



Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

OCTOBER TERM, 2026

In re O.W.*

} APPEALED FROM:
} Superior Court, Washington Unit,
} Family Division
} CASE NO. 25-MH-00807
} Trial Judge: Daniel P. Richardson

In the above-entitled cause, the Clerk will enter:

Patient O.W. appeals a family division decision granting the State's application for involuntary hospitalization and involuntary medication of O.W. On appeal, O.W. argues that there was insufficient evidence to demonstrate that he had a mental illness and therefore there was no basis to order involuntary hospitalization and involuntary medication. He also asserts that the State failed to demonstrate the adequacy of the treatment provided by the hospital. We affirm.

The record demonstrates the following. In late October 2025, O.W. was admitted to the Vermont Psychiatric Care Hospital (VPCH) for an involuntary mental-health examination. The State filed an application for involuntary treatment of O.W., alleging that O.W. was a person in need of treatment. O.W. refused all antipsychotic medication. The State also filed an application for involuntary medication, alleging that O.W. had a psychiatric history of bipolar disorder and had engaged in multiple dangerous incidents, including attempting to bring a knife into a courthouse, shouting threats at officers, and lying in a roadway and blocking traffic. He also made multiple delusional statements. The State alleged that without medication, he would remain at a continued high risk of violent behavior and pose a risk to others, and that there were no alternative treatments.

In November 2025, the court held a consolidated hearing on the merits of both applications. The State presented testimony from a nurse at the VPCH and Dr. Carpenter, the psychiatrist responsible for O.W.'s treatment. The nurse testified that O.W. made threats to staff, threw objects, used his bed to create a hole in the wall, barricaded himself in the room, and hurled his bed at staff in a threatening manner. Dr. Carpenter testified that he was O.W.'s treating physician and met with him at least three times a week at the hospital. He opined that O.W. had bipolar disorder and was in a manic episode, which caused him to become irritable, experience delusions, and become violent, and that O.W. could not be safely discharged from the

hospital. Dr. Carpenter recommended a medication that O.W. had received in the past without an adverse reaction and that O.W. had responded to positively. Dr. Carpenter testified that O.W. was not competent to discuss his treatment. Dr. Carpenter also stated that there was no less-restrictive alternative than involuntary hospitalization and involuntary medication.

O.W. offered testimony from Dr. Vana, who completed an independent psychiatric examination. Dr. Vana testified that he conducted two remote interviews with O.W., and O.W. was calm and clear during those periods and did not exhibit delusional thinking. He opined that O.W.'s calm behavior during the interviews was not indicative of someone experiencing a manic state related to bipolar disorder, and that his behavior could instead be the result of a personality disorder. He testified that the preferred treatment for a personality disorder was psychotherapy rather than involuntary medication.

The family division found by clear and convincing evidence that O.W. was a person in need of treatment under 18 V.S.A. § 7611. The court credited Dr. Carpenter's testimony that at the time of admission and of the hearing O.W. was suffering from bipolar disorder, a significant mental illness. The court further found that O.W. represented a danger to himself and others at the time of admission and since admission had exhibited aggressive and agitated behavior, causing the destruction of property. The court determined that there was no less-restrictive alternative to hospitalization. The court also found that O.W. was not able to make a decision regarding his medication. The court considered the side effects of the medication, credited Dr. Carpenter's testimony that O.W. was not amenable to therapy, and ordered involuntary medication. O.W. appeals.

To support a request for involuntary treatment, the State must prove by clear and convincing evidence that O.W. was "a person in need of treatment" at the time of the application and a "patient in need of further treatment" at the time of the hearing. 18 V.S.A. §§ 7611, 7616(b). A person in need of treatment is defined as someone who is suffering from a mental illness and as a result is unable to "exercise self-control, judgment, or discretion" in the conduct of their affairs to the extent that they pose a danger to themselves or others. *Id.* § 7101(17). A mental illness includes "a substantial disorder of thought, mood, perception, orientation, or memory, any of which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life." *Id.* § 7101(16). A danger of harm to others is shown by, among other things, establishing that the person made threats that placed others in reasonable fear of physical harm. *Id.* § 7101(17)(A)(ii). A danger of harm to themselves is shown by establishing that the person "is unable, without supervision and the assistance of others, to satisfy [their] need for nourishment, personal or medical care, shelter, or self-protection and safety" so that death or substantial injury is probable. *Id.* § 7101(17)(B)(ii). A patient in need of further treatment means a person in need of treatment or a patient who is receiving treatment, who presents a substantial probability of returning to being a person in need of treatment if treatment is discontinued. *Id.* § 7101(17).

