RECORD IMPOUNDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2748-21

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

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Argued May 17, 2023 – Decided July 18, 2023

Before Judges Vernoia, Firko, and Natali.

On appeal from the Superior Court of New Jersey, Law Division, Mercer County, Docket No. MECC-000294-22.

Jeanne E. Stahl, Assistant Deputy Public Defender argued the cause for appellant D.C. (Joseph E. Krakora, Public Defender, attorney; Jeanne E. Stahl, of counsel and on the briefs; Lorraine Gormley-Devine and Stanley Shur, Assistant Deputy Public Defenders, on the briefs).

Regina M. Philipps argued the cause for respondent Burlington County Office of the Adjuster (Madden & Madden, PA, attorneys; Regina M. Philipps, on the brief).

PER CURIAM

D.C.[1] appeals from an April 14, 2022 order involuntarily committing her to the Hampton Behavioral Health Center (Hampton). Although she has been discharged from Hampton, she seeks reversal of the order and removal of the involuntary commitment from her record. We affirm.

I.

On April 6, 2022, then forty-two-year-old D.C. reportedly called the police because one of her four children was allegedly being physically assaulted by one of her other children. D.C. has a history of mental illness and was previously hospitalized for evaluation and treatment.[2] After the police arrived, "given information the police elicited," they admitted D.C. to a hospital for a medical assessment. At the time, D.C. was divorced, homeless, and her ex-husband had custody of their four children.[3] The ex-husband allowed D.C. to stay with him and the children because D.C. had been living in her car. That same day, D.C. was admitted to Hampton and diagnosed with "unspecified

[1] We use initials to identify the appellant because records of civil commitment proceedings are excluded from public access under Rule 1:38-3(f)(2).

[2] Dr. Michael P. Houdart, D.C.'s treating psychiatrist at Hampton, testified he "believe[s] it was [at] Princeton House in 2014." Princeton House offers inpatient and outpatient care for mental illness and/or substance abuse disorder.

[3] The record shows the Division of Child Protection and Permanency (Division) has been involved with this family.

bipolar disorder with psychosis." The next day, D.C. was involuntarily committed to Hampton pursuant to N.J.S.A. 30:4-27.10(a).

A week later on April 14, 2022, a municipal court judge conducted a hearing on the Burlington County Office of the Adjuster's (County) request for continuation of D.C.'s commitment. The hearing was conducted virtually. D.C. appeared at the hearing and was represented by counsel. The County presented the testimony of D.C.'s treating psychiatrist, Dr. Houdart. D.C. did not testify and did not present any witnesses.

Dr. Houdart explained that D.C. has a history of mental illness. He testified that he examined D.C. the day of the hearing. Dr. Houdart reviewed D.C.'s information about the "pre-admission event" from the screening center notes from Capital Health and testified he obtained information from D.C. "directly." Dr. Houdart stated that D.C. told him that she "called the police because one of her children was being physically assaulted by other children," and the police brought her to the hospital for an "assessment."

Dr. Houdart opined that D.C. had a "working diagnosis of unspecified bipolar disorder with psychosis,"[4] which is "most likely" a "long-term diagnosis"

[4] The Diagnostic and Statistical Manual of Mental Disorders defines unspecified bipolar disorder as a type of bipolar disorder where an individual's symptoms do not

based on her hospitalization standing of "at least eight years." Dr. Houdart stated D.C.'s family was only contacted the morning of the hearing because of issues with obtaining correct phone numbers.

Dr. Houdart verified that although D.C. was taking her medications, adjustments in dosage were still being made in order to obtain an optimal level in dosage. Since the day she was admitted, Dr. Houdart testified D.C.'s condition had only improved "slightly." In explaining his answer, Dr. Houdart testified D.C. was more "fearful upon first coming into the hospital," but she still had "significant paranoia [and] disorganization, feeling like people are after her." Dr. Houdart added that D.C. was still "internally preoccupied, as you can see," alluding obviously to her demeanor, and "there are still residual symptoms at this time." Further, Dr. Houdart testified "we need to work with family . . . her ex-husband is her primary support to establish when [D.C.] is close enough to baseline to come home."

