

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT  
OF HINDS COUNTY, MISSISSIPPI

**FILED**  
FEB 01 2016

EDDIE JEAN CARR, CHANCERY CLERK  
BY V. Moton D.C.

IN THE MATTER OF: RALPH ARNOLD SMITH, JR. CAUSE NO. ~~2015-0086~~ O/3  
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**ORDER AND OPINION**

THIS CAUSE came on for hearing on December 4, 2015 and December 18, 2015, on the *Motion for Six(6) Month Hearing...and for other Relief* filed by Ralph Arnold Smith, Jr., on October 13, 2015. The Court, having reviewed the Motion and having considered all testimony and other evidence submitted during the hearing, together with the arguments and filings of counsel, hereby finds the following:

**FACTS**

In 2012, Smith was accused of hiring local men to kill Lee Abraham, a Mississippi lawyer. In April 2012, Smith was indicted and arrested on the charges of Capital murder, Conspiracy to Commit Murder, and Burglary. On October 8, 2014, Smith was declared mentally incompetent to stand trial and, pursuant to Mississippi Uniform Rules of Circuit and County Court Practice 9.06, the Circuit Court Judge ordered the initiation of civil commitment proceedings.

On January 20, 2015, a specially appointed chancery court judge found that there was clear and convincing evidence that Smith met the criteria for involuntary inpatient commitment and ordered Smith civilly committed to secure inpatient treatment at the State Hospital at Whitfield. In so ruling, the Leflore County Chancery Court found clear and convincing evidence that there was no less restrictive alternative

which could safely meet Smith's treatment needs. Accordingly, The Leflore County Chancery Court entered its written *Order of Involuntary Civil Commitment* on January 20, 2015.

Pursuant to Mississippi Code Section 41-21-81, Dr. Smith requested a twenty (20) day hearing, which was held by this Court's special master on March 10, 2015 at the State Hospital. At the March 10, 2015 hearing, the Attorney General appeared on behalf of the Mississippi Department of Mental Health. That same day, this Court entered its *Order of Continued Commitment*, finding that there was clear and convincing evidence that Smith is in need of mental treatment, that involuntary treatment was needed, and that Smith "requires special conditions" which could not be met in a less restrictive environment than the State Hospital. The Attorney General filed his entry of appearance through Mac May and Cynthia Eubank for the Mississippi Department of Mental Health on March 24, 2015. The Affiant, Timothy Jones, on behalf of the Office of the District Attorney for the Fourth Circuit Court District, has not entered an appearance in this action. The Attorney General has not entered an appearance in this action on behalf of the District Attorney for the Fourth Circuit Court District and has not entered an appearance in this action on behalf of the civil commitment Affiant Timothy Jones.

Following Dr. Smith's objection to the Attorney General participating in this action, the special master found that the Attorney General had standing to participate. This Court specifically ruled that the Attorney General's appearance in this action is as "...the attorney for the Department of Mental Health" (see March 10, 2015 transcript, page 8, lines 20-23).

On March 17, 2015, Smith filed a *Motion to Set Aside the Special Master's Report* and this Court's March 10, 2015 *Order* and for a full evidentiary hearing before Your Honor.

It is undisputed that Smith currently suffers from a serious mental illness, specifically delusional disorder, persecutory type. Both testifying experts agreed with this diagnosis. Dr. Macvaugh has described Smith as “suffering from a substantial psychiatric disorder of thought and perception which significantly impairs his judgment, behavior, and his ability to recognize reality.” *See Exhibit 4, Macvaugh's Report of December 9, 2014 at pg. 6.*

Currently, Smith is receiving intensive, daily inpatient treatment in the Forensic Unit at Mississippi State Hospital. He has been receiving injections of a low dose of an antipsychotic medication since November 30, 2015, with the anticipation that the dosage will be gradually increased upon careful and continuous monitoring for any harmful side effects from the medication.

