2025 IL App (4th) 241257

NO. 4-24-1257

FILED
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Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re ANNE W., a Person Found Subject to Involuntary Admission,	)	Appeal from the Circuit Court of Adams County
(The People of the State of Illinois, Petitioner-Appellee, v. Anne W., Respondent-Appellant).	)	No. 24MH209
	)	Honorable John C. Wooleyhan, Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court, with opinion.
Presiding Justice Harris and Justice Zenoff concurred in the judgment and opinion.

OPINION

¶ 1 The State petitioned to have respondent, Anne W., involuntarily admitted to Blessing Hospital (Blessing) in Quincy, Illinois, after she attempted suicide. The trial court granted the State's petition, ordering respondent involuntarily admitted for up to 90 days. Four days later, respondent was discharged. She appeals the court's order granting the State's petition, arguing she was admitted in violation of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/1-100 *et seq.* (West 2022)) because (1) the State failed to file the statutory predispositional report, (2) the State failed to ensure a psychiatrist examined her within 24 hours after her admission, (3) the State knowingly included false statements in its petition, and (4) the hearing on

the State's petition was untimely. She further claims the evidence was insufficient to support involuntary admission.

¶ 2 We agree that the State failed to provide a predispositional report and the hearing on the petition was untimely, so we reverse.

¶ 3 I. BACKGROUND

¶ 4 On September 5, 2024, respondent's therapist at Blessing, Linnie Tunget, completed a petition for involuntary admission, seeking to have respondent involuntarily admitted pursuant to the Code's rules for emergency inpatient admission by certificate. See *id.* § 3-600. Tunget claimed emergency medical services brought respondent to Blessing after she attempted suicide. Tunget further claimed respondent had "a history of multiple serious suicide attempts." Tunget added that respondent was "not engaging in treatment" and "not improving clinically." The petition listed the "Date/Time of Admission" as "09/03/2024 4:33" and the "Date/Time Petition Completed" as "09/05/2024 8 am." The petition indicated, "Within 12 hours of admission to the facility under this status and/or completion of a new petition, I gave the respondent a copy of this Petition (IL462-2005)." Additionally, a box was checked next to the sentence, "Two Certificates of Examination are attached."

¶ 5 The petition was filed with the circuit court of Adams County on September 5, 2024, at 3:30 p.m. When filed, the petition included, as attachments, two "Inpatient Certificate[s]." The first certificate was completed by Theresa Russell, LCPC. It stated that Russell examined respondent on September 5, 2024, at 10:30 a.m., and she concluded that respondent was subject to "[i]nvoluntary inpatient admission and [was] in need of immediate hospitalization." The second certificate stated that Dr. Salvador Sanchez examined respondent on September 5, 2024, at 11:30 a.m., and he also considered respondent "in need of immediate hospitalization."

¶ 6 On September 16, 2024, the trial court set the petition for a hearing later that day and appointed an attorney for respondent. At the hearing, respondent's medical records from September 3 to the morning of September 8, 2024, were admitted into evidence. The records detailed her medical history, including her prior psychiatric hospitalizations. They listed steps in respondent's treatment and documented her condition each day. For example, a "Progress Note" from September 6, 2024, stated, "Patient has not developed sufficient symptom improvement and coping skills as yet, to maintain safety in a less restricted environment." As of September 6, the notes stated respondent was "only partially receptive" to treatment, and her treatment team concluded she "remain[ed] an imminent threat of harm to self." The notes indicated a petition had been filed and the treatment team would request involuntary admission "for up to 90 days."

¶ 7 The State's only witness was Dr. Sanchez. During his brief testimony, he explained respondent was "admitted" to Blessing on September 3, 2024, after she attempted suicide. Since that day, Dr. Sanchez had "daily contact" with her, except on weekends. He conducted a mental health examination, and he diagnosed respondent with "[m]ajor depressive disorder, severe recurrent." Dr. Sanchez testified respondent had a history of "recurring suicide attempts," indicating she may harm herself and was unable to care for herself. He acknowledged she was compliant with her medication treatment since she arrived at Blessing, but, he said, she "showed modest improvement, at best." When asked about his recommendation for respondent, Dr. Sanchez testified, "I would respectfully recommend an involuntary commitment not to exceed 90 days." He was asked, "[I]s it your opinion that this clinical placement is the least restrictive setting that would offer benefits to this patient at this time?" He answered, "Yes."