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meet the full criteria for any of the disorders in the bipolar and related disorders diagnostic class. Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders 149 (5th ed. 2013). Psychosis is a mental disorder characterized by a disconnection from reality. Understanding Psychosis, National Institute of Mental Health (2023), https://www.nimh.nih.gov/health/publications/understanding-sychosis#:~:text=Psychosis%20refers%20to%20a%20collection,real%20and%20what%20is%20not.

Dr. Houdart opined D.C. could "not yet" be treated in a less restrictive setting because there were "active acute symptoms that [were] jeopardizing her ability to function at home." Specifically, Dr. Houdart noted D.C.'s medications have not "been effective to a degree" that would allow her to be "managed by the support level she has now." Dr. Houdart stated medication can be dosed effectively outside of the hospital setting, "but not for [D.C.] at this time."

Dr. Houdart testified D.C. would be a danger to herself and others if she was discharged because "she [was] unable to care for herself" and was "very disorganized." He testified that D.C. could not give "any details about her mental health history"—she claimed she was hospitalized for depression and anxiety, when there is "obvious paranoia. It's a depth of paranoia." Dr. Houdart elaborated that D.C. was "isolative" in her room, and he was not convinced she "would comply with medications in an unsupported setting," because she was non-compliant as an outpatient, based on the screening documents, which were "extrapolated" with information that she had been taking Zyprexa[5] prior to her

[5] Zyprexa is an antipsychotic medication used to treat mental disorders, including bipolar disorder and schizophrenia. Olanzapine Tablets, Cleveland Clinic (2023), https://my.clevelandclinic.org/health/drugs/18192-olanzapine-tablets#:~:text=Olanzapine%20is%20an%20antipsychotic%20medication,this%20medication%20is%20Zyprexa%C2%AE.

admission to Hampton. Dr. Houdart testified it was "notated" that Zyprexa was prescribed for D.C. While at Hampton, Dr. Houdart further stated D.C. was eating and sleeping.

When asked if D.C. posed a danger to others if discharged, Dr. Houdart testified in the affirmative based on "several reasons." First, D.C. has "ongoing" Division involvement and "doesn't have custody of the children." Rather, Dr. Houdart stated D.C. lives with her ex-husband, who she depends on for housing. Dr. Houdart testified D.C.'s ex-husband has custody of all four children, and her ex-husband mentioned to a social worker that D.C. lived "in a car for some time." Dr. Houdart testified the ex-husband "just confirmed [that] this morning."

Second, Dr. Houdart explained that prior to D.C.'s admission to Hampton, she had "brandished a butcher knife towards one of her sons at home." Third, D.C.'s son indicated she had "newborn kittens in her purse," and her son was concerned they could be "smothered," based on the son's statements contained in the emergency room records and screening documents. Dr. Houdart conceded it was unclear whether the kittens were harmed or not, but noted the incident was "inappropriate" because the kittens were in her "purse in a plastic bag." Dr. Houdart highlighted that D.C. did not deny the incident and stated, "she was

doing something with the kittens," and the son was "concerned they could be harmed."

Based on a social worker's report obtained from D.C.'s ex-husband, Dr. Houdart also testified D.C. stated to her ex-husband that she wanted to "kill prostitutes and pedophiles." Since her admission to Hampton, Dr. Houdart observed D.C. had not been "assaultive" or "aggressive" with anyone.

Dr. Houdart testified he received this information from D.C.'s emergency room records and screening documents, her ex-husband through a social worker, and D.C. herself. Dr. Houdart confirmed the records that he relied upon are documents he relies upon as an expert in the field of psychiatry when forming an opinion as to an individual's dangerousness. He testified as to the accuracy of the records, which "include[d] direct information quoted from [D.C.'s] son."

Dr. Houdart opined she could not "accurately convey all of the information" because of her "disorganized state." Dr. Houdart recommended D.C. "continue with a two-week review" so that she could be discharged within "one to two weeks." Dr. Houdart stated D.C.'s "[ex]-husband thinks she has stabilized to a degree." D.C.'s counsel requested she receive conditional

extension pending placement (CEPP)[6] status because there was no indication in Dr. Houdart's testimony that she was a danger to herself or others.

