

Nos. 1-23-1954 & 1-23-2005 (cons.)

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> COMMITMENT OF JOSHUA D.	)	Appeal from the
(The People of the State of Illinois,	)	Circuit Court of
	)	Cook County.
Petitioner-Appellee,	)	
	)	Nos.
v.	)	2023COMH003672,
	)	2023COMH003980
Joshua D.,	)	
	)	The Honorable
Respondent-Appellant).	)	Araceli R. De La Cruz
	)	and Paul K. Karkula,
	)	Judges Presiding.

JUSTICE WILSON delivered the judgment of the court, with opinion.
Presiding Justice Oden Johnson and Justice Mikva concurred in the judgment and opinion.

OPINION

¶ 1 These consolidated appeals concern the State’s dismissal and same-day refileing of a petition seeking respondent’s involuntary inpatient admission under the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/1-100 *et seq.* (West 2022)). The State filed the original petition on September 11, 2023. On September 26, 2023, while that petition was still pending, the circuit court granted the State’s motion to voluntarily dismiss it over respondent’s written objection; later that same day, the State filed a new petition seeking respondent’s continued involuntary admission. Following a September 29, 2023, hearing, the court granted the new

petition and ordered respondent's involuntary inpatient admission for up to 90 days. Respondent appeals both orders.

¶ 2

I. BACKGROUND

¶ 3 The record establishes that respondent was diagnosed with paranoid schizophrenia in 2018 and had undergone several prior psychiatric hospitalizations before the hospitalization at issue. On September 9, 2023, while preparing to go for a walk with his mother, respondent disrobed and ran through his neighborhood. His family called 911, and the Bartlett Police Department apprehended respondent and brought him to Alexian Brothers Behavioral Health Hospital, where he was admitted that day. The following day, on September 10, 2023, Dr. Syed Hussain, a psychiatrist at Alexian Brothers, examined respondent.

¶ 4 On September 11, 2023, psychiatric care providers at Alexian Brothers filed a petition seeking respondent's involuntary inpatient admission (the original petition), pursuant to section 3-601 of the Code (405 ILCS 5/3-601 (West 2022)). Among other things, the petition alleged that respondent had a history of schizophrenia and was acutely psychotic, unable to care for his basic needs, at risk of harm without assistance, and likely to deteriorate without treatment.

¶ 5 As relevant here, section 3-606 of the Code (*id.* § 3-606) provides that, when a peace officer transports a person to a mental-health facility but does not complete the petition for involuntary admission, the petition must include the transporting officer's name, badge number, and employer as a potential witness. The Code defines a "peace officer" to include a police officer. *Id.* § 1-118. The original petition did not identify any transporting officer. Instead, in response to a question asking whether a peace officer had detained respondent, taken him into custody, or transported him to the facility, the petition answered "No."

¶ 6 The original petition was also accompanied by a certificate completed by Dr. Hussain following his September 10, 2023, examination, as required by section 3-602 of the Code (*id.* § 3-602). The certificate set forth Dr. Hussain’s clinical findings and his opinion that respondent met the criteria for involuntary admission. It also included an attestation concerning the admonishments required by section 3-208 of the Code (*id.* § 3-208)—namely, that respondent had been informed of the purpose of the examination, that he was not required to speak with the examiner, and that any statements he made could be disclosed at a court hearing. Dr. Hussain did not sign the attestation, and the record does not otherwise indicate whether those admonishments were given before the September 10 examination.

¶ 7 A hearing on the original petition was initially set for September 14, 2023. At a case-management conference that day, the court continued the matter to September 21, 2023. On September 21, respondent’s counsel stated that respondent was ready to proceed and requested an in-person hearing. The State requested an additional continuance, and, over respondent’s objection, the court reset the hearing for September 28, 2023.

¶ 8 The events leading to dismissal of the original petition began on the afternoon of September 25, 2023. At 3:39 p.m., the State e-mailed respondent’s counsel that it intended to notice a motion for voluntary dismissal of the original petition for the following morning. The State wrote: “There are some problems with the petition. I am going to add this case to tomorrow’s [case management conference] and withdraw the petition. He will be discharged tomorrow and the hospital will probably file a new petition and [certifications] tomorrow.” The State also indicated that, following the anticipated refiling, it wished to reset the hearing on respondent’s involuntary admission for September 29, 2023.

¶ 9 In response, respondent filed a written objection the following morning. Among other things, he argued that dismissal and refiling could extend his detention beyond the 15-day continuance limitation set forth in section 3-800 of the Code (*id.* § 3-800) and that any defects in the petition should instead be addressed through amendment of the existing petition. Respondent also objected to the abbreviated notice, having been informed only the preceding afternoon that the matter would be added to a previously unscheduled call.

¶ 10 Later that morning, the parties appeared for the case-management conference, where the State orally moved to withdraw the petition. The State represented that dismissal would not delay the proceedings because a hearing could still be held that week. Respondent reiterated his objections, including that good cause existed to deny dismissal. The circuit court passed the matter to review respondent's written objection. When the case was recalled, the court stated that it had reviewed the filing and heard argument from both parties, granted the State's motion to withdraw the original petition, and denied respondent's objection. The court entered a written order reflecting that the original petition was voluntarily dismissed.

¶ 11 Following the dismissal, respondent was legally discharged and immediately readmitted to Alexian Brothers without physically leaving the hospital. Psychiatric care providers then filed a new petition for respondent's involuntary admission (new petition), supported by the required certificates of examination. The new petition repeated the substance of the earlier allegations and added that respondent presented a risk of physical harm. Like the original petition, it answered "No" when asked whether a peace officer had detained respondent, taken him into custody, or transported him to the facility. Moreover, unlike his September 10 certificate, Dr. Hussain's new certificate contained his signed attestation that he had provided the required statutory admonishments. The hearing on the new petition was set for September 29, 2023.

¶ 12 At the September 29 hearing, the State presented two witnesses: respondent's brother, Zachary D., and Dr. Hussain, respondent's treating psychiatrist. When the State began questioning Zachary about the events of September 9, respondent's counsel objected that the State was improperly relying on evidence underlying the dismissed original petition to establish the grounds for the new petition. The circuit court overruled the objection, explaining that the testimony concerned "the patient's history and his life" and that the State "can go back as far as she finds to be appropriate," while granting leave to renew the objection at the close of the case.

