

**IN THE COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA**

**IN RE: S.P.**

:

: **NO. 12-80,017**

:

**OPINION AND ORDER**

Petitioner S.P. was first involuntarily committed in March of 2012. By Order of Court dated April 2, 2012, he was further involuntarily committed to the Danville State Hospital for inpatient care and treatment as a severely mentally disabled person. At the time, he carried a diagnosis of Schizophrenia (paranoid type) and Poly-substance abuse.

By Order of Court dated June 27, 2012, he was again involuntarily committed to Danville for inpatient care and treatment as a severely mentally disabled person. By Order of Court dated September 18, 2012, he was yet again involuntarily committed to the Danville State Hospital for inpatient care and treatment as a severely mentally disabled person.

The treatment ordered in April of 2012 was for a period not exceed 90 days. The treatment ordered in June of 2012 was for a period not to exceed 120 days. The treatment ordered in September of 2012 was for a period not to exceed 90 days inpatient and the remainder of the 180 days to be on an out-patient basis.

By Order dated May 8, 2013, the Defendant was again involuntarily committed to inpatient care and treatment as a severely mentally disabled person. He was ordered to remain at Divine Providence Hospital pending bed availability at Danville on May 13, 2013. The care and treatment was to continue for a period not

to exceed 90 days inpatient and the remainder of the 90 days to be on an out-patient basis.

On July 22, 2013, the Petitioner was again committed to the Danville State Hospital for inpatient care and treatment as a severely mentally disabled person. This period of care and treatment was to continue for 90 days inpatient and the remainder of 90 days on an out-patient basis.

On October 3, 2013, the Petitioner was again committed to the Danville State Hospital for inpatient care and treatment as a severely mentally disabled person. The treatment at Danville was to be for a period of up to 45 days with the remaining 135 days to be “completed on an out-patient basis.”

On July 29, 2014, following a hearing before David Raker, Esquire, Hearing Examiner, the Petitioner was again found to be mentally incompetent and in need of inpatient treatment and ordered to be committed at Divine Providence Hospital’s Mental Health Facility.

The Petitioner filed a Petition for Review which was dismissed by Order of Court dated August 1, 2014. The Court affirmed the Certification and Order entered by the Hearing Officer on July 29, 2014. The Court was of the opinion that the Petitioner represented a threat to himself and others as would warrant the extension of treatment for an additional 20 days. The Court found credible the testimony of Defendant’s treating psychiatrist and charge nurse.

The Court noted in support of its decision that the Petitioner suffers from long-term issues which had been substantially “helped by medication” but that the Petitioner was “non-compliant with medication.”

Following still yet another Involuntary Treatment Petition and hearing, by decision of Stephen Sholder, Esquire, Hearing Examiner on August 15, 2014, he determined that the Petitioner has a long history of mental illness. He confirmed Petitioner's diagnosis as Schizophrenic-paranoid type. He noted that the Petitioner exhibited deranged thoughts "but has improved with medication." He noted as well that the Petitioner has a history of non-compliance with medications putting him in situations where he cannot care for his needs. He concluded that out-patient treatment with management of drugs is the "most restrictive alternative for care."

By Order of Court dated August 15, 2014, the Petitioner was committed to out-patient care and treatment as a severely mentally disabled person for a period not to exceed 90 days.

A Petition for Review was filed by the Petitioner requesting that the Court dismiss the Commitment Petition. Petitioner alleges that the evidence failed to show that he is a danger to himself or others. An argument on the Petition for Review was held before the Court on August 25, 2014.

At the hearing and argument no evidence was presented. The Court inquired as to the audio recording of the August 15, 2014 hearing. Neither counsel representing the Petitioner or a representative from Lycoming County MH/ID had possession of the audio tape from the hearing. Defense counsel was directed to obtain a copy of the tape and to provide it to the Court. By way of argument, defense counsel noted that the Petitioner was of the opinion that he was not a danger to himself or others and that he should not be required to undergo any treatment.

While the court file was provided to the Court as directed, the audio recording of the August 15, 2014 hearing has still not been provided. The audio recording provided to the Court was of the July 29, 2014 hearing; not the August 15, 2014 hearing. While the parties agreed that the Court would review the audiotape and would render a decision afterward, the Court cannot defer this decision any longer.

The Petition for Review filed by the Petitioner is governed by 50 Pa. C.S.A. § 7109 (b) and relevant case law.

This Court must first determine whether the procedures prescribed by the Act have been followed. An application was made for continued involuntary treatment. A hearing was held before a Mental Health Review Officer. At said hearing, testimony was presented, the Petitioner was represented by counsel and Petitioner's rights pursuant to the Act were protected. Following the hearing, an Order was entered involuntarily requiring the Petitioner to attend out-patient counseling and to take his prescribed medication. A Petition for Review was filed in a timely manner. This Court, in connection with the Petition for Review, has reviewed the Certifications. Unfortunately, this Court was not able to review any other evidence in that no other evidence was provided at the hearing or afterwards. This decision is being entered in a timely manner pursuant to the Act and agreement of the parties. Accordingly, this Court finds by clear and convincing evidence that the procedures prescribed by the Act have been followed.

The Court must next determine whether further involuntary out-patient treatment is required. In order to do this, the Court must determine whether the

Petitioner is severely mentally disabled and in need of treatment in that he presents a danger to himself or others.

The Certifications provided in support of the Petition include a Certification from a Ms. Miller dated August 13, 2014. From the Certification, it appears she is a nurse employed at Divine Providence Hospital. She notes as follows:

“Patient lacks insight into illness. Patient has long history of non-compliance. Patient continues with disorganized thoughts.”

Dr. Michael Marceau also provided a Certification. Based on his reexamination of the Petitioner on August 13, 2014, he determined that the Petitioner continues to be severely mentally disabled and in need of treatment. He notes that Petitioner continues with some disorganized thoughts, religious preoccupations and delusions. He concludes that the Petitioner is in need of “out-patient psychiatric care.”

The Court must determine whether further involuntary treatment is required. In order to do this, the Court must determine whether the Petitioner is severely mentally disabled and in need of treatment in that he presents a danger to himself or others.

While there is clear and convincing evidence that the Petitioner is severely mentally disabled and in need of treatment, no one has specifically certified that the Petitioner presents a danger to himself and others.

The definition of a severely mentally disabled person, however, as set forth in the law and Petition itself, is that the person, as a result of a mental illness, poses a clear and present danger of harm to others or to himself. Dr. Marceau

verified such as did Ms. Miller. Moreover, the Court will not ignore the numerous prior commitments and involuntary treatments because of Defendant's recurrent if not continual severe mental disability.

Without any evidence or even argument by Petitioner's attorney to the contrary, the Court will accept the Certification of Dr. Marceau.

**ORDER**

AND NOW, this 8<sup>th</sup> day of September 2014, following a review of the Certification and there being no other evidence whatsoever in support of Petitioner's Petition for Review, the Court **DENIES** Petitioner's Petition for Mental Health Review. Petitioner shall remain committed to out-patient care and treatment as a severely mentally disabled person for a period not to exceed 90 days from the original "commitment."

BY THE COURT,

---

Marc F. Lovecchio, Judge

cc: PD (KG)  
Lycoming County MH/ID, Rae Weber  
Gary Weber (Lycoming Reporter)  
Work File