On cross-examination, Dr. Houdart confirmed D.C. was taking her medication and eating. When asked about D.C. being discharged, he testified, "[i]t's not clear that she is able to return in this state." Dr. Houdart confirmed the screening documents and the "tidbits" of information he received from D.C. formed the bases of his opinions. He clarified that the "ER records" have "direct quotes from the son" about the kittens, and Dr. Houdart did not "think the son was very concerned with her petting kittens" in and of itself, but the son was expressing his concerns about the safety of the kittens.

Dr. Houdart emphasized he did not think D.C.'s medications had been "effective to a degree enough that would []lend to her being able to be managed by the support level she has now." When D.C.'s counsel asked Dr. Houdart if D.C.'s Zyprexa dosage could be adjusted outside of the hospital setting, his

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[6] CEPP status applies to "individuals who are legally entitled to leave a mental hospital because they are not considered dangerous" but "'are incapable of competently exercising' the right to be discharged because of a diminished capacity to survive in the outside world." In re Commitment of M.G., 331 N.J. Super. 365, 378 (App. Div. 2000) (quoting In re Commitment of S.L., 94 N.J. 128, 139 (1983)). Such individuals remain confined until the State arranges for appropriate placement. Ibid.; see also R. 4:74-7(h)(2).

answer was, "[t]he possibility of dosing a medication outside of the hospital, yes it can be done, but not for this patient at this time."

On re-direct examination, Dr. Houdart confirmed a valid phone number was obtained the morning of the hearing for D.C.'s ex-husband, and the social worker spoke to him. The ex-husband told the social worker that D.C. stated "she wants to kill prostitutes and pedophiles." Dr. Houdart also mentioned the social worker spoke to D.C.'s ex-husband about setting up a meeting.

Based on the record, the judge found by clear and convincing evidence that D.C. suffers from a mental illness. The judge determined there were "documents that have been relied upon for purposes of treatment" and other "elements relied upon for treatment" coming from D.C.'s own statements, her son, and her ex-husband "of a disturbing nature." The judge accepted Dr. Houdart's testimony about the butcher knife being brandished to the son, the newborn kittens in D.C.'s purse in a plastic bag, and D.C.'s statements that she would kill prostitutes and pedophiles.

The judge found Dr. Houdart relied "on these things" for the purpose of treatment. The judge emphasized there was "nothing" he heard "that would refute why she has been admitted." The judge noted Dr. Houdart opined D.C.

has only shown "little improvement," and based on the testimony, the judge concluded D.C. "is a danger to others."

The judge added that D.C. "cannot be treated in a less restrictive setting" and it was unclear whether she could "return home," noting D.C. had been living with her ex-husband who has custody of their children and prior to that, D.C. indicated she "resided in a car." The judge found by clear and convincing evidence that D.C. is a danger to herself and others. The judge continued her commitment and scheduled a two-week review for April 29, 2022.

D.C.'s counsel requested the judge reconsider his ruling immediately thereafter. Specifically, D.C.'s counsel argued there was no evidence that D.C. mistreated the kittens, and the Division's involvement and D.C. living in her car are not facts admitted into evidence. In opposition, the County's counsel opposed D.C.'s motion for reconsideration because clear and convincing evidence can be "based upon opinions of a treating psychiatrist." The judge denied D.C.'s motion for reconsideration based on the "overwhelming body of danger here indicated by the certain allegations that really haven't been disproved." A memorializing order was entered. On April 27, 2022, D.C. was discharged from Hampton. This appeal followed.

D.C. raises the following points for our consideration:

I. THE RECORD BELOW DOES NOT PRESENT THE REQUISITE CLEAR AND CONVINCING EVIDENCE THAT [D.C.] REPRESENTS A DANGER TO OTHERS AS DEFINED BY STATE COMMITMENT STATUTES.

A. Because Involuntary Commitment Produces A Massive Curtailment Of Liberty Adherence Is Statutory And Constitutional Criteria Is Required.

B. Danger To Others Requires Proof The Person Is Likely To Inflict Serious Bodily Harm On Another Within The Reasonably Foreseeable Future.

C. The State Bears The Burden Of Establishing The Grounds For Commitment By Clear And Convincing Evidence.

D. A Finding of Danger To Others Or Self Must Be Supported By Competent Evidence Admitted At the Commitment Hearing.

E. Vague Hearsay Allegations Of Possible Danger Do Not Establish The Requisite Clear And Convincing Evidence Required To Warrant Involuntary Commitment.