¶ 13 Zachary testified, in relevant part, about respondent's psychiatric history and his own observations of respondent's conduct leading up to and on September 9, 2023. He testified that respondent was diagnosed in 2018 with "anxiety, depression, and paranoid schizophrenia" and had since been hospitalized "at least eight" times, returning afterward each time to live with his family. On September 9, 2023, respondent went outside with their mother to get into the family car, stripped off his clothes, and ran naked through the neighborhood. Zachary testified that "911 was called" and confirmed on cross-examination that respondent "was picked up by the Bartlett Police" and brought to Alexian Brothers for a mental-health evaluation, where he remained through the September 29 hearing.

¶ 14 Dr. Hussain testified that he first saw respondent during a December 2021 hospitalization and later treated him during a January-to-April 2023 admission. He testified that it was his understanding that respondent stopped taking his prescribed medications after his April 2023 discharge and that this noncompliance led to the hospitalization at issue in this case. When respondent was admitted to Alexian Brothers for that hospitalization on September 9, 2023, Dr. Hussain examined him the following day and thereafter evaluated him approximately five to seven times each week through the September 29 hearing. Based on his treatment of respondent and

observations during the hospitalization, Dr. Hussain testified that respondent exhibited persistent psychotic symptoms, including auditory and visual hallucinations and paranoid delusions involving “evil entities” that were “after him.” He described respondent as “very withdrawn” and unable to attend adequately to his basic needs, including eating very little because he believed his food was poisoned and not bathing regularly.

¶ 15 Dr. Hussain diagnosed respondent with paranoid schizophrenia and opined that, without treatment, respondent posed a risk of harm to himself or others and was reasonably expected to deteriorate further. He further opined that less restrictive treatment alternatives were inadequate and recommended involuntary inpatient admission for up to 90 days.

¶ 16 Dr. Hussain also testified concerning the circumstances surrounding respondent’s September 9 admission. On direct examination, he stated that respondent “was out on the street causing a disturbance” and that “police actually had to bring him into the hospital because of his mental state and his behavior.” On cross-examination, however, Dr. Hussain stated, “[m]y understanding is that he was brought into the hospital by [Emergency Medical Services].” When asked to clarify, he explained:

“I use police or EMS, Emergency Medical Services, interchangeably, but I do know that he was apprehended when he was out on the streets, so that’s why I said police because, you know, he was roaming around in the streets naked, and I know that the family did not actually bring him into the hospital. They are the ones that contacted 911 or EMS.”

¶ 17 Dr. Hussain further testified that respondent was discharged on September 26, 2023, because of a “technical error” in the original petition and certification and was then readmitted on a new petition.

¶ 18 Neither party elicited testimony concerning whether Dr. Hussain gave respondent the required statutory admonishments required by section 3-208 of the Code before the September 10 examination underlying the original petition’s certificate. The State did establish, however, that Dr. Hussain gave respondent his rights before the September 26 examination underlying the new petition’s certificate.

¶ 19 The State rested, and respondent presented no witnesses. In closing argument, respondent’s counsel renewed her earlier objection to the State’s use of evidence from the dismissed original petition. She argued that the State was “trying to have it both ways” by treating the refiled petition as a new proceeding while relying on facts from the earlier proceeding to support it—most notably, that police officers had brought respondent to the hospital. Counsel emphasized that neither petition identified the police officers involved in that transport, even though the State relied on evidence of the transport to support respondent’s involuntary admission. According to counsel, that omission violated the protections afforded by section 3-606 by depriving respondent of the opportunity to investigate the circumstances of the transport and potentially call the officers as witnesses.

¶ 20 In response, the State argued that “[w]hen this Petition was filed, the police absolutely did not bring this Respondent to the hospital” because respondent had remained at the hospital after being discharged from the original admission and was then evaluated there for the new admission. At the same time, the State argued that evidence concerning respondent’s hospitalization “from September 9th until September 26th” was “highly relevant” to the new petition.

¶ 21 The circuit court granted the refiled petition, finding that the State’s two witnesses had testified in a “very credible forthright straight fashion” without being contradicted, “even under cross-examination.” The court also found that “[t]he last incident was on September 9th, 2023,”

when respondent “was running naked in his neighborhood and had to be apprehended by the police and brought to the hospital.” The court thereafter entered a written order dated September 29, 2023, committing respondent to inpatient treatment for a period not to exceed 90 days.

¶ 22 Respondent timely appealed both rulings. On October 23, 2023, he filed a notice of appeal from the September 26 order dismissing the original petition (No. 1-23-1954). On October 27, 2023, he filed a notice of appeal from the September 29 order granting the refiled involuntary admission petition (No. 1-23-2005). This court subsequently consolidated the appeals.

¶ 23 II. ANALYSIS

¶ 24 Respondent raises three principal claims under the Code: (1) the circuit court improperly granted the State’s voluntary-dismissal motion over his objection under section 3-800(e) (*id.* § 3-800(e)); (2) the petitions failed to identify the peace officers involved in his September 9 transport as required by section 3-606 (*id.* § 3-606); and (3) counsel was ineffective for failing to seek exclusion of Dr. Hussain’s testimony under section 3-208, based on the alleged failure to admonish respondent before the September 10 certification examination (*id.* § 3-208). Before reaching the merits of those claims, however, we must determine whether an exception to the mootness doctrine permits us to consider them.

¶ 25 A. Mootness

¶ 26 The parties agree that this appeal is moot because respondent’s underlying 90-day admission period has expired. See *In re Alfred H.H.*, 233 Ill. 2d 345, 350-51 (2009) (holding appeal from involuntary-admission order moot where the 90-day commitment period had expired); *In re Carolyn J.S.*, 2024 IL App (3d) 220250, ¶ 13 (same). Nonetheless, respondent urges us to consider the issues raised in this appeal under two recognized exceptions to the mootness doctrine: (1) the public interest exception and (2) the capable-of-repetition exception. *Alfred H.H.*, 233 Ill. 2d at

355, 358. “The issue of whether an exception to the mootness doctrine applies must be determined on a case-by-case basis and is reviewed *de novo*.” *Carolyn J.S.*, 2024 IL App (3d) 220250, ¶ 14.

¶ 27 Under the public interest exception, a moot question may be addressed where “(1) the question presented is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) there is a likelihood of future recurrence of the question.” *Alfred H.H.*, 233 Ill. 2d at 355-56. “The ‘public interest’ exception is ‘narrowly construed and requires a clear showing of each criterion.’ ” *Id.* (quoting *In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 292 (2005)). We agree that the public interest exception applies.

