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THE APPROVAL OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY
LAW DIVISION, CIVIL PART
DOCKET NO. MECC-0368-21

IN THE MATTER OF THE
CIVIL COMMITMENT OF G.C.

APPROVED FOR PUBLICATION

August 5, 2022

COMMITTEE ON OPINIONS

Decided: May 17, 2021

Michael A. Amantia, Assistant County Counsel, argued for the Mercer County Adjuster (Paul A. Adezio, Mercer County Adjuster, attorney).

Renee Bissonnette, Assistant Deputy Public Defender, argued for G.C. (Joseph E. Krakora, Public Defender, attorney).

ANKLOWITZ, J.S.C.

The legal question presented is whether an application for involuntary civil commitment may be granted without knowing the date of admission to the hospital. For the reasons that follow, the court finds that the application must be granted.

Applications for involuntary civil commitment must be sent by the applicable institution to the county adjuster. N.J.A.C. 10:7-3.1(c)(1); see also N.J.S.A. 30:1-12 (authorizing the Commissioner of Human Services to issue regulations regarding county adjusters). The adjuster is required to review applications for “sufficiency and completeness” before forwarding them to the

court. N.J.A.C. 10:7-3.1(c)(2). The precursor to the current regulation was drafted to replace “correctness” with “completeness” to make clear that the adjuster is not attesting to the correctness of an application. 24 N.J.R. 278, 283 (Jan. 21, 1992).

The Appellate Division took an adverse inference against two county adjusters in Matter of Commitment of C.M., 458 N.J. Super. 563, 570 n.7 (App. Div. 2019), when the adjusters declined to do anything more than take no position. The court said that the “State's failure to respond to either the trial court motions or these appeals suggests its recognition that the temporary commitment orders should not have been entered.” Ibid. The rationale for the holding in C.M. was that loss of liberty required strict compliance with procedural protections. Id. at 566.

The Office of Public Defender has indicated an interest in reviewing initial applications for involuntary civil commitment. The Office of Public Defender has the authority to represent individual patients regardless of whether they have been involuntarily committed. The Division of Mental Health Advocacy is part of the Office of Public Defender. N.J.S.A. 52:27EE-29(a). That office has the authority to represent individual patients in mental health institutions. N.J.S.A. 52:27EE-30(a). That includes representation in litigation for individuals and as a class. N.J.S.A. 52:27EE-31. Based on those

statutes, the court finds that the Public Defender has properly reviewed the application but declined to enter an appearance “without knowing the patient's date of admission to ascertain whether the statutorily provided timeframes were followed.”

When a patient presents to a psychiatric screening service, the service has 24 hours to issue a screening certificate if the patient is being detained. N.J.S.A. 30:4-27.5. For involuntarily held patients, the facility has “72 hours from the time the screening certificate was executed” to either release the patient or “initiate” a request for a court order. R. 4:74-7(b)(1); N.J.S.A. 30:4-27.9(c). In seeking a court order the facility must submit, “a clinical certificate completed by a psychiatrist on the patient’s treatment team or an electronically scanned clinical certificate in lieu of the original certificate.” N.J.S.A. 30:4-27.10(a)(1). Pursuant to C.M.:

the process in place allows a facility to hold an individual for twenty-four hours while a screening service "provid[es] . . . treatment and conduct[s] [an] assessment." N.J.S.A. 30:4-27.5(a). If — after performing an examination — a psychiatrist finds a need for involuntary commitment, a screening certificate must be completed. N.J.S.A. 30:4-27.5(b). The facility may then "detain" the individual "involuntarily by referral from a screening service without a temporary court order," but "for no more than 72 hours from the time the screening certificate was executed." N.J.S.A. 30:4-27.9(c); accord N.J.A.C. 10:31-2.3(g); R. 4:74-7(b)(1). During that seventy-two-hour period, the facility must initiate

involuntary committal court proceedings. N.J.S.A. 30:4-27.9(c).

[458 N.J. Super. at 566-67.]

Although the statute does not impose a specific time for the court to decide the matter, the statute does say that the court must proceed “immediately.” N.J.S.A. 30:4-27.10(f). The fact that liberty is at stake warrants summary consideration subject to a full hearing within twenty days. N.J.S.A. 30:4-27.12(a).

In the present case, the hospital submitted an application that contained a proposed order, screening document, screening certificate and a clinical certificate. The screening document is required by N.J.A.C. 10:31-2.3(a) and Appendix A and is promulgated by the Division pursuant to N.J.S.A. 30:4-27.5(b). That form requires the time and date.

The form for the psychiatrist to sign as a screening certificate also has the time and date of the examination in Section II.A. Pursuant to the administrative regulations the court promulgates the psychiatrists screening and clinical certificate forms. N.J.A.C. 10:31-2.3(f)(3). However, the twenty-four-hour clock starts from the time the patient is detained. N.J.S.A. 30:4-27.5(a).

The County Adjuster's finding that all the required forms were submitted is correct. The patient took no issue with the County Adjuster on that point.

The point of contention is that the forms show that the patient was admitted to the hospital for an attempted overdose on alcohol and various drugs. The screening document indicated the patient was found unconscious and memorialized that the patient was "seen after medical treatment for overdose." Pursuant to the clinical certificate, the patient was subject to "a protracted hospital course." The medical treatment to save the patient's life preceded the start of the psychiatric evaluation and detention.

The court makes the following findings. The clinical certificate was done within seventy-two hours of the screening certificate. The screening certificate was done within twenty-four hours of the screening document. The screening document was done after the medical treatment. Since admission to a hospital and being involuntarily detained at the hospital are not the same, the court does not find that the medical treatment phase violated any procedural protections and that the available evidence shows that the requisite procedural protections were followed.

Since the issue of probable cause was not raised as a concern, the court declines a more detailed analysis. See N.J.S.A. 30:4-27.10(f) (probable

cause). A review of the documents submitted shows probable cause that the patient has a mental illness that causes him to be a danger and that no less restrictive environment is appropriate.