that decision in the Circuit Court for Anne Arundel County. While the petition for judicial review was pending, T.M. was released from commitment. The circuit court thereafter reversed the ALJ's decision, and BWMC noted this appeal.

BWMC presented three questions for our review.[1] But, because T.M. has been released from her involuntary commitment, we conclude that the questions BWMC has raised in this appeal are moot. Accordingly, we will dismiss the appeal.

[1] The questions raised in BWMC's brief were the following:

1. Whether Appellee failed her burden of proving that an advance mental health directive existed at the administrative law hearing, where she failed to enter any document in evidence and the document her counsel orally described lacked an express mandatory element of advance mental health directives of Section 5-602 of the Health-General Article of the Maryland Code.

2. Whether the ALJ properly declined to enforce a document proffered as an advance directive that was not entered into evidence and that, as described by counsel, fails to satisfy an express requirement for an advance mental health directive of Section 5-602 of the Health-General Article of the Maryland Code.

3. Whether the ALJ's certification of T.M. for involuntary admission was supported by evidence which a reasonable person could accept, where it was based on her mother's sworn statement that she had a mental disorder, destroyed property, and threatened her parents, as well as expert and fact testimony from a treating psychiatrist that she required inpatient psychiatric care, remained unstable, had threatened to kill hospital staff, had told other psychiatric patients to kill themselves, had not reliably and independently taken her medications, and for whom inpatient treatment was the least restrictive form of intervention available.

## BACKGROUND

On March 23, 2023, an adult female, T.M., was brought to the emergency room at BWMC by her mother, who claimed that T.M. was exhibiting psychosis and threatening behaviors. T.M. was subsequently admitted to the hospital on an involuntary basis. On April 11, 2023, an involuntary psychiatric commitment hearing was held before an ALJ pursuant to § 10-632 of the Health-General Article ("HG") of the Maryland Code. Under that statute, an individual proposed for involuntary admission must be released unless the ALJ finds, by clear and convincing evidence, that:

> (i) [t]he individual has a mental disorder;
>
> (ii) [t]he individual needs in-patient care or treatment;
>
> (iii) [t]he individual presents a danger to the life or safety of the individual or of others;
>
> (iv) [t]he individual is unable or unwilling to be voluntarily admitted to the facility;
>
> (v) [t]here is no available less restrictive form of intervention that is consistent with the welfare and safety of the individual; and
>
> (vi) [i]f the individual is 65 years old or older and is to be admitted to a State facility, the individual has been evaluated by a geriatric evaluation team and no less restrictive form of care or treatment was determined by the team to be appropriate.

HG § 10-632(e)(2).

At the hearing before the ALJ, Dr. Thomas Cummings—who was T.M.'s treating physician at BWMC and was accepted as an expert in general psychiatry—testified that T.M. was suffering from "schizophrenia chronic paranoid type." Dr. Cummings testified that T.M. experienced auditory hallucinations, that she had poor hygiene and self-care, and

that she had "very poor insight and judg[]ment due to the psychosis." Dr. Cummings testified that T.M. displayed "very aggressive and agitated behaviors[,]" that she threatened hospital staff and other patients, and that she presented a danger to herself and others. Dr. Cummings stated that T.M. would not be able to safely care for herself if released from the hospital, that she required constant adult inpatient psychiatric care, and that there were no less restrictive forms of intervention available.

On cross-examination, T.M.'s counsel asked Dr. Cummings about an advance healthcare directive that had purportedly been executed by T.M. T.M.'s counsel asserted that, according to that document—the relevant contents of which were shared with the ALJ and read into the record—T.M. had executed "a form document designed by the attorney general's office" in which she had appointed her father as her healthcare agent to make any and all healthcare choices on her behalf. The document was signed by T.M. and was witnessed by two individuals: a local attorney and T.M.'s mother. But the document also stated that, if T.M.'s father were unable, unwilling, or unavailable to act as her agent, "then I select" T.M.'s mother "to act in this role[.]"

Upon being asked about the document, Dr. Cummings indicated that BWMC was aware of the document but had refused to honor it due to "legal concerns[.]" Dr. Cummings also stated that he had "ethical concerns" regarding T.M.'s plan for voluntary treatment.

T.M.'s father testified that, based on his discussions with T.M., he believed that T.M. wanted to be in the hospital, but on a voluntary basis. T.M.'s father thought that the advance directive signed by T.M. would have allowed him to make a decision for voluntary admission on T.M.'s behalf. T.M.'s father testified that BWMC was not "honoring [the]

document." T.M.'s father stated that BWMC refused to allow either him or T.M. to sign a voluntary admission form.