II. DR. HOUDART'S NET OPINION OF POSSIBLE DANGER IS INSUFFICIENT TO SUPPORT AN ORDER OF INVOLUNTARY COMMITMENT.

III. THE RECORD DOES NOT PRESENT CLEAR AND CONVINCING EVIDENCE THAT [D.C.] REPRESENTS A DANGER TO SELF AS DEFINED BY STATE COMMITMENT STATUTES.

A. A Finding of Danger To Self Requires Proof Of Probable Substantial Bodily Injury, Serious Physical Harm Or Death Within The Reasonably Foreseeable Future.

B. The Present Record Does Not Establish Clear And Convincing Evidence Of Danger To Self Absent Any History Or Likelihood Of Substantial Bodily Injury, Serious Physical Harm Or Death.

IV. THE TRIAL COURT FAILED TO MAKE THE REQUIRED FINDINGS OF FACT AND CONCLUSIONS OF LAW TO SUPPORT AN ORDER OF INVOLUNTARY COMMITMENT.

V. THE TRIAL COURT ERRED, AS A MATTER OF LAW, BY PLACING THE BURDEN OF PROOF UPON [D.C.] TO ESTABLISH SHE DID NOT REPRESENT A DANGER TO SELF OR OTHERS.

VI. THE STATE CANNOT INVOLUNTARILY COMMIT AN INDIVIDUAL WHOSE NEEDS CAN BE MET BY SERVICES IN THE COMMUNITY THROUGH DISCHARGE PLAN OR AN ORDER OF CONDITIONAL DISCHARGE. (Not Addressed)

VII. [D.C.'s] DUE PROCESS AND STATUTORY RIGHTS TO EFFECTIVE ASSISTANCE OF

COUNSEL WERE COMPROMISED BY FAILURE TO PROVIDE A COMMITMENT HEARING WHERE ALL PARTIES CAN BE HEARD.

II.

Our review of a judge's determination to commit an individual is "extremely narrow," In re D.C., 146 N.J. 31, 58 (1996), and it may only be modified where "the record reveals a clear mistake," In re Civ. Commitment of R.F., 217 N.J. 152, 175 (2014). A judge's determination should not be disturbed if the judge's findings are "supported by 'sufficient credible evidence present in the record.'" Ibid. (quoting State v. Johnson, 42 N.J. 146, 162 (1964)).

We review a decision continuing an individual's civil commitment for an abuse of discretion. D.C., 146 N.J. at 58-59. We "reverse[] only when there is clear error or mistake." In re Commitment of M.M., 384 N.J. Super. 313, 334 (App. Div. 2006) (citations omitted). The trial judges who hear these cases "generally are 'specialists' and 'their expertise in the subject' is entitled to 'special deference.'" R.F., 217 N.J. at 174 (quoting In re Civ. Commitment of T.J.N., 390 N.J. Super. 218, 226 (App. Div. 2007)). However, we "must consider the adequacy of the evidence." M.M., 384 N.J. Super. at 334 (citations omitted). And, to the extent questions presented are procedural or legal ones, our review

is de novo. In re Commitment of J.L.J., 196 N.J. Super. 34, 49 (App. Div. 1984) (citing State v. Steele, 92 N.J. Super. 498, 507 (App. Div. 1966)).

"Involuntary commitment to a mental hospital is state action which deprives the committee of important liberty interests and, as such, triggers significant due process requirements." In re Commitment of Raymond S., 263 N.J. Super. 428, 431 (App. Div. 1993) (citation omitted). As a result, our Legislature and Supreme Court have promulgated N.J.S.A. 30:4-27.1 to -27.23 and Rule 4:74-7 "to ensure that no person is involuntarily committed to a psychiatric institution without having been afforded procedural and substantive due process." Ibid. An adult is considered "in need of involuntary treatment" if they are

> an adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to accept appropriate treatment voluntarily after it has been offered, needs outpatient treatment or inpatient care at a short-term care or psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the person's mental health care needs.
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> [N.J.S.A. 30:4-27.2(m); see R. 4:74-7(f)(1).]