¶ 8 On cross-examination Dr. Sanchez acknowledged that respondent's medical records did not document her condition for the nine days before the hearing. He further

acknowledged that respondent did not continue to "express an intent to harm herself" or "act[ ] in any manner that was self-injurious" after September 5, and she cooperated with Dr. Sanchez's medication regimen. On redirect, Dr. Sanchez confirmed that he saw respondent daily, except for weekends, after September 7, and "despite the lack of suicide attempts since" September 7, he still believed respondent needed hospitalization "for up to 90 days."

¶ 9 Respondent testified she had stable housing and had no concerns about paying rent. She lived near family members who were "supportive" when she needed them. She did not intend to harm herself, and since September 3, she did not "continue[ ] to feel suicidal." She had not harmed herself since she arrived at Blessing, and she was sleeping "okay." She further testified that Dr. Sanchez had prescribed a new medication, she was taking the medication as prescribed, and she believed it was helping. She intended to continue taking that medication after her release. She had set an appointment with her primary care physician toward the end of September, and she hoped to be released and attend that appointment. During her testimony, respondent mentioned she was first hospitalized on August 31, 2024, not on September 3, and she was brought to a different hospital before arriving at Blessing on September 3.

¶ 10 The trial court granted the State's petition. It found that the State proved, by clear and convincing evidence, that respondent suffered from a mental illness, she could reasonably be expected, unless treated on an inpatient basis, to place herself in a reasonable expectation of being harmed, and she was unable to provide for her own needs without inpatient treatment. The court concluded respondent was in need of immediate hospitalization and the least restrictive setting would be Blessing, with leave to transfer to the Illinois Department of Human Services, for a period not to exceed 90 days.

¶ 11 Although not formally indicated in the record on appeal, respondent represents in

her brief that she was discharged four days after the hearing, and the State agrees.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 Respondent appeals the trial court's order for involuntary admission. She argues the Code's procedures were not followed because (1) the State failed to prepare a predispositional report before the hearing, (2) the State failed to conduct an examination and prepare a certificate of examination within 24 hours after her admission, (3) the State knowingly relied on false statements in its petition, and (4) the court failed to conduct a timely hearing on the State's petition. She further claims the evidence was insufficient to support involuntary admission.

¶ 15 Before addressing respondent's claim, we first determine whether appellate review is appropriate. The parties agree that respondent was discharged on September 20, 2024, and the trial court's 90-day order of involuntary admission has expired. "As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009). Because respondent has already been released, the parties agree that this appeal is moot, and so do we.

¶ 16 However, respondent relies on two exceptions to the mootness doctrine: the capable of repetition yet evading review exception and the public interest exception. The capable of repetition yet evading review exception has two elements. "First, the challenged action must be too short in duration to be litigated fully prior to its cessation." *In re Benny M.*, 2017 IL 120133, ¶ 19. Second, there must be "a reasonable expectation that the same complaining party will be subject to the same action again." *Id.* ¶ 20.

¶ 17 Both elements of this exception are met here. First, respondent could not fully

litigate her challenges to the petition and involuntary commitment order within 90 days. *In re Julie M.*, 2021 IL 125768, ¶ 22. Second, the record clearly indicates respondent has attempted suicide multiple times. Although we hope her condition has permanently improved since her discharge from Blessing, this history provides a sufficient basis to suspect she could be subject to another petition for involuntary admission. See *id.* (finding this element satisfied where, "given respondent's history, there is a reasonable expectation that she will be subject to future emergency admissions by certification after presenting at a hospital for both medical and psychiatric care").