¶ 28 The first criterion is satisfied. Questions concerning the construction of the Code, as opposed to being a “case-specific concern,” are generally public in nature. *In re Commitment of Hans T.*, 2021 IL App (2d) 180387, ¶ 21 (citing *In re Rita P.*, 2014 IL 115798, ¶ 36). Although our supreme court has recognized that the liberty interests implicated in mental-health proceedings do not, by themselves, establish the public nature of every issue arising in such cases (*Alfred H.H.*, 233 Ill. 2d at 356), the questions presented here extend beyond the facts of respondent’s case. Respondent asks how section 3-800(e) of the Code, which permits an objection to voluntary dismissal for “good cause shown,” operates alongside the State’s right to dismiss under section 2-1009 of the Code of Civil Procedure (735 ILCS 5/2-1009 (West 2022)). He also asks, when the State immediately refiles a petition during the same hospitalization, whether the new proceeding must independently comply with sections 3-606 and 3-208 of the Code. These questions concern the statutory procedures and protections governing involuntary-admission proceedings. See *Hans T.*, 2021 IL App (2d) 180387, ¶ 21 (finding the first criterion satisfied because “the issue involves construing portions of the Mental Health Code”); *In re Mary Ann P.*, 202 Ill. 2d 393, 402 (2002)

(stating that “the procedures which must be followed *** before a court may authorize involuntary treatment” are “matters of a public nature and of substantial public concern”).

¶ 29 The second criterion is also satisfied. That criterion requires the party invoking the public-interest exception to demonstrate a “ ‘need to make an authoritative determination for future guidance of public officers’ ” or that the “ ‘law is in disarray or there is conflicting precedent’ ” *Alfred H.H.*, 233 Ill. 2d at 357-58 (quoting *In re Adoption of Walgreen*, 186 Ill. 2d 362, 365-66 (1999)). Whether an issue is one of first impression is also relevant to that inquiry. *Carolyn J.S.*, 2024 IL App (3d) 220250, ¶ 17. Here, no reported Illinois decision construes section 3-800(e), and none addresses how sections 3-606 and 3-208 apply when an involuntary-admission petition is voluntarily dismissed and immediately refiled during the same hospitalization. Resolution of those questions would therefore provide guidance to the State and circuit courts in administering the Code.

¶ 30 The third criterion is also satisfied. The relevant inquiry is whether the legal questions presented are likely to recur, either as to respondent or in other cases. *Id.* at 358. A respondent’s history may establish that likelihood. *In re Lance H.*, 2014 IL 114899, ¶ 14 (relying on the respondent’s prior involuntary admissions and requests for voluntary admission); *In re Linda B.*, 2017 IL 119392, ¶ 20 (relying on medication noncompliance and multiple prior hospitalizations); *People v. McCoy*, 2014 IL App (2d) 130632, ¶ 19 (relying on the defendant’s prior unfitness to stand trial and recurrence of similar behavior). Respondent’s history follows the same pattern. Zachary testified that respondent has been hospitalized for mental-health treatment at least eight times before the hospitalization at issue and had been diagnosed with paranoid schizophrenia in 2018. Dr. Hussain likewise testified that he first treated respondent during a December 2021 hospitalization and again during several subsequent admissions involving similar psychotic

behavior. He further testified that respondent had a history of discontinuing his medication, deteriorating, and returning to the hospital. In light of that recurring pattern, future proceedings under the Code are reasonably likely.

¶ 31 Moreover, the dismissal-and-refiling procedure at issue is not unique to this case. In *In re Andrew B.*, the State twice voluntarily dismissed an admission petition, and, after each dismissal, a new petition was filed the following day. 237 Ill. 2d 340, 342-43 (2010). Although the supreme court upheld the resulting admission order, it cautioned that “an unrestrained and unlimited pattern of repeatedly dismissing and refiling involuntary-admission petitions ‘could be abused to deprive a person of his liberty, contrary to one of the Mental Health Code’s fundamental purposes,’ ” and agreed with the appellate court’s concern “with the State’s failure to adhere to the Code’s procedural safeguards meant to protect the fundamental liberty interests at stake.” *Id.* at 354-55. Similarly, here, the State voluntarily dismissed the first admission petition and filed a new petition the same day.

¶ 32 Proceedings involving the general procedure surrounding the voluntary dismissal of admission petitions have also generated appellate review in other cases. See *In re Nancy A.*, 344 Ill. App. 3d 540, 544-45, 552-54 (2003) (addressing counsel’s exclusion from an *ex parte*, off-the-record hearing on the State’s request for respondent’s detention and further psychiatric evaluation after the State voluntarily dismissed the admission petition); *In re Karen E.*, 407 Ill. App. 3d 800, 802-03, 808-12 (2011) (addressing similar procedural issues after the State voluntarily dismissed an admission petition and proceeded on a second petition filed the same day). These cases, together with respondent’s own history, demonstrate a substantial likelihood that the questions presented here will recur.

¶ 33 Since we hold that the public interest exception applies, we need not address whether the capable of repetition exception applies.

¶ 34 B. Voluntary Dismissal Under Section 3-800(e)

¶ 35 Respondent contends that the circuit court erred by granting the State's motion to voluntarily dismiss the original petition over his objection. He advances two arguments: (1) the State's less-than-one-day e-mail notice did not satisfy section 2-1009 of the Code of Civil Procedure (735 ILCS 5/2-1009 (West 2022)) and impaired his ability to exercise his statutory right to object and (2) section 3-800(e) of the Code (405 ILCS 5/3-800(e) (West 2022)) required the State to provide "sufficiently specific reasons" for dismissal. To the extent these arguments require statutory construction, our review is *de novo*. *In re Michelle J.*, 209 Ill. 2d 428, 434 (2004). The circuit court's ultimate decision to grant voluntary dismissal, however, is reviewed for an abuse of discretion. *Nancy A.*, 344 Ill. App. 3d at 551. A court abuses its discretion when its ruling is arbitrary, fanciful, or unreasonable or when no reasonable person would adopt the court's view. *Seymour v. Collins*, 2015 IL 118432, ¶ 41.

