

Second Opinion: No Right To Be Taken To The Psychiatrist's Office.

As a general rule, when a patient has been hospitalized involuntarily for mental health treatment the patient keeps the right to communicate with outside healthcare providers of the patient's own choice, unless the commitment order has for some reason taken that right away.

Patient Has the Right to Communicate With Outside Psychiatrist

The Court of Appeals of Ohio ruled recently this basic legal right that is retained by hospitalized psychiatric patients means that a patient must be allowed to communicate with a psychiatrist on the outside for a second opinion as to the need for the mental health commitment.

However, that does not mean that staff at a mental health treatment facility have the obligation to transport the patient to the psychiatrist's office. The court refused to void the patient's commitment order just because the staff refused to transport him. He was a legitimate escape risk. *In re Beekman*, 760 N.E. 2d 59 (Ohio App., 2001).

Involuntary Commitment: Court Order Void, Less Restrictive Alternatives Not Considered.

A mental health patient being treated involuntarily has the right to receive treatment in the least restrictive milieu that will achieve the treatment goals that are appropriate for the individual patient.

When seeking to treat a patient despite the patient's expressed wishes to the contrary, mental health workers must consider alternatives less restrictive than hospitalization.

It must also be spelled out in their written reports or in their court testimony specifically how the less restrictive alternatives they considered would not meet the patient's needs.

Regardless of the patient's actual need for psychiatric care a court order can be overturned if the court was not told the reason why less restrictive alternatives were rejected.

SUPREME COURT OF NORTH DAKOTA,
2001.

The patient's treating psychiatrist, the patient's brother and the local sheriff who first brought the patient to the hospital testified in favor of a ninety-day involuntary commitment at the state hospital.

The patient had severe paranoid delusions that law enforcement personnel and his immediate family were out to get him. Based on the patient's own statements, there were legal grounds to believe the patient posed a serious risk of harm to others, particularly his family, if he was not detained for mental health treatment.

However, the patient's lawyers appealed the commitment order. The Supreme Court of North Dakota ruled the commitment order was not valid and the patient was entitled to be released.

Less Restrictive Alternatives Must Be Considered

Fundamental civil and constitutional rights are at stake in involuntary mental health commitment proceedings.

A mental health patient has the fundamental right to receive treatment in the least restrictive setting that will meet the patient's needs, that is, in the setting that imposes the least burdensome intrusion upon the patient's right to personal liberty.

Mental health workers seeking to hospitalize a patient must consider less restrictive alternatives to hospitalization, for example, assisted outpatient care or transitional living, and they must document and be able to explain to the court specific concrete reasons why they ruled out those less restrictive alternatives, the court said. *In re D.P.*, 636 N.W. 2d 921 (N.D., 2001).

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