¶ 18 That respondent may be subject to another petition for involuntary admission alone is not sufficient to satisfy the second element of this exception. Instead, this case and any potential future action "must have a substantial enough relation that the resolution of the issue in the present case would be likely to affect a future case involving respondent." *Alfred H.H.*, 233 Ill. 2d at 359. "Simply stated, there must be a substantial likelihood that the issue presented in the instant case, and any resolution thereof, would have some bearing on a similar issue presented in a subsequent case." *Id.* at 360.

¶ 19 Here, respondent's sufficiency of the evidence argument is clearly specific to this case. It does not meet the requirements for the capable of repetition yet evading review exception, so we will not address it. See *id.* However, respondent's arguments regarding the predispositional report, postadmission certificate, falsity of the petition, and untimely hearing all concern the proper application of the Code. These issues are not specific to this particular case. Instead, "the respondent might well be subject to involuntary commitment proceedings in the future and the trial court will likely commit the same alleged errors during those proceedings." *In re Amanda H.*, 2017 IL App (3d) 150164, ¶ 28; see *In re Marcus S.*, 2022 IL App (3d) 160710, ¶ 49 (finding that the appellate court has "repeatedly recognized" this exception applies

in cases involving "the State's complete failure to observe several mandatory procedural and substantive requirements of the Code and [the respondent's] counsel's ineffectiveness for failing to object to such failures"). Indeed, as noted below, the State chronically fails to adhere to basic procedural requirements in involuntary commitment cases, despite clear instructions from both the Code and Illinois courts.

¶ 20 Although respondent alternatively relies on the public interest exception to the mootness doctrine, this exception likewise does not apply to fact-specific challenges to the sufficiency of the evidence. See *In re Rita P.*, 2014 IL 115798, ¶ 36. Because the capable of repetition yet evading review exception applies to all respondent's other claims, we need not discuss the public interest exception further, and we proceed with our analysis of respondent's arguments for reversal.

¶ 21 A. Predispositional Report

¶ 22 We now consider respondent's arguments that the State and trial court did not follow the Code. She acknowledges that she did not object to any of these purported violations at trial. "Because the Code protects liberty interests, strict compliance with statutory procedures is required." *Amanda H.*, 2017 IL App (3d) 150164, ¶ 34. "However, failure to strictly comply with a provision of the Code does not require reversal when (1) a respondent fails to object to alleged errors in the trial court and (2) respondent was not prejudiced." *In re Bonnie S.*, 2018 IL App (4th) 170227, ¶ 33. We review whether a respondent's statutory rights have been violated *de novo*. *Id.*; *Amanda H.*, 2017 IL App (3d) 150164, ¶ 34.

¶ 23 First, respondent contends the State failed to prepare a predispositional report. Section 3-810 of the Code states:

"Before disposition is determined, the facility director or such other person as the

> court may direct shall prepare a written report including information on the appropriateness and availability of alternative treatment settings, a social investigation of the respondent, a preliminary treatment plan, and any other information which the court may order. The treatment plan shall describe the respondent's problems and needs, the treatment goals, the proposed treatment methods, and a projected timetable for their attainment. If the respondent is found subject to involuntary admission on an inpatient or outpatient basis, the court shall consider the report in determining an appropriate disposition." 405 ILCS 5/3-810 (West 2022).

Here, the State undeniably did not provide the trial court with any predispositional report, and it does not argue otherwise. Therefore, it clearly failed to comply with the Code.