¶ 36 Section 2-1009(a) of the Code of Civil Procedure permits a plaintiff "at any time before trial or hearing begins, upon notice to each party who has appeared or each such party's attorney, and upon payment of costs, dismiss his or her action or any part thereof as to any defendant, without prejudice, by order filed in the cause." 735 ILCS 5/2-1009 (West 2022). When those requirements are satisfied, the plaintiff's right to voluntary dismissal is, "*with very limited exceptions, unfettered.*" (Emphasis added.) *Valdovinos v. Luna-Manalac Medical Center, Ltd.*, 328 Ill. App. 3d 255, 265 (2002) (citing *Morrison v. Wagner*, 191 Ill. 2d 162, 165 (2000)). One such exception permits the circuit court, in its discretion, to rule first on a previously filed motion that, if granted, would result in a final disposition of the case. *Winn v. Mitsubishi Motor*

Manufacturing of America, Inc., 308 Ill. App. 3d 1054, 1058 (1999). Absent such a circumstance or another recognized limitation, however, the court generally has no discretion to deny a motion for voluntary dismissal. *Id.*

¶ 37 Section 3-800(e) qualifies this ordinary rule in mental health proceedings, providing “[n]otwithstanding the provisions of Section 2-1009 of the Code of Civil Procedure, a respondent may object to a motion for voluntary dismissal and the court may refuse to grant such a dismissal for good cause shown.” 405 ILCS 5/3-800(e) (West 2022). Thus, in mental-health proceedings, even when the State satisfies section 2-1009’s requirements for voluntary dismissal, section 3-800(e) affords the respondent the additional right to object and authorizes the court to deny dismissal for good cause shown. *Id.*

¶ 38 To the extent section 3-800(e) and section 2-1009 conflict, section 3-800 controls. *Id.* § 6-100 (“Judicial proceedings conducted pursuant to this Act shall be conducted in accordance with the Civil Practice Law [(735 ILCS 5/2-101 *et seq.* (West 2022))], except to the extent the provisions of this Act indicate to the contrary or are inconsistent, in which case this Act governs.”).

¶ 39 1. “*Sufficient Specific Reasons*”

¶ 40 Respondent first argues that the circuit court should not have granted the motion without requiring the State to identify the particular defects that prompted dismissal. He notes that the General Assembly enacted section 3-800(e) to afford respondents an additional procedural protection after our supreme court expressed concern in *Andrew B.* that repeated dismissal and refiling of involuntary-admission petitions could be used to prolong a respondent’s detention without adequate judicial oversight. In respondent’s view, giving meaningful effect to section 3-800(e) requires the State, upon objection by the respondent, to provide sufficiently specific reasons for dismissal so that the respondent can attempt to establish good cause and allows the court to

determine whether dismissal is being used to circumvent the Code’s procedural safeguards. He emphasizes that, here, the State provided no specific reason for dismissing the initial petition and the record contains no explanation for the dismissal, leaving him without a meaningful basis to establish good cause. The State responds that neither section 3-800(e) nor section 2-1009 requires it to identify defects in the petition or otherwise explain its reasons for seeking dismissal and that the respondent bears the burden of establishing good cause to deny the motion. We agree with the State.

¶ 41 Our primary objective in construing a statute is to ascertain and give effect to the legislature’s intent, the best indication of which is the statutory language given its plain and ordinary meaning. *Cooke v. Illinois State Board of Elections*, 2021 IL 125386, ¶ 52. We therefore consider the statute in its entirety, mindful of the subject it addresses and the purpose underlying its enactment, and construe each provision in relation to the others rather than in isolation. *Rushton v. Department of Corrections*, 2019 IL 124552, ¶ 14. We may not, however, graft onto clear language any exceptions, limitations, or conditions the legislature did not express. *People v. Glisson*, 202 Ill. 2d 499, 505 (2002).

¶ 42 The statutory language does not support respondent’s proposed construction. Section 3-800(e) provides that “a respondent may object to a motion for voluntary dismissal and the court may refuse to grant such a dismissal for good cause shown.” 405 ILCS 5/3-800(e) (West 2022). Read in sequence, “good cause shown” is the condition for the relief the respondent seeks—namely, the court’s refusal to grant voluntary dismissal. Because the respondent invokes the court’s authority to refuse dismissal, the burden of showing good cause rests with the respondent, and nothing in the statute provides otherwise. *Cf.* 735 ILCS 5/2-1007 (West 2022) (conditioning an extension of time on “good cause shown” by the party seeking the extension); *id.* § 15-

1701(b)(1)-(2) (conditioning relief from the applicable possession rule prior to foreclosure on the objecting party's showing of good cause). Moreover, nothing in section 3-800(e) requires the State to justify its motion with any particular degree of specificity. Although the court may request additional information from the State when necessary to evaluate a respondent's objection, the statute imposes no categorical requirement that the State provide reasons for seeking dismissal. Nor, to the extent respondent relies on the absence of an explanation from the circuit court, does section 3-800(e) require express findings from the circuit court upon ruling.

¶ 43 Respondent's reliance on *Bright* for the general principle that a movant ordinarily bears the burden of sustaining its own motion is of no moment. *Bright v. Dicke*, 166 Ill. 2d 204, 210 (1995). That case construed Illinois Supreme Court Rule 183 (eff. Feb. 16, 2011), which permits a court, "for good cause shown," to extend the time for filing a pleading or performing an act otherwise required within a prescribed period. *Bright*, 166 Ill. 2d at 208. The supreme court accordingly held that "[u]nder Rule 183 *** the burden of establishing grounds for relief is on the party requesting the additional time." *Bright*, 166 Ill. 2d at 210. Section 3-800(e), however, operates differently. It incorporates section 2-1009, which generally affords the State a right to voluntarily dismiss its petition, while separately allowing the respondent to object and the court to deny dismissal "for good cause shown." Thus, unlike Rule 183, the good-cause requirement applies to the nonmovant's objection rather than to the movant's request for relief. *Bright* is therefore inapposite.

¶ 44 Although the statutory language is unambiguous, and we therefore need not resort to legislative history, the history of section 3-800(e) of the Code is consistent with our interpretation. In *Andrew B.*, our supreme court recognized the potential that repetitive dismissal and refiling could result in indefinite confinement without judicial examination and stated that the matter "deserves the attention of the General Assembly." *Andrew B.*, 237 Ill. 2d at 354-55. The following

year, the General Assembly passed House Bill 1591, enacted as Public Act 97-375, which added subsection (e) to section 3-800. Pub. Act 97-375, § 5 (eff. Aug. 15, 2011) (adding 405 ILCS 5/3-800(e)). Senator Dillard, the bill’s Senate sponsor, explained that the legislation responded to a request from the supreme court concerning “the dismissal of commitment provisions.” 97th Ill. Gen. Assem., Senate Proceedings, May 18, 2011, at 64 (statements of Senator Dillard). Consistent with that response, section 3-800(e) permits a respondent to object to a voluntary dismissal and authorizes the court to refuse dismissal “for good cause shown.” 405 ILCS 5/3-800(e) (West 2022). Nothing in that history suggests that the General Assembly also intended to require the State to provide particularized reasons for dismissal or to require the court to make express findings, requirements that do not appear in the statutory text.

