

Mental Illness: Court Weighs Patient's Assessment, Sees A Nursing Home As The Least Restrictive Environment Appropriate To Meet The Patient's Needs.

Based on a thorough assessment of the patient's needs and functional limitations, medical and psychiatric diagnoses and personal history, the Missouri Court of Appeals agreed with the probate judge in the county where the patient lived that a nursing home was the most appropriate and least restrictive alternative.

Legal Criteria For Involuntary Placement

In this case the court found grounds to appoint a legal guardian for the patient. The court gave the guardian authority to make decisions for the patient, even the decision that she must live in a nursing home despite her wishes to the contrary.

The grounds for giving a legal guardian such authority are that the person, by reason of a physical or mental condition, lacks the capacity to meet essential requirements for food, clothing, shelter, safety or other care, such that serious physical injury, illness or disease is likely to occur.

Even so, the courts allow a guardian to impose only the degree of supervision that is consistent with the least restrictive environment that will meet the person's needs appropriately.

The principle of the least restrictive environment means that surrogate assistance must be no more restrictive of civil rights than is necessary for adequate protection of the individual.

In close cases the court must defer to the dignity of the individual person rather than taking a strictly paternalistic approach of seeking the utmost security.

The Patient's Assessment, Diagnoses And History

The patient was twenty-four years old. She had cerebral palsy, was confined to a wheelchair and communicated with a liberator.

While she was still living in assisted living, a mental health worker administered the Missouri Critical Adaptive Behaviors Inventory. The caseworker was able to identify specific functional deficits in the areas of self-care, receptive and expressive language, learning, mobility, self-direction and economic self-sufficiency.

The worker translated the assessment into specifics. The patient could not bathe, dress or perform personal hygiene, phone for doctors' appointments, cook, clean house, etc.

The patient had been diagnosed with bipolar disorder with psychotic features, severe depression, mental retardation and a seizure disorder. She had severe mood swings and hallucinations and heard voices at times suggesting suicide.

She absolutely needed to take several medications such as mood stabilizers, anti-anxiety drugs, anti-depressants and anti-psychotics. She had trouble taking them herself. She was unable to articulate what she was supposed to take, when, how much or why, and often would not take her meds without direct supervision.

The patient had a history of rejecting appropriate caregivers, such as her foster mother, and of acting out aggressively against her caregivers. Once she left her foster mother's house in a rage and was found going down the highway in her power wheelchair in the rain.

Nursing Home versus Assisted Living

For the court the key was that the services the patient needed were not consistently provided in assisted living.

True, the services she needed could come from community volunteers who often saw to the needs of disabled persons living in assisted settings. But that was not good enough, the court concluded.

The patient had poor judgment in recognizing her own needs and in selecting caregivers. She lacked the ability to reach out to obtain the special services she really needed. That made a nursing home the least restrictive environment appropriate to meet her needs, the court ruled. ***In re Turnbough, 34 S.W. 3d 225 (Mo. App., 2000).***

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