Smith proposes his *Order of Involuntary Commitment* be set aside and this Court issue an Order of Involuntary Outpatient Commitment. Specifically, Smith proposes that he be discharged from the State Hospital and place him on a one (1) year outpatient civil commitment; attending weekly outpatient therapy sessions at Hinds Behavioral Health Services (“Region IX”). Smith contends that he would continue to receive injections of antipsychotic medication and that a physician at Region IX would see him approximately once every three months.

The Court has carefully considered this alternative. For the reasons discussed below, the Court finds that Smith's proposed outpatient treatment is not a suitable alternative for Smith's current condition and needs at this time.

#### ***Smith's Proposed Outpatient Treatment***

Both experts in this matter testified that nothing has changed with regard to Smith's mental health condition or his risk for violence to himself or others since his initial commitment to the State Hospital in

January 2015. Dr. Macvaugh testified that Smith continues to suffer from a delusional disorder, persecutory type. He also testified that Smith lacks insight into the fact that he is mentally ill, and in his (Dr. Macvaugh) opinion, Smith does not currently appear to be capable of competently making decisions about whether or not he should seek treatment for his mental illness.

Dr. Macvaugh testified that Smith would require constant, uninterrupted supervision if released from inpatient treatment at State Hospital, including, but not limited to supervision over Smith's access to firearms, money, non-prescription drugs, and alcohol. Smith's wife testified that she is willing and able to serve as a psychiatric "support system" to address Smith's needs. However, leaving supervision to a single person is not ideal in Smith's case. It would be unreasonable for this Court to allow a patient's spouse to provide around the clock, constant supervision to another person.

Smith also proposed court sanctioned electronic monitoring. However, the Court notes that this kind of monitoring would likely only monitor Smith's location. It would not provide adequate protection from the particular risks posed by Smith's mental illness and circumstances.

Smith also proposed that he would live in the Jackson area and would not reside in the same area as his perceived persecutors. This is problematic because Dr. Macvaugh confirmed that the list of "perceived persecutors" who Smith believe are conspiring against him includes Dr. Reb McMichael and Attorney General Jim Hood. Dr. McMichael lives and works in Jackson and Attorney General Hood's main office is in Jackson. Additionally, the *Complaint* filed in federal court by Smith identifies a number of other perceived persecutors, most of whom work for the Attorney General's Office in Jackson. Dr. Macvaugh testified that in Smith's mind, all of these people, including Dr. McMichael and General Hood, are involved in "one big conspiracy" with Lee Abraham, who Smith is alleged to have sought to have murdered.

Talya Straughter, a mental health Supervisor for Region IX, testified that she, along with other colleagues, are willing and able to collaborate with outside professionals to make sure Smith gets the treatment he needs. She stated that Smith would receive services such as assessments and screenings, individual therapy, psychiatric evaluations, psychological testing, and outpatient therapy. Straughter also testified that this list of services is not exhaustive. However, even with these list of therapies available to Smith by Regions IX, this Court is of the opinion that Smith cannot be sufficiently treated on an outpatient basis.

Finally, the Court has concerns that Smith would be able to comprehend such restrictions and would more than likely not abide by them. Dr. Macvaugh noted in his December 2014 report that Smith was suffering from a “substantial psychiatric disorder of thought and perception which significantly impairs his judgment, behavior, and his ability to recognize reality.”

Smith has recently been prescribed anti-psychotic medication. This medication was only prescribed following the completion of an extensive psychopharmacological evaluation performed by the staff at Tulane University. Dr. McMichael testified that he has always had, and continues to have, concerns regarding the potential physical health risks associated with Smith taking anti-psychotic medication. These risks, which include the risk of stroke, are significantly increased due to Smith's age and current physical condition. Because of these risks, Dr. McMichael will only allow such medication to be administered to Smith with Smith's consent.

Dr. McMichael testified that at the State Hospital, Smith is constantly monitored by medical staff, including at least weekly evaluations by a nurse practitioner. As noted above, an outpatient treatment regimen with Region IX would have Smith's physical condition being evaluated approximately

every three months. This court also finds that this disparity makes the proposal regarding outpatient treatment less than ideal for Smith's condition.