¶ 45 The record shows that, on September 25, 2023, the State informed respondent’s counsel by e-mail that it had identified “some problems with the petition” and intended to “withdraw the petition” the following day. At the September 26 hearing, the State reiterated that its review had revealed errors in the petition, although it did not identify them, and represented that it was prepared to proceed with an evidentiary hearing later that week. Respondent objected in writing and orally, arguing that dismissal and refiling would circumvent the Code’s limitations on continuances, prolong his detention, and allow the State to avoid amending the existing petition. Counsel reiterated those arguments at the hearing on September 26, 2023. The circuit court passed the matter to review respondent’s written objection and, upon recalling the case, stated that it had reviewed the filing and heard argument from both parties before granting the State’s motion and denying respondent’s objection.

¶ 46 On this record, the circuit court could reasonably conclude that respondent had not shown good cause to deny dismissal. Respondent was afforded an opportunity to object both in writing

and orally, and the court considered those objections before ruling. Moreover, the refiling delayed the hearing by only one day, from September 28 to September 29. Under these circumstances, we cannot say that the circuit court abused its discretion in denying respondent's objection.

¶ 47

2. Notice

¶ 48 Respondent next argues that the State failed to provide adequate notice of its motion for voluntary dismissal, impairing his ability to establish good cause to deny it. At 3:39 p.m. on September 25, 2023, the State e-mailed counsel that “[t]here are some problems with the petition” and that it intended to add the case to the next morning’s case-management conference and withdraw the petition. The State then presented its oral motion the following morning. Respondent contends that approximately 19 hours’ notice was insufficient under Circuit Court Rule 2.1 (Cook County Cir. Ct. R. 2.1 (Aug. 21, 2000)) and left counsel inadequate time to investigate the basis for dismissal and prepare his objection. Although he acknowledges that Rule 2.1 does not expressly prescribe a period for notice by e-mail, he argues that the rule requires at least two court days’ notice because that is the shortest period specified for any method of service.

¶ 49 Circuit Court Rule 2.1 requires written notice of a motion not appearing on the daily trial call and provides that notice “shall be given in the manner and to the persons described in Supreme Court Rule 11.” Cook County Cir. Ct. R. 2.1(a), (c)(i) (Aug. 21, 2000). Illinois Supreme Court Rule 11(c)(1) (eff. Oct. 1, 2024) permits service by e-mail but does not prescribe a notice period. Circuit Court Rule 2.1 does, however, provide specific notice periods for personal service and service by mail. Personal service must be delivered before 4 p.m. on the second court day preceding the hearing, while notice by mail must be deposited on or before the fifth court day preceding the hearing. Cook County Cir. Ct. R. 2.1(c)(i) (Aug. 21, 2000).

¶ 50 We need not decide whether Rule 2.1 imposes a two-court-day minimum on notice served electronically. Even assuming, without deciding, that the notice was deficient, reversal is unwarranted where the purposes of the notice requirement were fulfilled and the defect caused no prejudice. See *Mizell v. Passo*, 147 Ill. 2d 420, 428-29 (1992) (finding no prejudice from the lack of notice where the opposing party was permitted to argue against dismissal and did not request a continuance); *In re Splett*, 143 Ill. 2d 225, 230-31 (1991) (holding the absence of formal notice harmless where actual notice afforded the respondent time to prepare and an opportunity to be heard). Here, counsel received actual advance notice: the State’s e-mail identified the general basis for its intended motion—namely, problems with the petition. Counsel then prepared and filed a written objection, appeared, and argued against dismissal. Although counsel objected to the short notice, she did not request a continuance or identify any evidence she could not present because of the timing. Respondent’s assertion that counsel lacked time to investigate the State’s undisclosed concerns does not independently establish prejudice because, as explained above, section 3-800(e) did not require the State to identify each perceived defect in the petition. Accordingly, any deficiency in the timing or form of notice does not warrant reversal.

¶ 51 C. Sections 3-606 and 3-208 Applied to the Refiled Petition

¶ 52 Respondent argues that sections 3-606 and 3-208 of the Code should have barred the State from proceeding as it did on the refiled petition. In his view, the State could not avoid requirements that attached during the original proceedings simply by voluntarily dismissing the first petition and refiling another based on the same hospitalization. He characterizes that course as a “*pro forma*” handling of his case designed to evade the Code’s protections. The State rebuts that it has a “nearly unfettered right” to dismiss a faulty petition and that the record does not support respondent’s generalized assertions.

¶ 53

1. *Section 3-606 And Identification of Peace Officers*

¶ 54 Respondent first argues that the September 26 petition for involuntary admission violated section 3-606 of the Code (405 ILCS 5/3-606 (West 2022)) because it failed to identify the police officers who allegedly took him into custody and transported him to Alexian Brothers Hospital on September 9, 2023. The State responds that the record does not establish the degree of police involvement necessary to trigger section 3-606 and, alternatively, that any requirement arising from the original admission did not carry over to the refiled petition. We address each contention in turn.

¶ 55 The parties' dispute under section 3-606 of the Code presents two questions: whether the record establishes sufficient evidence that police detained respondent and participated in transporting him to the hospital and, if so, whether section 3-606 required the September 26 petition to identify those officers notwithstanding the dismissal of the original petition and refile of the admission proceeding.

¶ 56 These questions implicate different standards of review. Whether police sufficiently participated in bringing respondent to the hospital is a question of fact, and we will not disturb the circuit court's finding unless it is against the manifest weight of the evidence. *In re Alfred H.*, 358 Ill. App. 3d 784, 788 (2005). Whether those facts trigger section 3-606—and whether that provision required identification of the officers in the refiled petition—are questions of statutory construction that we review *de novo*. See *In re Amanda H.*, 2017 IL App (3d) 150164, ¶ 34. As stated above, our primary objective in construing the Code is to ascertain and give effect to the legislature's intent, the best indication of which is the statutory language, given its plain and ordinary meaning. *Cooke*, 2021 IL 125386, ¶ 52. We consider the statute as a whole and construe its provisions in relation to one another so that no part is rendered meaningless or superfluous.

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Rushton, 2019 IL 124552, ¶ 14. Because involuntary admission implicates fundamental liberty interests, the Code’s procedural safeguards are construed narrowly and require strict compliance.

In re Julie M., 2021 IL 125768, ¶ 28; *Amanda H.*, 2017 IL App (3d) 150164, ¶ 34.