¶ 24 In *In re Robinson*, 151 Ill. 2d 126 (1992)), the supreme court explained how reviewing courts should consider forfeiture in this context. The court observed that section 3-810 required the State to file a "relatively detailed" written report. *Id.* at 132-33. The court found, "Where a respondent fails to object to the absence of a predispositional report, strict compliance with section 3-810 is required only when the legislative intent cannot otherwise be achieved." *Id.* at 134. It held that "oral testimony containing the information required by the statute can be an adequate substitute for the presentation of a formal, written report prepared by the facility director or some other person authorized by the court." *Id.*; see *Bonnie S.*, 2018 IL App (4th) 170227, ¶ 49 (explaining that "[c]ursory or conclusory testimony is not sufficient to satisfy the statutory requirements"); see also *Amanda H.*, 2017 IL App (3d) 150164, ¶ 42 ("[I]f the State fails to file a complete written predisposition report and also fails to present testimony outlining a treatment plan and identifying timetables for the treatment goals set forth in the treatment plan, the

involuntary commitment order must be reversed.").

¶ 25 Here, the State's only witness was Dr. Sanchez, and his testimony was not sufficient to cure the State's failure to provide the predispositional report. Regarding the "availability of alternative treatment settings" (405 ILCS 5/3-810 (West 2022)), Dr. Sanchez testified only that, in his opinion, involuntary hospitalization was "the least restrictive setting that would offer benefits to this patient at this time." This unexplained assertion alone is conclusory and does not satisfy section 3-810. Dr. Sanchez did not discuss any other potential treatment settings and did not explain why such settings were inadequate. Dr. Sanchez and respondent's medical records both stated that respondent was a risk to herself, but neither indicated what other treatment settings were excluded for this reason. Moreover, the records contained no information on respondent's condition after September 8. Dr. Sanchez did not indicate why no other treatment settings were available by the day of the hearing.

¶ 26 More importantly, Dr. Sanchez's testimony did not include any projected timetable for treatment, other than his general request for an order for involuntary commitment for 90 days. It appears that he simply asked for an order for the maximum duration allowed under the Code. See *id.* § 3-813(a). Similarly, we see no timetable for treatment in respondent's medical records. The records contained general treatment plans, but the only reference to any timeline is the acknowledgement that the petition requested admission for "up to 90 days." Especially when respondent was released four days after the hearing, we find Dr. Sanchez's unexplained opinion that a 90-day commitment order was necessary to be cursory and conclusory. See *Bonnie S.*, 2018 IL App (4th) 170227, ¶ 49.

¶ 27 This case closely resembles *In re Daniel M.*, 387 Ill. App. 3d 418 (2008). There, the State petitioned to involuntarily admit the respondent, alleging that he had "grandiose

delusions" and posed a threat to others. *Id.* at 419-20. The State failed to file any predispositional report. A psychiatrist testified that the respondent was hospitalized because his delusions led him to throw a frying pan and telephone at his mother. *Id.* at 421. He further testified that the respondent would act on his delusions unless he was medicated and in a safe environment and that hospitalization was the least restrictive placement. *Id.* The trial court granted the State's petition, but the appellate court reversed. It found the psychiatrist's oral testimony did not remedy the State's failure to provide a predispositional report. *Id.* at 423. The psychiatrist "summarily concluded that hospitalization was the least restrictive treatment alternative but did not testify as to what alternative treatments may have been available and why they were inappropriate in this case." *Id.* at 423-24. Similarly, he "did not discuss treatment goals or a projected timetable for their attainment; he just stated that the respondent should be hospitalized and medicated." *Id.* at 423. Similar reasoning applies here, where Dr. Sanchez's testimony was just as conclusory. As in *Daniel M.*, the State here failed to provide a predispositional report, and it failed to introduce sufficient oral testimony to satisfy the legislative intent behind section 3-810. See *Robinson*, 151 Ill. 2d at 134. Therefore, we reverse the trial court's order granting the State's petition.

¶ 28 B. Postadmission Certificate

¶ 29 Respondent next argues that the State failed to comply with section 3-610 of the Code. Respondent concedes that she forfeited this issue by failing to object in the trial court. Nevertheless, she asserts she was prejudiced by the State's violation of the Code, so she asks us to review this issue. See *Bonnie S.*, 2018 IL App (4th) 170227, ¶ 33.

