

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 22-01344

PRESENT: WHALEN, P.J., BANNISTER, MONTOUR, AND GREENWOOD, JJ.

IN THE MATTER OF DANIELLE DILL, PSY.D.,
EXECUTIVE DIRECTOR, CENTRAL NEW YORK
PSYCHIATRIC CENTER, PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

BRIAN S., RESPONDENT-APPELLANT.

ELIZABETH S. FORTINO, DIRECTOR, MENTAL HYGIENE LEGAL SERVICE, UTICA
(BENJAMIN L. NELSON OF COUNSEL), FOR RESPONDENT-APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (KEVIN C. HU OF COUNSEL), FOR
PETITIONER-RESPONDENT.

Appeal from an order of the Supreme Court, Oneida County (Louis P. Gigliotti, A.J.), entered August 12, 2022. The order authorized petitioner to administer medication to respondent over his objection.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner commenced this proceeding seeking authorization to administer psychiatric medication to respondent over his objection pursuant to the *parens patriae* power of the State of New York (*see Matter of Guttmacher [James M.]*, 181 AD3d 1313, 1313 [4th Dept 2020]; *see generally Rivers v Katz*, 67 NY2d 485, 496-498 [1986], *rearg denied* 68 NY2d 808 [1986]). We conclude that Supreme Court properly granted the petition. Contrary to respondent's contention, petitioner met her burden of establishing by clear and convincing evidence that respondent lacks "the capacity to make a reasoned decision with respect to [the] proposed treatment" (*Rivers*, 67 NY2d at 497). Petitioner's evidence demonstrated that, although it was not possible to conduct full diagnostic psychiatric interviews and formal mental health evaluations due to respondent's uncooperativeness, respondent's treating physician and the reviewing physician diagnosed him with unspecified bipolar and related disorder with psychotic features. Petitioner further demonstrated that respondent's lack of insight prevents him from recognizing that he suffers from a mental illness and considering treatment options (*see Matter of Sawyer [R.G.]*, 68 AD3d 1734, 1734 [4th Dept 2009]).

Contrary to respondent's further contention, petitioner also established by clear and convincing evidence that the proposed one-year treatment plan was "narrowly tailored to give substantive effect

to [respondent's] liberty interest" (*Rivers*, 67 NY2d at 497; see *Sawyer*, 68 AD3d at 1735). In determining whether the treatment is so narrowly tailored, a court must take "into consideration all relevant circumstances, including the patient's best interests, the benefits to be gained from the treatment, the adverse side effects associated with the treatment and any less intrusive alternative treatments" (*Rivers*, 67 NY2d at 497-498). Petitioner's evidence demonstrated that respondent posed a significant risk of danger to himself and others without treatment for his mental illness. The evaluation reports of the treating and reviewing physicians identified the proposed medications for respondent's treatment and the purported benefits thereof, including remission of threatening behavior, psychosis, and mood symptoms that cause respondent to pose a significant threat of danger to himself and others. The physicians noted that, with treatment, respondent's risk of harm to himself and others may be reduced, which would allow respondent to benefit from a less restrictive treatment environment. The physicians also set forth possible side effects of the medication and indicated that there was a plan for monitoring respondent for any of those adverse side effects.

We have examined respondent's remaining contention and conclude that it is without merit.