

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: December 28, 2023

534369

In the Matter of CLARENCE T.

GREGORY SAVAGE, as Unit
Chief of Central New York
Psychiatric Center Clinton
Satellite Unit,

MEMORANDUM AND ORDER

Respondent;

CLARENCE T.,

Appellant.

Calendar Date: November 21, 2023

Before: Garry, P.J., Lynch, Ceresia, Fisher and Powers, JJ.

Adam H. Van Buskirk, Auburn, for appellant.

Letitia James, Attorney General, Albany (*Brian Lusignan* of counsel), for respondent.

Ceresia, J.

Appeal from an order of the Supreme Court (John T. Ellis, J.), entered September 29, 2021 in Clinton County, which granted petitioner's application, in a proceeding pursuant to Mental Hygiene Law article 33, to authorize petitioner to administer psychotropic medications to respondent over his objection.

Respondent is an incarcerated individual presently serving a term of imprisonment at Clinton Correctional Facility for convictions of assault in the second degree and

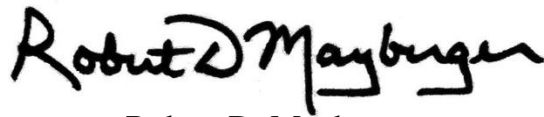
attempted burglary in the second degree. Diagnosed with schizoaffective disorder, bipolar subtype, respondent has a long history of psychiatric hospitalizations beginning when he was a teenager. On numerous occasions, respondent has refused to take antipsychotic medication and has then become a danger to himself and others. After expiration of a previous court order authorizing petitioner to treat respondent with antipsychotic and mood-stabilizing drugs over his objection, petitioner commenced this proceeding, seeking to obtain another such order. In September 2021, following a hearing, Supreme Court granted the petition. The court's order was set to expire on September 29, 2023 unless petitioner applied for a new order prior to that date, in which case the order would continue until a determination on the new application was rendered. Respondent appeals.

Inasmuch as petitioner did not seek a new order, and, thus, the subject order expired on September 29, 2023, this appeal is now moot (*see Matter of Elijah S.*, 203 AD3d 1482, 1482 [3d Dept 2022], *lv denied* 38 NY3d 913 [2022]; *Matter of Glen T.*, 163 AD3d 1135, 1135 [3d Dept 2018]; *Matter of Bosco [Quinton F.]*, 100 AD3d 1525, 1526 [4th Dept 2012]). Further, the exception to the mootness doctrine does not apply (*see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715 [1980]). "Although this type of proceeding often recurs, given the two-year duration of the order, this is not an issue that typically evades review, nor does respondent present a substantial or novel question not previously addressed by this Court" (*Matter of Elijah S.*, 203 AD3d at 1482-1483 [internal citations omitted]; *see Matter of Glen T.*, 163 AD3d at 1135; *Matter of Russell v Tripp*, 144 AD3d 1593, 1594 [4th Dept 2016]).

Garry, P.J., Lynch, Fisher and Powers, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, stylized 'R' and 'M'.

Robert D. Mayberger
Clerk of the Court