"Mental illness" is defined as "a current, substantial disturbance of thought, mood, perception, or orientation which significantly impairs judgment,

capacity to control behavior, or capacity to recognize reality," not including "simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome, or developmental disability" unless that disability results in the severity of impairment described in the statute. N.J.S.A. 30:4-27.2(r).

A judge may not commit a person to a psychiatric facility "without proof by clear and convincing evidence that the individual has a mental illness, and the mental illness causes the patient to be dangerous to self, to others, or to property." Raymond S., 263 N.J. Super. at 431 (citing N.J.S.A. 30:4-27.9(b); N.J.S.A. 30:4-27.15(a); R. 4:74-7(f)). Clear and convincing evidence "should produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established." In re Purrazzella, 134 N.J. 228, 240 (1993) (quoting Aiello v. Knoll Golf Club, 64 N.J. Super. 156, 162 (App. Div. 1960)).

If a judge "finds that there is probable cause to believe that [a] person . . . is in need of involuntary commitment to treatment," the judge "shall issue a temporary order authorizing the assignment of the person to an outpatient treatment provider or the admission to or retention of the person in the custody of the facility." N.J.S.A. 30:4-27.10(g); see R. 4:74-7(c). Commitment must be

"both appropriate to the person's condition and . . . the least restrictive environment, pending a final hearing." N.J.S.A. 30:4-27.10(g); see R. 4:74-7(c).

The points raised by D.C. do not require extended discussion. D.C. was committed to Hampton on April 6, 2022, after she called the police claiming that one of her children was being assaulted by one of her other children. When the police responded, and based on information they elicited, the police decided to transport D.C. to the emergency room for an assessment. She presented as severely paranoid and disorganized. D.C. has a longstanding history of mental illness and a prior hospitalization relating to her mental illness.

The credible evidence demonstrated that D.C. suffered from unspecified bipolar disorder with psychosis—a long-term diagnosis. D.C. was "internally preoccupied" as Dr. Houdart explained, and he underscored "as you can see" based on D.C.'s physical presence at the hearing and his first-hand observation of her. Her conditions required medication for her acute symptoms. Until stabilized, she was a danger to herself, others, and was at risk of "being in trouble with the police right now" according to Dr. Houdart.

The judge's credibility and factual findings are supported by substantial credible evidence in the record. His determination that the County proved by clear and convincing evidence that D.C. had mental illnesses that caused her to

be a danger to herself and others was likewise supported by sufficient credible evidence. In determining whether D.C. posed a danger to herself, the judge considered her "history, recent behavior, and any recent act, threat, or serious psychiatric deterioration," N.J.S.A. 30:4-27.2(h), based on clear and convincing evidence, R. 4:74-7(f)(1). We discern no error.

III.

We next address the evidential issues raised by D.C. She argues Dr. Houdart's opinion relied exclusively on "double, possibly triple, hearsay"[7] in stating she was a danger to others, specifically regarding allegations of her mistreating kittens, brandishing a butcher knife to her son, telling her ex-husband that she wanted to kill prostitutes and pedophiles, and her ex-husband having custody of their children. We disagree.

Prior to the hearing, Dr. Houdart reviewed D.C.'s emergency room records and screening center notes, and obtained information from her directly. He testified that he had "no reason to conclude [the records] were inaccurate." Dr. Houdart further stated that D.C. "did not deny" the information contained in the records.

[7] N.J.R.E. 801(c) defines hearsay as an out-of-court statement offered "evidence to prove the truth of the matter asserted in the statement."

N.J.R.E. 703 provides:

> The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the proceeding. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

"An expert is permitted to rely on hearsay information in forming his [or her] opinion concerning the [patient's] mental state." State v. Eatman, 340 N.J. Super. 295, 302 (App. Div. 2001) (citations omitted).

We have "held further that a trial judge may use hearsay reports 'as background in evaluating the opinions of the . . . experts, who testified that they considered these reports in reaching their own diagnoses.'" In re Civ. Commitment of J.S.W., 371 N.J. Super. 217, 225 (App. Div. 2004) (quoting In re Civ. Commitment of A.X.D., 370 N.J. Super. 198, 202 (App. Div. 2004)) (affirming the commitment court's reliance on hearsay—presentence reports and the treatment center's evaluations—contained in expert testimony and exhibits to reach its decision).

