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STATE OF MICHIGAN

COURT OF APPEALS

In re SY.

TORI HUGHES,

Petitioner-Appellee,

v

SY,

Respondent-Appellant.

UNPUBLISHED
September 11, 2026
12:59 PM

No. 377721
Washtenaw Probate Court
LC No. 25-000674-MI

Before: WALLACE, P.J., and CAMERON and KOROBKIN, JJ.

PER CURIAM.

In this civil-commitment action under the Mental Health Code, MCL 330.1001 *et seq*., respondent, SY, appeals as of right the trial court order of involuntary mental-health treatment for SY following an evidentiary hearing on the petition. We affirm.

I. FACTS AND PROCEEDINGS

SY was born in 1944. He suffers from schizophrenia and has a history of psychiatric hospitalizations. In August 2025, petitioner, a social worker, petitioned the trial court for an order requiring that SY undergo 60 days of involuntary mental-health treatment at a hospital in Ann Arbor. The petition alleged that, as a result of SY's mental-health condition, he could not attend to his basic needs, lacked an understanding of his need for treatment, and was unwilling to voluntarily participate in mental-health treatment. The petition also alleged that SY did not have housing and exhibited disorganized thoughts and behaviors as well as delusions.

At a hearing on the petition, SY's counsel stated that SY did not want to appear at the hearing, and counsel then waived SY's participation. SY's counsel further noted that a foreign language interpreter was present but that the interpreter would be unnecessary if SY did not appear. After confirming that SY was not present in the room that hospital staff set up for SY's remote

participation in the hearing, the trial court continued with the hearing and dismissed the foreign language interpreter.

Dr. David Pokorny testified at the hearing that, as the attending psychiatrist, he examined SY at the hospital. He concluded that SY had schizophrenia. After examining SY, reviewing his records, and talking to his family, Dr. Pokorny learned that, since 2002, SY had a history of delusions, disorganized thinking, disorganized behavior, and auditory hallucinations. According to Dr. Pokorny, SY believed that members of his family were "imposters" and that, because of his mental illness, SY was likely to unintentionally harm himself or intentionally injure his family members. SY's delusions caused him to believe that he had a place to live in Ann Arbor when, in fact, his family wanted him to return to South Korea where he had citizenship, a home, and a pension.

As of the date of the hearing, SY refused to take any psychotropic medications, and, when doctors tried to discuss his mental illness with him, SY would yell at them in English and in Korean and demand that they leave his room. Dr. Pokorny asked that the trial court order SY to be hospitalized for 60 days under his supervision and that the medical staff be able to speak to SY's family members. According to Dr. Pokorny, the term of hospitalization was the least-restrictive environment to treat SY's mental illness, and, without an order, Dr. Pokorny did not think that SY would take any mental-health medication.

Following Dr. Pokorny's testimony, the trial court ruled that clear and convincing evidence established that SY was a person who needed treatment for his mental illness and that his mental illness would likely lead to personal harm in the near future because of his inability to understand his need for appropriate shelter. The trial court also ruled that SY's schizophrenia prevented him from voluntarily adhering to treatment and that hospitalization for 60 days was necessary to prevent the deterioration of his condition which presented a substantial risk of harm to himself and others. For those reasons, the trial court entered an order for 60 days of involuntary mental-health treatment at the above-referenced hospital or other approved facility. This appeal followed.

II. ANALYSIS

SY argues that the trial court and his counsel denied him due process by continuing the civil-commitment hearing in his absence and without his interpreter. We disagree.

A. PRESERVATION AND STANDARDS OF REVIEW

To preserve an issue for appellate review in a civil-commitment case, a party must raise the issue in the trial court at a time when the trial court has the opportunity to correct the error. *In re Jestila*, 345 Mich App 353, 355 n 3; 5 NW3d 362 (2023). SY did not object to the manner in which the trial court addressed his absence from the mental-health hearing, so this issue is not preserved for appeal. See *id*.