At the conclusion of the hearing, T.M.'s counsel argued, among other things, that T.M. should be released from involuntary commitment because she was both able and willing to be voluntarily admitted. Counsel argued further that, even if T.M. herself was unable or unwilling to be voluntarily admitted, T.M.'s father, as her healthcare agent, should have been permitted to make that decision on T.M.'s behalf.

The ALJ found that BWMC had satisfied all the relevant statutory factors for the involuntary admission of T.M. Regarding T.M.'s ability and willingness to be voluntarily committed, the ALJ found that T.M. "does not understand what it is or what it means to be able to do that." The ALJ also found the document that was being referred to as T.M.'s advance directive was "not persuasive," that "nobody" had argued that BWMC was bound by the document, and that, regardless, BWMC had "an obligation to evaluate [T.M.] and her willingness and ability to voluntarily admit herself."

Following the ALJ's decision, T.M. filed a petition for judicial review in the circuit court. In her memorandum filed in support of her petition, T.M. argued that the ALJ had committed reversible error by finding that neither T.M. nor her father could sign the voluntary admission form. The issues presented by T.M. for review were: whether T.M. had the right and ability to be a voluntary patient; whether T.M.'s father, as T.M.'s healthcare agent, was permitted to sign the voluntary admission form on T.M.'s behalf; and whether the ALJ was correct in disregarding the advance directive.

While her petition for judicial review was pending, T.M. was released from her involuntary commitment.

Subsequent to T.M.'s release, the circuit court ruled in T.M.'s favor. The court found that, although T.M. did not have the capacity to voluntarily commit herself, her father did have that ability as her healthcare agent. The court found that the ALJ's conclusions regarding the advance directive were legally erroneous and not supported by the evidence. The court therefore reversed the ALJ's decision. The court did not, however, remand the matter, explaining that "[T.M.] has since been released from commitment at BWMC, and the parties agreed that a remand would not be necessary."

Despite the parties' agreement in the circuit court that a remand would not be necessary, this appeal followed. Additional facts will be supplied as needed below.[2]

## DISCUSSION

### *Parties' Contentions*

BWMC argues that the circuit court erred in reversing the ALJ's decision. BWMC contends that the advance directive was invalid because it did not meet the statutory requirements for advance directives in Maryland, namely, not being signed by two qualified witnesses. *See* HG § 5-602(c)(2)(ii). ("The health care agent of the declarant may not serve as a witness."). BWMC contends, therefore, that the ALJ properly declined to

[2] After oral argument in our Court, T.M. filed a motion asking that this Court "strike the new argument, described [in the motion], raised by [BWMC] for the first time during oral argument[.]" Because we have concluded that the appeal should be dismissed as moot, we will deny the T.M.'s motion.

enforce the advance directive, and the involuntary admission of T.M. was otherwise supported by substantial evidence.

T.M. argues that the circuit court was correct in reversing the ALJ's decision. T.M. contends that the ALJ's conclusions regarding the advance directive were legally erroneous and that the ALJ erred in refusing to honor the document. In essence, citing HG § 5-602(c)(2), T.M. asserts that, even though the mother could not witness her own appointment as an alternate healthcare agent, she could witness the father's appointment as T.M.'s primary healthcare agent. Further, T.M. contends that the ALJ erred by refusing to give sufficient consideration to the proffered advance directive document, given the language of HG § 5-602(a)(2), that states: "Notwithstanding any other provision of law, in the absence of a validly executed or witnessed advance directive, any authentic expression made by an individual while competent of the individual's wishes regarding health care for the individual shall be considered."

As discussed in greater detail herein, we conclude that BWMC's appellate claims were rendered moot by T.M.'s release from her involuntary commitment. Consequently, we shall dismiss the appeal.

***Analysis***

"Generally, appellate courts do not decide academic or moot questions. A question is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide." *Att'y Gen. v. Anne Arundel Cnty. Sch. Bus Contractors Ass'n, Inc.*, 286 Md. 324, 327 (1979); *accord Nat'l Collegiate Athletic Ass'n v. Tucker*, 300 Md. 156, 159 (1984).

The Supreme Court stated in *Department of Human Resources, Child Care Administration v. Roth*, 398 Md. 137, 143 (2007): "This Court does not give advisory opinions; thus, we generally dismiss moot actions without a decision on the merits." And the Supreme Court has said that "generally when a case becomes moot, we order that the appeal or the case be dismissed without expressing our views on the merits of the controversy." *Mercy Hosp., Inc. v. Jackson*, 306 Md. 556, 562 (1986).