¶ 57 Article VI of the Code governs emergency admission by certification. Section 3-600 provides that a person 18 years of age or older who is subject to involuntary admission on an inpatient basis and needs immediate hospitalization may be admitted to a mental-health facility under that article. 405 ILCS 5/3-600 (West 2022). Section 3-601(a) authorizes any person 18 years of age or older to present an emergency-admission petition to the facility director of a mental-health facility when immediate hospitalization is alleged to be necessary to protect the respondent or others from physical harm. *Id.* § 3-601(a).

¶ 58 The petition must set forth the factual basis for the requested admission. Section 3-601(b)(1) requires

“[a] detailed statement of the reason for the assertion that the respondent is subject to involuntary admission on an inpatient basis, including the signs and symptoms of a mental illness and a description of any acts, threats, or other behavior or pattern of behavior supporting the assertion and the time and place of their occurrence.” *Id.* § 3-601(b)(1).

¶ 59 Section 3-601(b)(4) further requires “[t]he names, addresses and phone numbers of the witnesses by which the facts asserted may be proved.” (Emphasis added.) *Id.* § 3-601(b)(4).

¶ 60 Section 3-606 addresses one category of such witnesses: peace officers. The Code defines a “peace officer” as “any sheriff, police officer, or other person deputized by proper authority to serve as a peace officer.” *Id.* § 1-118. Section 3-606 authorizes a peace officer to take a person into custody and transport him to a mental-health facility when the officer “has reasonable grounds to

believe that the person is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization to protect such person or others from physical harm.” *Id.* § 3-606. Upon arriving at the facility, the officer may complete a petition for involuntary admission. *Id.* If the transporting officer does not complete the petition, however, “the transporting officer’s name, badge number, and employer shall be included in the petition as a potential witness as provided in Section 3-601.” *Id.*

¶ 61 The standardized involuntary admission petition form mirrors those provisions. It asks, “Did a peace officer detain respondent, take him/her into custody, and/or transport him/her to the mental health facility?” It then directs that, if the answer is yes and the transporting officer did not complete the petition, the officer’s name, badge number, and employer “MUST be entered.” Both the original September 9 petition and the refiled September 26 petition answered that question in the negative, and neither identified a transporting officer’s name, badge number, or employer.

¶ 62 a. Whether Police Detained or Transported Respondent

¶ 63 The State does not dispute that section 3-606 requires disclosure when a peace officer participates in the transportation contemplated by the statute. Rather, it maintains that, as a factual matter, the record does not establish who ultimately transported respondent to the hospital. The circuit court, however, expressly found that respondent “was running naked in his neighborhood and had to be apprehended by the police and brought to the hospital.” Because the State’s argument challenges that factual determination, our task is to decide whether the circuit court’s finding is against the manifest weight of the evidence. It is not.

¶ 64 *Amanda H.* informs the degree of police participation sufficient to trigger section 3-606. The operative rule is that section 3-606 is implicated where there is “ample evidence that police officers assisted in transporting the respondent to the hospital against her will.” *Amanda H.*, 2017

IL App (3d) 150164, ¶ 35. There, the respondent's father went to the police station, after which police officers and paramedics came to the family's home. The evidence showed that the officers forced the respondent onto a stretcher, restrained her with the paramedics' assistance, and participated in taking her by ambulance to the hospital against her will. *Id.* The court concluded that, although the respondent's family had initiated the commitment process, the police "played an active role" in restraining and transporting her and therefore had to be identified in the petition so that they could be called as potential witnesses. *Id.*

¶ 65 The record here similarly supports the finding of police participation. On direct examination, the State asked respondent's brother, Zachary, whether the police had been called. Zachary answered that "911 was called." The State then asked, "[D]id the police stop your brother and bring him to Alexian Brothers Behavioral Health Center for a mental health evaluation?" Zachary answered, "They did." On cross-examination, respondent's counsel returned to the subject, asking Zachary, "[Y]ou stated that police took him to the hospital on September 9th?" Zachary answered, "Yes, he was picked up by the Bartlett Police."

¶ 66 Dr. Hussain, respondent's treating psychiatrist, initially testified on direct examination that respondent "was out on the street causing a disturbance, and police actually had to bring him into the hospital because of his mental state and his behavior, which was quite agitated at the time." On cross-examination, Dr. Hussain stated that his understanding was that respondent had been brought in by Emergency Medical Services (EMS). He then explained that he used "police or EMS *** interchangeably," but knew that respondent had been "apprehended when he was out on the streets," which was why he had referred to the police.

¶ 67 The circuit court considered those accounts and expressly found that police apprehended respondent and brought him to the hospital. In doing so, the court found that Zachary and Dr.

Hussain testified “in a very credible forthright straight fashion without being contradicted whatsoever even under cross-examination.” Zachary’s testimony directly supports that finding, and Dr. Hussain’s testimony does not contradict it. Dr. Hussain equivocated as to whether police or EMS physically transported respondent to the hospital; that equivocation reflected his lack of knowledge about the circumstances of respondent’s arrival and did not suggest that police were uninvolved. Nothing else in his testimony establishes that police did not participate in respondent’s apprehension or transportation. The circuit court’s finding was therefore not against the manifest weight of the evidence.

¶ 68 The State argues that section 3-606 was not triggered because EMS, rather than police, ultimately transported respondent to the hospital. That distinction does not alter our conclusion. *Amanda H.* does not make the identity of the person operating the transporting vehicle dispositive; the relevant inquiry is whether the evidence shows that police participated in bringing respondent to the hospital. *Amanda H.*, 2017 IL App (3d) 150164, ¶ 35. On this record, the circuit court could reasonably find that police apprehended respondent and assisted in his transportation. That involvement therefore required an affirmative response to the petition’s peace-officer question and triggered section 3-606’s requirement that the officers be identified as potential witnesses.

¶ 69 b. Whether the Replacement Petition Required Disclosure Of Police Officers

¶ 70 The State alternatively contends that the September 26 petition did not need to identify the officers who transported respondent to Alexian Brothers on September 9. According to the State, the dismissal and refiling commenced a new legal admission because respondent was “discharged and immediately readmitted,” with a new petition and new certifications filed that same day. Because respondent remained at the hospital and law enforcement played no role in that

readmission, the State maintains that section 3-606 did not require the new petition to identify the officers involved in the September 9 transport.