Our Supreme Court echoed this approval in holding the "use of police reports, presentence reports and prior psychiatric evaluations . . . 'to evaluate the opinions of the testifying experts who considered these documents in reaching

their diagnoses.'" In re Civ. Commitment of J.M.B., 197 N.J. 563, 597 n.9 (2009); accord In re Civ. Commitment of W.X.C., 407 N.J. Super. 619, 641 (App. Div. 2009) (holding that the trial court correctly considered the experts' reliance on the appellant's mental health records, criminal history, clinical test results, and police reports).

In affirming "the trial court's reliance on the experts' opinions, which were based on a broad array of evidence about J.M.B.," our Court "specifically endorse[d] [our] holding that the mental health experts could use presentence reports because 'they are the type of evidence reasonably relied on by psychiatrists in formulating an opinion as to an individual's mental condition.'" J.M.B., 197 N.J. at 597 n.9 (quoting In re Civ. Commitment of J.M.B, 395 N.J. Super. 69, 93 (App. Div. 2007)).

Moreover, "the [treatment] reports themselves [may be] admissible for their truth under applicable exceptions to the hearsay rule[,]" A.X.D., 370 N.J. Super. at 202, such as the business records exception, N.J.R.E. 803(c)(6), or the party-opponent's statement exception, N.J.R.E. 803(b)(1), if the reports include the patient's statements made to the treatment team or others, A.X.D., 370 N.J. Super. at 202. A testifying expert must rely upon such information "to obtain a history of what happened through the years, to see how the people involved in

the offenses viewed the offenses, and to get a sense of the way [others have] responded to these situations over time." In re Civ. Commitment of J.H.M., 367 N.J. Super. 599, 613 (App. Div. 2003).

In addition to personally evaluating and treating D.C. for a period of eight days, up to and including the hearing date and at the hearing itself, Dr. Houdart reasonably relied on D.C.'s emergency room records, screening documents, and statements made by her son and ex-husband contained in the records and related to Dr. Houdart by a Hampton social worker. Additionally, when D.C. spoke to Dr. Houdart, she did not deny the information contained in the records. Dr. Houdart properly considered all these sources of information under N.J.R.E. 703. See In re Civ. Commitment of E.S.T., 371 N.J. Super. 562, 572 (App. Div. 2004) (noting that medical experts may rely upon the opinions of prior treating physicians).

Dr. Houdart was qualified as an expert in psychiatry and gave competent, unrefuted testimony about D.C.'s mental health history, diagnoses, treatment plan, medication, and the need for continued commitment. Dr. Houdart also relied upon his personal observations of D.C., even at the hearing itself. We are convinced that Dr. Houdart's expert opinion testimony regarding D.C.'s mental

state was based on evidence that comports with N.J.R.E. 703, and not solely third-party records and statements.

We reject D.C.'s argument that Dr. Houdart provided a net opinion because he did not present any competent evidence to support his opinion that D.C.'s mental illness would cause her to inflict serious bodily harm upon another person in the reasonably foreseeable future. D.C. contends Dr. Houdart relied on preadmission statements derived from screening documents and her ex-husband's statements to a Hampton social worker in support of his net opinion.

We recognize that an expert witness's opinions that are not reasonably supported by the factual record and an explanatory analysis from the expert may be excluded as net opinion. See Creanga v. Jardal, 185 N.J. 345, 360 (2005); see also Polzo v. Cnty. of Essex, 196 N.J. 569, 583 (2008). An expert should provide the "whys and wherefores" supporting their analysis. Beadling v. William Bowman Assocs., 355 N.J. Super. 70, 87 (App. Div. 2002) (citation omitted). With respect to the opinions of qualified experts, "[a] trial court is free to accept or reject the testimony of either side's expert," in full or in part. Brown v. Brown, 348 N.J. Super. 466, 478 (App. Div. 2002) (citation omitted).

Dr. Houdart testified as to the facts underlying his expert opinion—D.C.'s history of living in her car before her ex-husband allowed her to stay with him,

not having custody of their children, brandishing a knife towards her son, stating she wants to kill prostitutes and pedophiles, and having newborn kittens in her purse in a plastic bag. Dr. Houdart relied upon the unrefuted facts that the police responded to D.C.'s call about one of her children being physically assaulted by one of her other children, and the police transported her to a hospital for a medical assessment.