The controversy raised by BWMC in the instant case is whether the circuit court erred in ruling that the ALJ did not correctly certify T.M.'s involuntary commitment. Were we to reverse the circuit court's decision—which is the remedy sought by BWMC—that ruling would not alter the current status of the parties to this case. Our ruling would be without effect because T.M. is no longer committed, and our ruling would not change that. The case is now moot.

We recognize that there are exceptions to the mootness doctrine. *LaValle v. LaValle*, 432 Md. 343, 352 (2013). For example, we may address a moot question if the issue is "capable of repetition but evading review." *State v. Crawford*, 239 Md. App. 84, 113 (2018) (quotation marks and citation omitted). That exception applies when "'(1) the challenged action was too short in its duration to be fully litigated prior to its cessation or expiration; and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again.'" *Powell v. Md. Dep't of Health*, 455 Md. 520, 541 (2017) (quoting *State v. Parker*, 334 Md. 576, 585-86 (1994)).

It has also been held that "courts may review an otherwise moot controversy 'if the issue is of public importance and affects an identifiable group for whom the complaining

party is an appropriate surrogate.'" *Crawford*, 239 Md. App. at 113 (quoting *Powell*, 455 Md. at 541).

We are not persuaded that either of these exceptions supports review of the questions raised by BWMC in this case that is now moot. The ALJ's decision to certify T.M.'s involuntary admission, and the court's subsequent decision to reverse, were based on the unique facts of the case. Even if similar controversies may occur in the future, the resolution of those controversies will be largely dependent upon the specific set of facts presented. *See Mercy Hosp.*, 306 Md. at 562-64 (dismissing, as moot, a hospital's appeal of a lower court's decision denying the hospital's request for the appointment of a temporary guardian for a patient who had refused a blood transfusion where the patient had been released from the hospital and no longer required medical treatment).

At first blush, it might appear that the collateral consequences exception to the mootness doctrine that was applied in *D.L. v. Sheppard Pratt Health System, Inc.*, 465 Md. 339 (2019), could be applicable in this case. In *D.L.*, the Supreme Court of Maryland agreed to hear an appeal that was pursued by a patient who alleged that she had been wrongfully admitted involuntarily to a facility operated by Sheppard Pratt Health Systems, Inc. Although the circuit court and this Court had dismissed the patient's appeal as moot, the Supreme Court concluded the appeal should be heard because the patient "faces collateral consequences stemming from her involuntary admission[.]" *Id.* at 352. The Supreme Court noted that D.L. had "specifically alleged" there were numerous collateral consequences that could potentially affect her if a wrongful involuntary admission was permitted to remain on her record. *Id.* at 360. The Court elaborated:

> The alleged collateral consequences include the following: (i) potential impact on her driving privileges; (ii) prohibiting D.L. from engaging in certain occupations; (iii) implications towards child custody disputes; (iv) restrictions on her immigration status; (v) prohibiting her from serving on a federal jury; (vi) implications towards any future involuntary admissions; (vii) the social stigmatization of mental illness; (viii) certain statutory reporting requirements; and (ix) restricting her ability to own or possess certain firearms at the State and federal levels.

*Id.* at 360-61. The Supreme Court was persuaded that "D.L. faces possible collateral consequences stemming from her involuntary admission[,]" and the Court remanded the case to the circuit court for it to "analyze . . . whether an available less restrictive form of intervention existed." *Id.* at 380.

In the present case, BWMC's briefs did not identify collateral consequences it would suffer if this case is not addressed on appeal. At oral argument, when pressed by the Court, BWMC posited that this case is not moot because BWMC faces potential civil liability as a result of T.M.'s involuntary commitment. BWMC also expressed concern that the circuit court's opinion could set an undesirable precedent. And BWMC noted that, even though T.M. had been released from her involuntary commitment, she is still subject to various collateral consequences stemming from that commitment.

We are not persuaded by BWMC's arguments. To begin with, whether T.M. may be subjected to "collateral consequences" sufficient to overcome the mootness doctrine is not an argument that was offered by T.M. regarding the mootness issue.

We note that the Supreme Court observed in *D.L.*: "[A]nalysis of whether an individual faces collateral consequences as a result of an involuntary admission is heavily fact dependent and the existence of such collateral consequences may vary dependent upon

the facts of a particular case." 465 Md. at 380. Here, the record does not contain sufficient facts for us to conclude that BWMC will suffer collateral consequences if this appeal is dismissed.

Accordingly, we will dismiss BWMC's appeal as moot.

**APPELLEE'S MOTION TO STRIKE NEW ARGUMENT IS DENIED. APPEAL DISMISSED; COSTS TO BE PAID BY APPELLANT.**