¶ 71 For purposes of analysis, we accept that the September 26 petition commenced a new legal admission and that no officer physically transported respondent to Alexian Brothers Hospital when that petition was filed. See *Andrew B.*, 237 Ill. 2d at 350-54 (recognizing that a new legal admission may begin even though the respondent never physically leaves the facility). The narrower question, however, is whether that new legal admission eliminated section 3-606’s requirement to identify the officers on the refiled petition who performed the only physical transportation that ever brought respondent to the facility. We conclude that it did not.

¶ 72 When read in isolation, section 3-606 authorizes an officer to “take a person into custody and transport him to a mental health facility” and, “[u]pon arrival,” either complete the petition or provide the identifying information required by the statute. 405 ILCS 5/3-606 (West 2022). Indeed, when the replacement petition was filed on September 26, respondent was already inside the hospital. No officer performed a second “transport *** to a mental health facility,” and there was no fresh “arrival” at which an officer could act.

¶ 73 Section 3-606, however, must be read together with section 3-601. See *State ex rel. Leibowitz v. Family Vision Care, LLC*, 2020 IL 124754, ¶ 35 (statutory provisions must be construed in relation to one another so that none is rendered superfluous). As discussed above, section 3-601(b)(4) requires the petition to list “the names, addresses and phone numbers of the witnesses by which the facts asserted may be proved.” (Emphasis added.) 405 ILCS 5/3-601(b)(4) (West 2022). Section 3-606 supplements that requirement by providing that, when a peace officer transports a person to a facility and does not complete the petition himself, “the transporting officer’s name, badge number, and employer shall be included in the petition as a *potential witness*

as provided in Section 3-601 of this Chapter.” (Emphasis added.) *Id.* § 3-606. Read together, the provisions serve an evidentiary purpose: ensuring that a transporting officer is identified as a potential witness to the facts alleged in the petition. See *Amanda H.*, 2017 IL App (3d) 150164, ¶¶ 35-36 (omitting transporting-officer information may deprive a respondent of beneficial testimony). The relevant question, therefore, is not whether a new transport occurred on September 26, but whether the officers involved in the September 9 transport remained potential witnesses to facts underlying the refiled petition. They did.

¶ 74 The State elicited testimony concerning respondent’s conduct on September 9, his apprehension and transportation by police, and his conduct during the ensuing hospitalization. In closing argument, the State emphasized that “evidence from his prior hospitalization from September 9th until September 26th is highly relevant” and encompassed “all the days prior until this current Petition was filed.” The circuit court likewise relied on the September 9 episode, finding that respondent “had to be apprehended by the police and brought to the hospital,” and relied on that event together with respondent’s subsequent behavior. Thus, the police-initiated hospitalization formed part of the State’s proof on the replacement petition, making the transporting officers potential witnesses whose identities section 3-606 required the State to disclose. Allowing the State to rely on that evidence while omitting the officers’ information—by simply invoking a technicality arising from the voluntary dismissal of the first petition—would circumvent the very disclosure requirement that sections 3-601 and 3-606 establish.

¶ 75 We further conclude that the violation was not harmless. The failure to strictly comply with statutory procedures prescribed by the Code “may be deemed harmless and may not require reversal in certain circumstances where the respondent (1) was not prejudiced by the errors and (2) failed to object to the errors at trial.” *Amanda H.*, 2017 IL App (3d) 150164, ¶ 36. The record

establishes that respondent's counsel objected to the omission below, so the question is one of prejudice alone. Here, the omission prevented respondent from identifying, investigating, and potentially calling the transporting officers as witnesses concerning the September 9 incident on which the State relied. See *In re Joseph P.*, 406 Ill. App. 3d 341, 348 (2010), *overruled on other grounds by In re Rita P.*, 2014 IL 115798 (holding that the omission of the transporting officer's identifying information created potential prejudice by depriving the respondent of potentially beneficial testimony, even though the State had not relied on evidence from the officer). Because respondent was denied that opportunity, the section 3-606 violation was not harmless.

¶ 76

2. Section 3-208 and Dr. Hussain's testimony

¶ 77 Respondent next argues that section 3-208 of the Code barred Dr. Hussain from testifying at the hearing on the refiled petition because Dr. Hussain failed to advise him of his statutory rights before the September 10 certification examination. The State responds that the record does not establish either that Dr. Hussain failed to admonish respondent or that he relied on statements respondent made during that examination in forming the opinions supporting involuntary admission. It further maintains that the certificates accompanying the refiled petition complied with the Code and initiated a new admission proceeding.

¶ 78 Foremost, we find that respondent forfeited this contention as a freestanding claim. Issues not sufficiently raised in the circuit court ordinarily are forfeited on appeal, particularly where the omission deprived "the formerly prevailing party of the opportunity to present evidence on that point." *People v. Hughes*, 2015 IL 117242, ¶ 38. Although forfeiture limits the parties rather than the reviewing court, and we may overlook it when appropriate (*Klaine v. Southern Illinois Hospital Services*, 2016 IL 118217, ¶ 41), we decline to do so here. Respondent raised no section 3-208 objection before or during Dr. Hussain's testimony. Consequently, the circuit court had no

occasion to determine, and the State no reason to develop evidence concerning, whether Dr. Hussain actually gave the required admonishments before the September 10 examination. The blank portion of his certificate establishes only that Dr. Hussain did not document whether the admonishments were given; it does not establish that they were not given. Had respondent objected, the State could have addressed that factual question through Dr. Hussain's testimony. Because respondent's failure to object left the factual premise of his section 3-208 claim undeveloped, the record does not permit adequate review, and we therefore enforce the forfeiture.

¶ 79 We consider the issue only in connection with respondent's alternative claim that counsel was ineffective for failing to raise it. "A respondent that is subject to an involuntary hospital admission *** has a statutory right to counsel." *In re Tara S.*, 2017 IL App (3d) 160357, ¶ 19. "The *Strickland* standard applies where a respondent argues that she received ineffective assistance of counsel." *Id.*; see *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Under that standard, respondent must prove that "(1) counsel's performance was deficient, such that the errors were so serious that counsel was not functioning as the 'counsel' contemplated by the Code; and (2) counsel's errors were so prejudicial as to deprive her of a fair proceeding." (Internal quotation marks omitted.) *Tara S.*, 2017 IL App (3d) 160357, ¶ 19.

¶ 80 Section 3-208 provides that before examining a person for certification, the examiner "shall inform the person being examined in a simple comprehensible manner of the purpose of the examination; that he does not have to talk to the examiner; and that any statements he makes may be disclosed at a court hearing on the issue of whether he is subject to involuntary admission. If the person being examined has not been so informed, the examiner shall not be permitted to testify at any subsequent court hearing concerning the respondent's admission." 405 ILCS 5/3-208 (West 2022).