Dr. Houdart considered D.C.'s prior hospitalization at Princeton House for evaluation and treatment for her mental illness and her being prescribed Zyprexa. Dr. Houdart also gained knowledge of D.C.'s condition through his personal observation of her at Hampton for eight days preceding the hearing, his evaluation, and treatment of her.

Moreover, Dr. Houdart was free to give his opinions on the ultimate issues in the case—D.C.'s dangerousness to herself and others. The determination of dangerousness to oneself or others "shall take into account a person's history, recent behavior and any recent act, threat, or serious psychiatric deterioration." N.J.S.A. 30:4-27.2(h)-(i).

Dr. Houdart's expert opinion and testimony as D.C.'s treating psychiatrist was not based "merely on unfounded speculation" or "unquantified possibilities." Townsend v. Pierre, 221 N.J. 36, 55 (2015) (quoting Grzanka v.

Pfeifer, 301 N.J. Super. 563, 580 (App. Div. 1997)). Here, Dr. Houdart relied on objective evidence and his personal evaluation and treatment of D.C. Dr. Houdart did not render a net opinion, and we therefore reject D.C.'s argument.

D.C. also argues the judge did not make the requisite findings of fact and conclusions of law because he relied on hearsay and net expert opinion in finding she was a danger to others and herself. "In a nonjury civil action, the role of the trial [judge] is to find the facts and state conclusions of law." In re Commitment of D.M., 313 N.J. Super. 449, 454 (App. Div. 1998) (citing R. 1:7-4). Whether stated on the record or in a written opinion, "there must be a weighing and evaluation of the evidence to reach whatever conclusion may logically flow from the aspects of testimony the [judge] accepts." Slutsky v. Slutsky, 451 N.J. Super. 332, 357 (App. Div. 2017). A judge's failure to state the relevant factual findings and the corresponding legal conclusion "constitutes a disservice to the litigants, the attorneys, and the appellate court." D.M., 313 N.J. Super. at 454 (quoting Curtis v. Finneran, 83 N.J. 563, 570 (1980) (internal quotations omitted)).

After considering Dr. Houdart's testimony—the only witness to testify—the judge found by clear and convincing evidence that D.C. suffers from a mental illness and is a danger to herself and others. Contrary to D.C.'s argument,

Dr. Houdart relied upon her medical records, his personal examinations and observations of D.C. over an eight-day period, and statements made to him by D.C., her ex-husband, and her son, all of which were properly considered under N.J.R.E. 703.

We are satisfied the judge complied with Rule 1:7-4. The judge explained what evidence he considered and noted no contradictory evidence was offered to refute what D.C. admitted to Dr. Houdart. And, the judge acknowledged some of the "conditions"—D.C. living with her ex-husband who has custody of the children and D.C. residing in a car—came from other sources, some of which were confirmed by D.C. The judge gave an explanation that comports with Rule 1:7-4 in reaching his conclusion there existed clear and convincing evidence D.C. was mentally ill and posed a danger to herself, others, or property.

D.C. next argues the judge improperly shifted the burden of proof from the County to D.C. to show that she was not a danger to herself or others. We disagree. The judge's references to allegations that were not "disproved" do not conflict with Rule 4:74-7(f) or N.J.S.A. 30:4-27.2(m) that require the State to present clear and convincing evidence that D.C. suffers from a mental illness, which caused her to be dangerous to herself or others.

Moreover, the judge's finding of D.C.'s dangerousness was based on her significant history and recent behavior indicating she was unable to care for herself, was very disorganized, was unable to provide details about her mental health history, and had obvious paranoia. We discern no "clear mistake" warranting reversal. R.F., 217 N.J. at 175.

IV.

D.C. also contends CEPP would have been the appropriate determination for her to receive support in the least restrictive setting, instead of involuntary commitment, contrary to Dr. Houdart's expert testimony on this issue. Again, we disagree.