### **LEGAL ANALYSIS**

Pursuant to Miss. Code Ann. Sections 41-21-83 and 41-21-99, it is this Court's duty to determine "the need for continued treatment" and "the need for continued commitment." To involuntarily commit a person to a mental institution, a court must find by clear and convincing evidence that the person is mentally ill and that "involuntary commitment is necessary for the protection of the patient or others. *See Miss. Code Ann. Section 41-21-83.*

This Court finds that there has been no substantial change in Smith's mental health condition, his circumstances or his risk for future violence since the Leflore County Chancery Court found in January 2015 by clear and convincing evidence that Smith suffered from a mental illness, that involuntary commitment was necessary for the protection of Smith or others and that there was no suitable alternative to involuntary, inpatient commitment, and ordered that Smith be committed to involuntary inpatient treatment at the State Hospital.

Drs. Macvaugh and McMichael confirmed that Smith believes that persons like the Attorney General and Lee Abraham are conspiring to harm him. However, Dr. Macvaugh testified that some people "have risen higher on the list of persecutors and some have dropped in terms of the level of threat that he perceive them to pose." They also emphasized that intensive treatment of Smith with "antipsychotic medication, which might possibly diminish the severity of his symptoms" is appropriate.

On January 12, 2016, all parties participated in a status conference to determine whether the new medication will increase Smith's awareness that he has a mental illness. Dr. McMichael could not make that guarantee; however, he is hopeful that the new medicine will create some level of awareness since

the dosage will be increased from the 7 milligrams which is currently being administered to Smith. Dr. McMichael also stated that the goal is to gradually increase the dosage to ten (10) milligrams via a long form injectible. The side effects of the medicine include decreased vision, confusion, and migraines. Dr. McMichael also stated that Smith would need to be given the medication for at least two months before McMichael can determine how Smith responds to it. When asked about Smith's delusions, Dr. McMichael explained that Smith normally experiences hallucinations first followed by delusions. He further stated that delusions are very hard to treat in part because its sufferers often have poor insight and do not recognize that a psychiatric problem exists.

Therefore, this Court finds that there is clear and convincing evidence that Smith is a person with mental illness and after careful consideration, it is clear that Smith's mental health needs require continued involuntary commitment at the State Hospital.

#### CONCLUSION

Having given careful consideration to the proposal alternative to involuntary inpatient treatment proposed by Smith, the Court finds that there is clear and convincing evidence that it is in the best interest of Smith as well as the best interest of the safety of others that Smith continue to receive inpatient treatment at the State Hospital at this time.

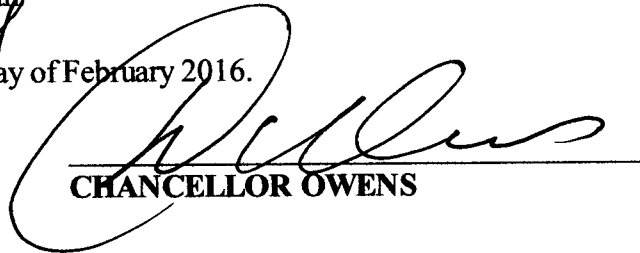
IT IS THEREFORE ORDERED that Dr. Ralph Arnold Smith, Jr. shall remain committed to involuntary inpatient treatment at the Mississippi State Hospital until further order of this Court.

IT IS FURTHER ORDERED that the State Hospital begin administration of the antipsychotic medication effective immediately until further order of this Court.

This court notes that Dr. Smith has recently begun treatment with an antipsychotic medication that needs to be closely monitored for the effectiveness and severe side effects. Pursuant to Mississippi Code Annotated Section 41-21-99, Dr. Mcvaugh has the right to request a hearing if and when treatment shows significant improvement of his medical and mental condition.

ing the need for further treatment henceforth

SO ORDERED, this the 18<sup>th</sup> day of February 2016.



CHANCELLOR OWENS