¶ 81 Section 3-602 correspondingly requires the examiner’s certificate to contain “a statement as to whether the respondent was advised of his rights under Section 3-208.” *Id.* § 3-602. Because involuntary admission implicates substantial liberty interests, “the Code’s procedural safeguards should be strictly construed in favor of the respondent.” (Internal quotation marks omitted.) *In re George O.*, 314 Ill. App. 3d 1044, 1046 (2000).

¶ 82 The September 10 certificate plainly failed to comply with section 3-602. That provision requires the certificate to state whether the respondent was advised of his section 3-208 rights. 405 ILCS 5/3-602 (West 2022). Although Dr. Hussain signed the portion stating that he examined respondent, he left that attestation blank. The certificate therefore did not contain the statement section 3-602 requires.

¶ 83 Whether Dr. Hussain complied with section 3-208 presents a separate question. Section 3-208 concerns whether the examiner actually gave the required admonishments before conducting the certification examination. The State suggests that Dr. Hussain may have done so, despite failing to document it on the certificate. But the record contains no evidence that he did. Given the Code’s strict-compliance requirements, we will not supply that missing proof by presuming compliance from a silent record. See *George O.*, 314 Ill. App. 3d at 1048-49 (declining to presume that an examining physician was a psychiatrist, as section 3-610 required, where the record did not identify him as one). Thus, the certificate establishes a violation of section 3-602, and the record fails to establish compliance with the separate admonishment requirement of section 3-208.

¶ 84 The State alternatively argues that any defect associated with the September 10 examination was cured when the refiled petition was supported by new certificates documenting compliance with section 3-208. We disagree. Even assuming the refiled petition initiated a new legal admission, the September 26 certificates establish only that respondent received the required

admonishments before those later examinations. Section 3-208 requires the warnings to be given “prior to this examination for the purpose of certification.” 405 ILCS 5/3-208 (West 2022). The requirement therefore attaches to the particular certification examination being conducted. Compliance before the September 26 examinations does not establish compliance before the separate September 10 examination.

¶ 85 These conclusions do not mean, however, that all of Dr. Hussain’s testimony concerning events before September 26 were inadmissible. In *Lang*, our supreme court explained that a failure to give the section 3-208 warnings “would preclude the examiner from testifying about any statements made by the patient during the course of the examination,” but would not bar testimony “if it is derived from other sources.” *People v. Lang*, 113 Ill. 2d 407, 468-69 (1986). Applying *Lang*, the *Pritchett* court rejected the view that “the simple failure to admonish requires the blanket prohibition of an examining physician’s subsequent testimony.” *In re Pritchett*, 148 Ill. App. 3d 746, 750 (1986). Rather, the examiner’s testimony is barred when the failure to admonish is accompanied by the subsequent use of the respondent’s statements in forming an opinion or reaching a diagnosis. *Id.*

¶ 86 Accordingly, even assuming counsel performed deficiently by failing to object under section 3-208, an objection would have supported exclusion only of statements respondent made during the September 10 certification examination and testimony derived from those statements. It would not have excluded testimony based on independent observations, medical records, or information obtained from hospital staff.

¶ 87 Respondent therefore cannot establish prejudice. To do so, he must show “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland*, 466 U.S. at 694; see *Tara S.*, 2017 IL App (3d) 160357, ¶ 19 (applying

Strickland in involuntary-admission proceedings). Even assuming counsel should have obtained exclusion of every statement respondent made during the September 10 certification examination and every opinion derived from those statements, no reasonable probability exists that the result of the hearing would have been different.

¶ 88 First, apart from anything respondent said during the September 10 examination, Dr. Hussain’s observations between that examination and the September 26 reexamination supported his opinion that respondent remained subject to involuntary admission. Dr. Hussain explained that he monitored and examined respondent “five to seven times each week” and recounted “more than a half dozen incidents” in which respondent became acutely agitated, disrobed, paced the hallway, attempted to force his way out of the unit, and ultimately required restraints or emergency medication. Dr. Hussain testified that, during one incident on September 15, 2023, respondent struck his roommate after accusing him of using “synthetic telepathy.” Dr. Hussain also described an incident on September 22, when he personally assessed respondent in his room. Respondent repeatedly stated, “I don’t belong here,” but became selectively mute when asked how he would care for himself if discharged. After Dr. Hussain left the room, staff alerted him that respondent was following him down the hallway with his “hands clenched.” Dr. Hussain saw respondent approaching, retreated behind the nurses’ station, and observed staff restrain respondent and administer emergency medication after they were unable to redirect him. He further testified that respondent was eating poorly; was “not taking care of his basic needs,” including bathing and grooming; and was “very malodorous.”

¶ 89 Second, even setting aside all evidence predating September 26, the evidence following the properly admonished September 26 reexamination supported involuntary admission. The record establishes that Dr. Hussain administered the required statutory admonishments before that

examination and thereafter certified respondent for involuntary admission. Respondent does not challenge the admissibility of Dr. Hussain’s testimony concerning this period, which reflected the same pattern of psychotic and unsafe behavior. On cross-examination, for example, Dr. Hussain testified that, on the evening of September 27, respondent left his room, demanded discharge, pushed against the unit doors, and remained “not redirectable,” despite “[m]ultiple attempts of deescalation,” ultimately requiring “imminent danger medications” because he was “acutely psychotic.”

¶ 90 Accordingly, even without respondent’s statements during the September 10 examination and any testimony derived from them, the circuit court heard ample independent evidence supporting Dr. Hussain’s opinion that respondent remained subject to involuntary admission. There is therefore no reasonable probability that exclusion of respondent’s statements from that examination, or testimony derived from those statements, would have changed the result. Respondent’s ineffective assistance of counsel claim therefore fails.

¶ 91 III. CONCLUSION

¶ 92 For the foregoing reasons, the judgment of the circuit court is affirmed in part and reversed in part. We affirm the circuit court’s order, granting the State’s voluntary dismissal of the original petition. Although the September 29, 2023, involuntary admission order is now moot, we reverse that order under the public interest exception because the new petition failed to comply with section 3-606 of the Code (405 ILCS 5/3-606 (West 2022)).

¶ 93 Affirmed in part and reversed in part.

In re Commitment of Joshua D., 2026 IL App (1st) 231954

Decision Under Review: Appeal from the Circuit Court of Cook County, Nos. 2023-COMH-003672, 2023-COMH-003980; the Hon. Araceli R. De La Cruz, and the Hon. Paul A. Karkula, Judges, presiding.

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