We review unpreserved claims of error in civil-commitment cases for plain error affecting a respondent's substantial rights. See *In re MAT*, ___Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 369255); slip op at 2-3. To prevail under the plain-error rule, "a party must show that an error occurred, that it was clear or obvious, and that it caused prejudice, i.e., that the error affected the outcome of the proceedings." *Id*. at ___; slip op at 3.

We review de novo questions of law, including whether a person has been denied due process in a civil-commitment proceeding. *In re Jestila*, 345 Mich App at 355 n 3. "[T]he interpretation and application of statutes and court rules" are likewise questions of law we review de novo. *In re Londowski*, 340 Mich App 495, 504; 986 NW2d 659 (2022).

B. LEGAL PRINCIPLES AND DISCUSSION

"Proceedings seeking an order of involuntary mental-health treatment under the Mental Health Code for an individual on the basis of mental illness . . . generally are referred to as 'civil commitment' proceedings." *In re Portus*, 325 Mich App 374, 382; 926 NW2d 33 (2018). Under MCL 330.1472a(1)(a), after a petition for involuntary mental-health treatment is filed and there is a finding that a respondent is a person requiring treatment, the trial court must enter an initial order for involuntary mental-health treatment of up to 60 days of hospitalization. MCL 330.1453 governs a respondent's right to notice and provides as follows:

> (1) The court shall cause notice of a petition and of the time and place of any hearing to be given to the subject of the petition, his or her attorney, the petitioner, the prosecuting or other attorney provided for in section 457, the hospital director of any hospital in which the subject of a petition is hospitalized, the spouse of the subject of the petition if his or her whereabouts are known, the guardian, if any, of the subject of the petition, and other relatives or persons as the court may determine. Notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.
>
> (2) Within 4 days of the court's receipt of the documents described in section 452(1)(a), the court shall cause the subject of the petition to be given a copy of the petition, a copy of each clinical certificate executed in connection with the proceeding, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical evaluation. [Citations omitted.]

SY contends that his due-process rights were violated because the trial court and his counsel did not follow the "spirit" of MCL 330.1453(2). As set forth therein, a respondent has the right to notice and the right to be present at a civil-commitment hearing. See also *In re Jestila*, 345 Mich App at 356. A respondent's right to attend and to waive attendance at a hearing under the Mental Health Code is contemplated in MCL 330.1455(1), which provides as follows:

> The subject of a petition has the right to be present at all hearings. This right may be waived by a waiver of attendance signed by the subject of a petition, witnessed by his or her legal counsel, and filed with the court or it may be waived in open court at a scheduled hearing. The subject's right to be present at a hearing is considered waived by the subject's failure to attend the hearing after receiving notice required by section 453 and any applicable court rule, providing the subject has had an opportunity to consult with counsel as required under section 454. The court may exclude the subject from a hearing if the subject's behavior at the hearing makes it impossible to conduct the hearing. The court shall enter on the record its

> reasons for excluding the subject of a petition from the hearing. The subject's presence may be waived by the court if there is testimony by a physician or licensed psychologist who has recently observed the subject that the subject's attendance would expose him or her to serious risk of physical harm. [Citation omitted.]

As petitioner contends, SY waived his attendance under MCL 330.1455(1) when his counsel placed the waiver on the record "in open court at a scheduled hearing." The same subsection provides that waiver is also presumed if a respondent fails to attend a hearing after receiving notice "providing the subject has had an opportunity to consult with counsel as required under section 454." MCL 330.1454 states as follows regarding a respondent's consultation with counsel:

> (7) Legal counsel shall consult in person with the subject of a petition at least 24 hours before the time set for a court hearing.
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> (8) Legal counsel for the subject of a petition under section 452(1)(a) who is hospitalized pending the court hearing shall consult in person with the individual for the first time not more than 72 hours after the petition and 2 clinical certificates have been filed with the court.
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> (9) After the consultation required in subsection (7) or (8), counsel promptly shall file with the court a certificate stating that he or she personally has seen and has consulted with the subject of a petition as required by this section.

