

State v. M.R., 202 P.3d 221 (Or. App. 2009)

Facts

M.R. was a student at Oregon State University (OSU), and Ms. McIntyre was his former professor. At the end of the quarter in 2006, M.R. began expressing his interest in a relationship with McIntyre. He left her a note with a “disturbing” story and sent her several “strange” emails. He repeatedly showed up uninvited at McIntyre’s office and once spent 12 hours looking for her around campus. He continued to do this even though she refused his advances and called security to have him leave her office. McIntyre described his behavior as “very confusing, uncomfortable, and unpredictable,” but not angry or threatening. On April 19th, M.R. again visited McIntyre’s office, and her secretary called security. By this time, McIntyre was in fear of what else M.R. could do because he would not stop no matter what she did. OSU police arrested M.R., and he was committed to a mental hospital.

M.R. met with a psychiatrist who diagnosed him with a mental illness and determined that his behavior was “fixated” and “disturbing” because M.R. did not accept any boundaries. In fact, M.R. told the psychiatrist he planned to propose marriage to McIntyre. M.R.’s father testified that he was concerned with what M.R. would do if McIntyre continued to refuse his son’s romantic efforts. While he was in the hospital, M.R. had other incidents involving not respecting the boundaries of staff and other patients. He once threw a water pitcher and swung at a security supervisor.

Statutes

ORS 426.005(1)(e):

“Mentally ill person” means a person who, because of a mental disorder is one or more of the following:

- (A) Dangerous to self or others
- (B) Unable to provide for basic personal needs...

ORS 426.130(1)(a)(C)

If, in the opinion of the court, the person is mentally ill based upon *clear and convincing evidence*, the court may order commitment of the individual to the Oregon Health Authority... (emphasis added)

Handout Questions

1. If you were the State of Oregon, what arguments would you make to show “clear and convincing evidence” that M.R. was “mentally ill”?
2. If you were M.R.’s attorney, what arguments would you make to show that M.R. was not “mentally ill” according to the statute?
3. If you were the appellate court, would you find M.R. is mentally ill?
 - a. What arguments would you make?
 - b. Would it be a difficult or easy decision?
4. After reading the actual case, answer the following:
 - a. How did the Oregon Court of Appeals rule?
 - b. What reasons did the court give for its decision?
 - c. How did your decision compare with what the court decided?
 - d. Do you think your decision was better than the one the court made? Why?
 - e. If Ms. McIntyre is afraid for her safety now, what advice would you give her?

What are the Facts?

In 2006, M.R. was arrested and held in a hospital for an alleged mental illness after he repeatedly attempted to woo his former professor, Ms. McIntyre, at Oregon State University. Ms. McIntyre, an evaluating psychiatrist, and M.R.’s father all expressed gear regarding M.R.’s behavior toward Ms. McIntyre.

Issue

Did the court have “clear and convincing evidence” that M.R. had a mental illness as defined in the statute?

What Happened in the Lower Court?

The trial court held that M.R. was a danger to himself and others and unable to provide for his basic needs due to a mental disorder. The court committed M.R. to the Mental Health Division for a period of time not to exceed 180 days. ORS 426.130(1)(a)(C), (2).

How did the Case get to the Oregon Court of Appeals?

M.R. did not appeal the trial court’s finding that he had a mental disorder. Instead, he appealed to the Oregon Appellate Court because he claims the State did not have clear and convincing evidence that, because of his mental disorder, he is a danger to himself or others, or that he is unable to provide for his basic needs.

M.R.’s Argument

M.R. argues that the State did not and cannot show “clear and convincing evidence” that he is a danger to himself or others, or that he is unable to provide for his basic needs.

State’s Argument

The state argues M.R. is a “danger to others” because all of his conduct put together is enough to predict “future dangerousness.” The state’s evidence includes: (1) M.R.’s manic episode; (2) his fixation on a relationship with McIntyre, despite her repeated attempts to dissuade him from contacting her; (3) his continued expressed desire to have a relationship with McIntyre; (4) his family’s and doctor’s concerns that M.R. might try to harm McIntyre if released; (5) his continued physically invasive behaviors; (6) his act

of throwing a water pitcher at a person in the hospital; and (7) his attempt to hit a security supervisor. The State argues that M.R. continues to be obsessed with McIntyre and is increasingly violent; they raise the possibility that he *could* decide McIntyre should die.

Who Won?

M.R. won. The Appellate Court reversed because there was no “clear and convincing evidence” that M.R. is dangerous to others.

Court’s Reasoning

The clear and convincing evidence standard requires “evidence that is of ‘extraordinary persuasiveness,’ and which makes the fact in issue ‘highly probable.’” *State v. Allen*, 209 Or. App. 647, 652 (2006).

To determine the sufficiency of the state’s evidence, the court asks whether the evidence proves that M.R. is a danger to other as a result of his condition at the time of the hearing. Violent acts are not required. Verbal acts can be enough if they show a possibility of “future dangerousness.” *State v. Bodell*, 120 Or.App. 390, 394.

The Court was not persuaded by the State’s evidence. There is no evidence that M.R. has threatened to harm McIntyre or anyone else. Conjectures about what M.R. *could, perhaps or might* do are insufficient to show future dangerousness. Throwing the water pitcher and “swinging” at the security supervisor do not predict future dangerousness.

Although M.R.’s behavior may have been socially uncomfortable or unpleasing, it was not physically menacing or threatening. A commitment to a mental hospital is not the way to deal with uncomfortable or unwanted social behavior. Instead, the State must show that the individual meets one of the statutory requirements for a mental illness worthy of commitment (i.e. dangerous to others) by “clear and convincing evidence.”

Application

1. This case discusses the standard for clear and convincing evidence when evaluating whether a person meets the statutory requirements to be “mentally ill.” The specific question addressed in this case was whether clear and convincing evidence was presented to order the defendant’s commitment to a mental hospital. Do you think there was? Why or why not?
2. The clear and convincing evidence standard for involuntary civil commitment is a rigorous one, requiring evidence that is of extraordinary persuasiveness, and which makes the fact in issue (i.e. that M.R. is mentally ill) highly probable. Why would the court have such a high standard of evidence before ordering a person committed to a mental hospital?
3. To determine the sufficiency of the state’s evidence under the clear and convincing standard for involuntary civil commitment, an appellate court assesses whether the evidence presented was sufficient to prove that a person is a danger to others as a result of his condition at the time of the hearing as understood in the context of his history. Why is it necessary that a person is dangerous to himself or others? Can you think of any other reasons why a person should be committed?
4. Specific acts of violence are not required to establish the dangerousness needed to support involuntary civil commitment. Past acts, including verbal acts, can also justify a finding that a person is mentally ill, so long as the acts clearly form a foundation for predicting future dangerousness. Do you think past verbal acts should be enough to justify involuntary civil commitment? Why or why not?