

SUPREME COURT OF NORTH DAKOTA

In the Interest of L.D.

Negaard v. Negaard, 2003 ND 178 (2003) · No. 20030305 · Decided December 2, 2003

SUMMARY

The North Dakota Supreme Court affirmed an order requiring L.D. to undergo involuntary treatment for chemical dependence. The court held that the petitioner was not required to testify where independent evidence supported the petition’s allegations, and that the district court’s finding was supported by clear and convincing evidence.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Gerald W. VandeWalle, Chief Justice; Carol Ronning Kapsner; Mary Muehlen Maring; William A. Neumann; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	December 2, 2003
DOCKET	20030305
DISPOSITION	affirmed
PROCEDURAL POSTURE	L.D. appealed a district court order requiring him to undergo involuntary treatment for chemical dependence for up to ninety days.
STANDARD OF REVIEW	The Supreme Court reviews the procedures, findings, and conclusions of the lower court. Whether clear and convincing evidence supports an involuntary-treatment petition is a question of fact reviewed for clear error. The order will be affirmed unless it was induced by an erroneous view of the law or the Court is firmly convinced it is unsupported by clear and convincing evidence.
PRECEDENTIAL VALUE	published and precedential
PARTIES	L.D. v. Beverly Martell

TOPICS

- health law
- appellate procedure
- standard of review
- evidence
- hearsay

PRACTICE AREAS

QUESTIONS PRESENTED

1. What standard of appellate review applies to a district court's finding that a respondent is a person requiring involuntary treatment?
2. Whether the district court could find L.D. required treatment when the petitioner did not testify at the treatment hearing.
3. Whether the addiction counselor's testimony, including information from medical records and L.D.'s statements, provided clear and convincing evidence supporting involuntary treatment.
4. Whether the district court clearly erred in finding L.D. was chemically dependent and faced a substantial likelihood of substantial deterioration in physical health without treatment.

HOLDINGS

1. A district court's determination, based on clear and convincing evidence, that a respondent is a person requiring treatment is a finding of fact reviewed under the clearly erroneous standard.
2. The petitioner need not testify at an involuntary-treatment hearing; the State's attorney, private counsel, or court-designated counsel may present evidence supporting the petition.
3. An expert or qualified witness may rely on medical records and the respondent's own statements in forming an opinion, but the allegations in the commitment petition themselves do not constitute proof that the respondent requires treatment.
4. The district court did not clearly err in finding that L.D. was chemically dependent and that, without treatment, there was a substantial likelihood of substantial deterioration in his physical health.

KEY QUOTATIONS

"We will affirm an order for involuntary treatment unless it is induced by an erroneous view of the law or if we are firmly convinced it is not supported by clear and convincing evidence." (§ 5)

"This does not require the petitioner to testify, but merely requires evidence to be presented in support of the petition." (§ 9)

"However, '[t]he commitment petition does not serve as proof that [the respondent] must be committed.' Instead, the allegations must be proven by evidence." (§ 12)

FACTUAL BACKGROUND

L.D. had a history of alcohol abuse, was drinking daily to intoxication, and was not taking medication for diabetes and Wernicke's Syndrome. When admitted to St. Alexius Medical Center, he had a blood alcohol level of .430 and tested positive for cannabis. A licensed addiction counselor testified that his alcohol use aggravated his medical conditions, impaired his ability to ambulate, increased his risk of injury, and could substantially deteriorate his health.

PROCEDURAL HISTORY

Beverly Martell petitioned the Burleigh County District Court for involuntary treatment of L.D. An emergency treatment order detained L.D. pending a treatment hearing. After hearing testimony from a licensed addiction counselor, the district court found L.D. chemically dependent and found a substantial likelihood of substantial deterioration in his physical health without treatment. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In Interest of R.N., 1997 ND 246, ¶¶ 9, 11, 13, 572 N.W.2d 820
- In Interest of M.B., 467 N.W.2d 902, 904 (N.D. 1991)
- In Interest of K.J.L., 541 N.W.2d 698, 700 (N.D. 1996)
- In Interest of J.S., 530 N.W.2d 331, 333 (N.D. 1995)
- In Interest of D.H., 507 N.W.2d 314, 314-16 (N.D. 1993)

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