The record contains a certificate signed by SY's counsel that he consulted with SY in person at least 24 hours before the hearing. At the hearing, SY's counsel stated, "Judge, it's my understanding from the hospital my client does not want to appear for the hearing." Although there was a computer logged in to the videoconference hearing from the hospital where SY was receiving mental-health treatment, the trial court's clerk stated that SY did not appear to be present in that room at the hospital. When the trial court asked if "someone at the hospital" could confirm that SY was not in the room where the computer was set up for Zoom, a person named in the transcript as "UNKNOWN SPEAKER" replied: "(Inaudible) refused to participate. He is not present." The Korean interpreter who was "on the line" for the hearing was dismissed because SY's counsel and the trial court stated that no interpreter was needed if SY did not participate.

According to SY, the trial court should have ascertained the reason why SY did not attend the hearing, the reason should have come from a health professional, the trial court should have verified that SY knowingly and voluntarily waived his appearance, and the trial court should have had the interpreter stay for the hearing so that he or she could answer any questions that SY may have raised after the hearing. But, contrary to SY's arguments, the procedures in the Mental Health Code satisfy a respondent's due-process rights as a matter of law, and the additional procedures that SY suggests are not in the Mental Health Code. See *In re KB*, 221 Mich App 414, 421; 562 NW2d 208 (1997).

SY was represented by counsel, and counsel followed the Mental Health Code by meeting with SY at least 24 hours before the hearing. See MCL 330.1454(7) to (9). Counsel waived SY's appearance on the record at the hearing as contemplated in MCL 330.1455(1). The record also

contains the proof of service showing that SY received personal service of the petition and notice of the hearing. For those reasons, SY's right to present was waived and was also "considered waived" because he declined to appear after receiving notice and meeting with his counsel. See MCL 330.1455(1).

SY takes the position that it was insufficient that counsel waived SY's presence after learning "from the hospital" that SY did "not want to appear for the hearing." SY also argues that it was insufficient for an "unknown speaker" to reply when the trial court asked if "someone at the hospital" could confirm whether SY was in the room with the computer connected to the videoconference hearing (the videoconference room). SY maintains that the trial court had an obligation to determine the identity of the hospital employee who stated that SY refused to participate and was not attending, the employee's employment status, and whether the employee was a medical professional or a social worker. But nothing in the Mental Health Code required the trial court to ask the employment status or qualifications of a person responding to a question about whether SY was in the room.[1] Further, SY's counsel was not required to produce evidence of a medical opinion about SY's decision to decline to appear for the hearing. Again, it was enough to protect SY's due-process rights that he knew about the petition and hearing, he consulted with counsel, and he chose not to appear.

Had our Legislature wanted to require respondents to make an offer of proof or state under oath that they "knowingly and voluntarily" waived their presence at a hearing, it could have included that language in the Mental Health Code. It did not do so and, instead, expressed an intent to consider the right to be present waived if, like here, the respondent did not appear but had notice and met with counsel. This legislative choice is consistent with the statutory purpose of providing mental-health treatment for people with severe mental illnesses who may not be capable of taking care of their basic needs, much less making legal decisions about the extent to which they participate in court hearings.

SY maintains that he could have been absent from the hearing because of a physical condition, a safety concern, security precautions, or a lack of understanding about the hearing. SY is presumably in the best position to know whether any of those factors actually led to the waiver

[1] While best practices would certainly require anyone addressing the court to be identified in the hearing transcript, the practical reality is that, when a court calls a case to order in Michigan, and a party or attorney does not quickly appear, it is routine that other people in the room or on the videoconference tell the court that the person is in the hallway, in the gallery of the videoconference, or otherwise; and the identity of those persons is not always reflected in the transcript. That being said, the person in the videoconference room in the present matter also informed the court that respondent *refused to participate*, which is certainly not the same as merely indicating that they are not present. But, even if we determined that the court erred in this case by not identifying that person, we would nonetheless hold that it did not affect the outcome of the proceedings, *In re MAT*, ___Mich App at ___; slip op at 3, because respondent does not argue that he was actually in the videoconference room at the time of the hearing nor does he argue that he actually wished to be participate, i.e., defendant effectively concedes that whoever said respondent refused to participate and was not in the room was correct.

