

RECORD IMPOUNDED

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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1182-20

K.K.,

Petitioner-Appellant,

v.

NEW JERSEY DEPARTMENT
OF HEALTH, DIVISION OF
MENTAL HEALTH AND
ADDICTION SERVICES,

Respondent-Respondent.

Submitted May 2, 2022 – Decided May 31, 2022

Before Judges Enright and Marczyk.

On appeal from the New Jersey Department of Health,
Division of Mental Health and Addiction Services.

K.K., appellant pro se.

Matthew J. Platkin, Acting Attorney General, attorney
for respondent (Melissa H. Raksa, Assistant Attorney
General, of counsel; Kathleen E. Horton, Deputy
Attorney General, on the brief).

PER CURIAM

K.K.¹ appeals from a December 10, 2020 final decision issued by the Medical Director of Trenton Psychiatric Hospital (TPH) authorizing administration of psychotropic medication without his consent. We affirm.

K.K. was involuntarily civilly committed to TPH in November 2008. In December 2020, K.K.'s treating psychiatrist completed an Involuntary Medication Administration Report (IMAR), recommending involuntary administration of psychotropic medication to treat K.K.'s schizophrenia. The psychiatrist reported K.K. refused to accept any psychotropic medication notwithstanding K.K.'s ongoing "paranoia, delusion and disorganized thought process." Further, the psychiatrist noted K.K. was "making sexually inappropriate remarks with poor insight and judgment," his conduct was "disorganized and . . . interfering in his self[-]care," and he "remain[ed] a potential threat to staff, peers and community in general."

In accordance with protocols developed by the State Department of Health, Division of Mental Health and Addiction Services (DMHAS), TPH's Medical Director signed the IMAR and scheduled a panel review hearing. K.K. received a copy of the IMAR on December 3, 2020.

¹ We use initials to protect appellant's privacy. R. 1:38-3(f)(2).

A panel of three non-treating medical professionals convened on December 8, 2020 for an Involuntary Medication Administration hearing. The panel members reviewed the IMAR and K.K.'s records, and heard from K.K.'s treatment team. K.K. testified at the hearing and stated he did not need the medication recommended for him. But his prescribing psychiatrist testified that "[u]nmedicated, the patient remains disorganized, agitated, verbally sexually inappropriate and confrontational." She further noted K.K. had "a long criminal and psychiatric history including arson, auto theft, fire setting, breaking and entering, criminal trespassing, property damage, and assault on a police officer." K.K.'s psychiatrist also opined that without medication, K.K. was likely to cause serious harm to himself and others.

The panel approved the involuntary administration of medication, specifically Invega, concluding K.K. previously benefitted from medication and that "[m]edication targeting his psychotic symptoms (specifically disorganization and agitation) will likely improve behavioral control and thereby cause him to pose less of a danger to self . . . and others."

K.K. timely appealed from the panel's December 8 decision. The Medical Director conducted a review and upheld the panel's decision on December 10, 2020; K.K. received his first dose of medication the same day.

The treating psychiatrist submitted an initial report on December 16, 2020, the first of a series of biweekly reports, stating K.K. continued to refuse to consent to the authorized prescribed medication, but involuntary medication was warranted because K.K. was "actively psychotic with bizarre behavior [and exhibited] disorganized thought process and delusion." Further, the doctor confirmed K.K. was "doing [a] little better[.]" but cautioned, "without proper treatment[.], he will decompensate and can be [a] danger to others and self[.]" K.K.'s psychiatrist also observed K.K. was still "mak[ing] threatening comments."

K.K. continued to be monitored while he was involuntarily medicated. In January 2021, he signed an informed consent form, agreeing to take the prescribed medication. This appeal followed.

K.K. now challenges the December 10, 2020 final decision, arguing, in part, the panel's decision "was wrong" and it "did not follow the procedure."² He also contends he was "[i]llegally diagnos[ed] . . . because [he] didn't interview for the diagnos[is]," and was unlawfully prescribed medication

² K.K.'s brief is deficient and was finally marked "refused to cure." Nonetheless, we have reviewed it.

"because [he] didn't request it and . . . [doesn't] need it." K.K.'s arguments are unavailing.

Our scope of review of an administrative agency's final determination is limited. In re Herrmann, 192 N.J. 19, 27 (2007). "[A] 'strong presumption of reasonableness attaches'" to the agency's decision. In re Carroll, 339 N.J. Super. 429, 437 (App. Div. 2001) (quoting In re Vey, 272 N.J. Super. 199, 205 (App. Div. 1993)). We will "not disturb an administrative agency's determinations or findings unless there is a clear showing that (1) the agency did not follow the law; (2) the decision was arbitrary, capricious, or unreasonable; or (3) the decision was not supported by substantial evidence." In re Virtua-West Jersey Hosp. Voorhees for a Certificate of Need, 194 N.J. 413, 422 (2008). The appellant bears the burden to demonstrate grounds for reversal. McGowan v. N.J. State Parole Bd., 347 N.J. Super. 544, 563 (App. Div. 2002).

Applying these principles, we conclude TPH's decision to involuntarily medicate K.K. was not arbitrary, capricious, or unreasonable. The decision by TPH's Medical Director is supported by sufficient credible evidence in the record. In addition, TPH followed the DMHAS's involuntary medication policies and procedures, and the challenged decision was based on the judgment

of independent clinicians following a hearing and subsequent administrative appeal.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION