



Recent Developments in Involuntary Commitment Decisions

by

David E. Jose, Esq.

Plews Shadley Racher & Braun LLP

(317)637-0700

djose@psrb.com

Friends of Indiana Mental Health Centers

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Background Issues

- Indiana Code – I.C. 12-26
- Temporary vs. Regular Commitment
- Forced Medication
 - Emergency Treatment Pending Hearing
- “Duty to Warn” Protection



Standards

- Requirements for Involuntary Commitment
- Definitions
 - Mental Illness
 - Grave Disability
 - Dangerous to Self/Others
- Burden of Proof
 - Significant Deprivation of Liberty
 - Clear and Convincing Evidence

Review of Appeal

- Insufficiency of Evidence
- Content of Hearing Record
- Published vs. Unpublished Decisions
- Reversals of Trial Courts as “Messages”



Forced Medication/Order to Treat

- *In Re Mental Commitment of MP* (1987)
 - Statutory right to refuse treatment
 - Liberty interest
 - *Addington v. Texas* (U.S. Supreme Court)
- Clear and Convincing Evidence
 - Evidence to be proven
 - Elements to be considered
- Context for Decision



In Re Civil Commitment of T.K.

- Court of Appeals (1/30/14)
- Memorandum Decision (Unpublished)
- Grave Disability and Dangerousness
- Actual Harm Not Necessary



In Re Civil Commitment of E.G.

- Court of Appeals (1/27/14)
- Memorandum Decision
- Dangerousness to Others
- Forced Medication Issue
 - Weighing benefits vs. risks of Depakote



In Re Civil Commitment of C.P.

- Court of Appeals (5/23/14)
- Published Decision
- Grave Disability
- Commitment Upheld



In Re Mental Health Proceedings of B.M.

- Court of Appeals (1/17/15)
- Published Decision
 - 2-1 Decision
 - Dissent by Judge Riley
- Dangerousness
 - Angry, upset and threatening behavior
 - Hostile to hospital staff

In Re Matter of Commitment of T.S.

- Court of Appeals (2/10/15)
- Memorandum Decision
 - Opinion by Judge Riley
- 10 years at Logansport State Hospital
 - Following release from prison for child molesting
 - Continuing participation in SRU program
- Renewal of Commitment Upheld
 - Dangerousness not “speculative” or unrelated to mental illness
 - Least restrictive environment

In Re Civil Commitment of T.K.

- Supreme Court (3/19/15)
 - Reversal of Court of Appeals (1/30/14)
 - For publication
- Focus on “Clear and Convincing” Standard
- Grave Disability and Dangerousness
 - Neither supported by facts
- Trial Court Judge was Involved in Hearing, yet Overturned

In Re Civil Commitment of T.D.

- Court of Appeals (7/20/15)
- Published Decision
- Grave Disability
 - Tolerance of “idiosyncratic behavior”
 - Conclusion of psychiatrist not dispositive
- Overturned Commitment Order
 - Unanimous decision
 - Included Judge who was part of 2-1 majority in B.M. decision

Key Considerations

- Heightened Scrutiny for “Clear and Convincing” Standard
- More than Just Psychiatrist’s Testimony
- Tying “Dangerousness” and “Grave Disability” to Mental Illness
- Diagnosis Rarely Questioned
 - Importance of revealing the implications and bases for the diagnosis
- Facts, not speculation

Questions?

David E. Jose, Esq.
Plews Shadley Racher & Braun LLP
1346 North Delaware Street
Indianapolis, Indiana 46202
(317)637-0704
djose@psrb.com