A person may be subject to involuntary medication if the State demonstrates by clear and convincing evidence that the patient is not competent to refuse medication and the court determines based on a list of statutory factors that involuntary medication is appropriate. See *In re L.A.*, 2006 VT 118, ¶ 9, 181 Vt. 34; see also 18 V.S.A. § 7625(b) (providing burden of proof); 18 V.S.A. § 7627(c) (listing factors for court to consider in deciding application for involuntary medication including likelihood of side effects, risks and benefits, and treatment alternatives).

On appeal, O.W. argues that the court erred in finding that he was a “person in need of treatment,” as required by 18 V.S.A. § 7101(17). O.W. argues that the court failed to properly weigh Dr. Vana’s testimony, which he asserts provides compelling testimony that he was not suffering from a mental illness. O.W. essentially challenges the court’s assessment of the weight of the evidence, arguing that the court should have credited the testimony of his expert witness over the State’s witnesses. On appeal, we uphold the family court’s findings if supported by the evidence, even if that evidence is contradicted. *In re E.T.*, 2008 VT 48, ¶ 6, 184 Vt. 273. “The test on review is not whether this Court is persuaded that there was clear and convincing evidence, but whether the factfinder could reasonably have concluded that the required factual predicate was highly probable.” *Id.* (quotation omitted).

Here, the court’s decision was supported by the record. The court acknowledged Dr. Vana’s opinion but found Dr. Carpenter was more credible given the amount of time that Dr. Carpenter had spent with O.W. and that Dr. Carpenter’s diagnosis was more consistent with the descriptions of O.W.’s behaviors, particularly his violent and aggressive tendencies. O.W. has not presented any basis to disturb this assessment.

O.W. next argues that the court erred in concluding that involuntary medication was warranted in light of his expert’s testimony that there was a question as to whether O.W. was suffering from bipolar disorder because Dr. Vana did not observe any acute signs of manic behavior. Again, O.W. is asking this Court to make its own determination regarding the weight of the evidence. The family court’s findings were supported by Dr. Carpenter’s testimony that O.W. suffered from bipolar disorder, was refusing medication, could not discuss his need for medication, would not improve without the medication, and there were no less-restrictive alternatives. See 18 V.S.A. § 7627(c) (providing factors for court to consider). The court explained that it did not credit Dr. Vana’s recommendation of therapy and instead relied on Dr. Carpenter’s representation that O.W. was not amenable to therapy.

Finally, O.W. asserts that the court erred by failing to inquire whether the VPCH could provide adequate and appropriate treatment to O.W. as required by 18 V.S.A. § 7617(e), which provides that “[h]ospitalization shall not be ordered unless the hospital in which the person is to be hospitalized can provide [the person] with treatment that is adequate and appropriate.” O.W. asserts that the State did not present any evidence to show that O.W.’s care was adequate and appropriate. This issue was not raised below and therefore not preserved for appeal. *State v. Yoh*, 2006 VT 49A, ¶ 36, 180 Vt. 317 (explaining that this Court does “not ordinarily consider issues not raised below”). Even assuming that O.W. can raise this issue for the first time on appeal, he has not demonstrated any error. The State presented evidence below demonstrating that O.W. was receiving adequate and appropriate treatment at the VPCH. The nurse testified to the treatment that O.W. was receiving and how staff responded to O.W.’s behavior. As O.W.’s treating physician, Dr. Carpenter provided a detailed account of O.W.’s behaviors and the response of staff at the VPCH. Dr. Carpenter also explained that O.W. required antipsychotic medication that could be provided at the VPCH. Based on the evidence, the trial court found that the VPCH provided “the appropriate services to treat [O.W.’s] condition and can ensure that [O.W.] takes his medications in a safe and secure environment, [and] that he has ready access to support and services.” Therefore, there was adequate information to satisfy the requirement of § 7617(e).

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

Christina E. Nolan, Associate Justice