N.J.S.A. 30:4-27.2(gg) defines "least restrictive environment" as "the available setting and form of treatment that appropriately addresses a person's need for care and the need to respond to dangers to the person, others, or property and respects, to the greatest extent practicable, the person's interests in freedom of movement and self-direction." The language made its way into N.J.S.A. 30:4-27.15(a), N.J.S.A. 30:4-27.16(a), and Rule 4:74-7(f), when the Legislature established involuntary commitment to outpatient treatment in 2009.

After the Legislature made outpatient treatment an option, it became incumbent on the court to consider whether a patient otherwise qualifying for

involuntary commitment "should be assigned to an outpatient setting or admitted to an inpatient setting for treatment," considering "the least restrictive environment for the patient to receive clinically appropriate treatment that would ameliorate the danger posed by the patient and provide the patient with appropriate treatment." N.J.S.A. 30:4-27.15(a)(a). If the court determined "the least restrictive environment for the patient to receive clinically appropriate treatment would be in an inpatient setting," the statute provides "the court shall issue an order for admission to a psychiatric facility." N.J.S.A. 30:4-27.15(a)(c).

Our Supreme Court amended Rule 4:74-7(f) consonant with the statute, requiring that the State prove a person otherwise qualified for involuntary commitment required "outpatient treatment as defined by N.J.S.A. 30:4-27.2(hh) or inpatient care at a short-term care or psychiatric facility or special psychiatric hospital because other less restrictive alternative services are not appropriate or available to meet the patient's mental health care needs." R. 4:74-7(f)(1).

In the matter under review, the judge did not abuse his discretion in denying CEPP status to D.C. and continuing her commitment. As we have held, "[a]lthough the committability of persons suffering from mental illness is ultimately a legal decision, their care and treatment during hospitalization or

while in a supervised residency are matters properly within the realm of medical expertise." K.P. v. Albanese, 204 N.J. Super. 166, 177 (App. Div. 1985) (holding "the exercise of clinical judgment in assigning a privilege level to effectuate treatment goals" did not infringe the "appellants' right under N.J.S.A. 30:4-24.2, the Patient's Bill of Rights, to the least restrictive conditions necessary to achieve the purposes of treatment, or their federal constitutional right to liberty").

Dr. Houdart testified D.C.'s medications were not at their optimal dosage level. Saliently, he noted D.C. had "active acute symptoms that [were] jeopardizing her ability to function" outside of the controlled hospital environment, rendering her unable to be treated in a less restrictive setting and likely to "get herself into a situation that could cause her harm" because of her disorganized state. Therefore, the judge did not abuse his discretion in continuing D.C.'s commitment.

V.

Finally, D.C. claims she was deprived of her constitutional and statutory rights to effective representation of counsel because there were "at least twenty-seven" inaudible portions in the transcript of the hearing pertaining to Dr. Houdart's examination, argument, and the judge's ruling.

The right to counsel is a crucial component of the due process protections afforded to someone facing involuntary commitment, which is "a significant deprivation of liberty." Addington v. Texas, 441 U.S. 418, 425 (1979); see also S.L., 94 N.J. at 137. "A right to counsel is 'the right to the effective assistance of counsel.'" N.J. Div. of Child Prot. & Permanency v. G.S., 447 N.J. Super. 539, 555 (App. Div. 2016) (quoting McMann v. Richardson, 397 U.S. 759, 771 n.14 (1970)).

The right to counsel in civil commitment proceedings is also guaranteed by statute. A person facing involuntary commitment has "[t]he right to be represented by an attorney and, if unrepresented or unable to afford an attorney, the right to be provided with an attorney paid for by the appropriate government agency." N.J.S.A. 30:4-27.11(c). In addition, a person facing involuntary commitment has the right to "have counsel present at the hearing" and the person cannot "appear at the hearing without counsel." N.J.S.A. 30:4-27.12(d).

We do not countenance incomplete or deficient transcripts. We initially note that neither D.C. nor her counsel submitted any certification detailing what was stated at the hearing. Moreover, D.C. had appeared at the hearing and was present for Dr. Houdart's testimony, counsels' summations, and the judge's ruling. The lack of a complete transcript of the entire hearing did not alter the

outcome. We are satisfied any deficiencies in the transcript have not inhibited our appellate review. Accordingly, D.C. suffered no prejudice, and we discern no reversible error.

We conclude that D.C.'s remaining arguments—to the extent we have not addressed them—lack sufficient merit to warrant any further discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.