of his appearance, so his argument about what "[p]erhaps" may have occurred is needlessly speculative. Further, the reason for a respondent's waiver of appearance is not required, explicitly or implicitly, by MCL 330.1455(1). SY's assertion that other reasons *could have* prevented him from attending is not supported by the record, and because no reason is required by the statute, hypothetical reasons for SY's absence are immaterial.

SY argues that MCL 330.1455(1) required the trial court to state the reasons why he was not at the hearing because it provides that "[t]he court shall enter on the record its reasons for excluding the subject of a petition from the hearing." But that requirement follows the provision giving a trial court permission to "exclude" a respondent if his "behavior at the hearing makes it impossible to conduct the hearing." MCL 330.1455(1). Under MCL 330.1455(1), the trial court's obligation to state reasons on the record is triggered when the trial court prevents or bars a respondent from attending a hearing. In this case, the trial court did not exclude SY from the hearing and, instead, SY refused to participate. Thus, SY's argument that the trial court plainly erred by failing to comply with MCL 330.1455(1) lacks merit.

SY also maintains that the trial court and his counsel plainly erred by dismissing the foreign language interpreter from the hearing because the interpreter provided the only way for SY to understand the proceedings. The appointment of an interpreter is governed by MCR 1.111(B)(1), which provides as follows:

> If a person requests a foreign language interpreter and the court determines such services are necessary for the person to meaningfully participate in the case or court proceeding, or on the court's own determination that foreign language interpreter services are necessary for a person to meaningfully participate in the case or court proceeding, the court shall appoint a foreign language interpreter for that person if the person is a witness testifying in a civil or criminal case or court proceeding or is a party.

Once his counsel waived SY's presence, and SY's presence was considered waived after he failed to appear, an interpreter was no longer necessary for SY to "meaningfully participate" in the proceeding. SY argues that the interpreter should have remained throughout the hearing in case SY had questions *after* the proceeding. But by merely sitting through the proceeding when SY was not present, the interpreter would not be serving the purpose of providing simultaneous, literal translations of what was said on the record. See *id*. Petitioner makes the argument that an interpreter is not assigned to act as counsel and should not be tasked with explaining a legal proceeding to a party after its conclusion. Had SY wished to be present at the mental-health hearing, the interpreter would have ensured that any difficulty SY had understanding English would not render him effectively absent from the hearing. But, again, SY refused to participate in the hearing, and the interpreter's provision of simultaneous translation was not necessary to protect SY's due-process rights. Further, if SY's counsel needed to later explain to SY what occurred at the hearing, he could have used the interpreter (or another interpreter) to translate counsel's explanation of the testimony and court rulings to SY or could have had a transcript translated for SY's review. Therefore, SY has not established that it was plain error for the trial court to dismiss

the interpreter when the interpreter would not be providing real-time translation and SY would not be there to participate.[2] See MCR 1.111(B)(1).

Affirmed.

/s/ Randy J. Wallace
/s/ Thomas C. Cameron
/s/ Daniel S. Korobkin

[2] To the extent that SY's argument can be read as a claim of ineffective assistance of counsel, he has abandoned the issue by failing to provide supporting legal authority and failing to show that counsel's performance was deficient and that it deprived him of a fair hearing. See *In re Londowski*, 340 Mich App at 515. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give issues cursory treatment with little or no citation of supporting authority." *In re Warshefski*, 331 Mich App 83, 87; 951 NW2d 90 (2020) (quotation marks and citation omitted). Further, as already noted, counsel did not need to establish that SY "knowingly and voluntarily" waived his right to attend the hearing because MCL 330.1455(1) does not require a knowing and voluntary waiver. We will not deem counsel ineffective for failing to pursue a meritless or futile position. *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010).