¶ 30 Alternatively, respondent claims that her attorney's failure to object constituted ineffective assistance of counsel. Respondents in involuntary commitment proceedings have a right to effective assistance of counsel. 405 ILCS 5/3-805 (West 2022); *In re Jessica H.*, 2014 IL

App (4th) 130399, ¶ 23. To evaluate a respondent's claim that her attorney was ineffective, we use the same analysis employed in criminal appeals under *Strickland v. Washington*, 466. U.S. 668, 687 (1984). *Jessica H.*, 2014 IL App (4th) 130399, ¶ 23. "Under *Strickland*, the respondent must establish 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." *In re Carmody*, 274 Ill. App. 3d 46, 57 (1995).

¶ 31 We must first determine whether the State failed to comply with the Code. Section 3-602 requires that a petition for involuntary admission be accompanied by a certificate from a psychiatrist or other qualified practitioner indicating that the respondent was examined within 72 hours before admission and that the respondent needs immediate hospitalization. 405 ILCS 5/3-602 (West 2022). Section 3-610 requires a second examination and certificate. It states:

> "As soon as possible but not later than 24 hours, excluding Saturdays, Sundays and holidays, after admission of a respondent pursuant to this Article, the respondent shall be personally examined by a psychiatrist. The psychiatrist may be a member of the staff of the facility but shall not be the person who executed the first certificate. If a certificate has already been completed by a psychiatrist following the respondent's admission, the respondent shall be examined by another psychiatrist or by a physician, clinical psychologist, advanced practice psychiatric nurse, or qualified examiner." *Id.* § 3-610.

Respondent acknowledges that two practitioners examined her and that the State submitted two certificates based on those examinations, but she argues that section 3-610 explicitly requires that an examination take place "after admission." She contends that both examinations here took place

before "admission," so neither examination complied with section 3-610.

¶ 32 Respondent acknowledges that in *In re Luker*, 255 Ill. App. 3d 367, 372 (1993), we concluded that the second examination need not take place after admission. There, we expressed uncertainty on when exactly the respondent was "admitted." *Id.* at 369 (stating the respondent "was involuntarily admitted, on an emergency basis, to Decatur Memorial Hospital on either December 22 or December 24, 1992"). We "assume[d]" the respondent was admitted on December 22, the date the petition for involuntary admission was completed, instead of on December 24, the date the petition was filed. *Id.* at 372. The examinations took place on December 22 and 23. Assuming December 22 was the date of admission, we found the December 23 examination satisfied section 3-610. *Id.* However, we further explained:

> "Even if [the respondent] was admitted on December 24, and that admission followed the examination on December 23, the language of section 3-610 of the Code indicates the legislature intended that the psychiatric examination be done as soon as possible. The reference to 24 hours 'after admission' only sets the outside limit for examination [citation]; if [the respondent] could be examined before admission, so much the better." *Id.*

¶ 33 Justice Knecht dissented. He interpreted section 3-610 as requiring that the second examination take place after admission, not before. Section 3-602 of the Code already required the first examination and certificate be completed within 72 hours before admission. *Id.* at 374 (Knecht, J., dissenting). Justice Knecht explained:

> "Section 3-610 provides a three-fold safeguard. The second examiner must be a psychiatrist, must not be the same person who executed the first certificate and must examine the respondent *after* admission. The legislature could not have been

more specific. The mental health and condition of an individual is not static. The respondent who is in need of involuntary admission on day one may not be in the same condition on day four *after* admission. It is not better to ignore the statute and provide a second examination and certificate prematurely. The time line established by the legislature should be followed." (Emphases in original.) *Id.*

¶ 34 Respondent contends that *Bonnie S.* and *Julie M.* overturned *Luker*, but we disagree. In *Bonnie S.*, 2018 IL App (4th) 170227, ¶ 42, the State conducted an examination on February 28, 2017, but it did not file the certificate until March 13, 2017. We found this was not reversible error. *Id.* ¶ 43. In discussing the purpose of the second certificate, we observed that "by requiring the examination for the first certificate to be conducted within 72 hours *before* admission and the examination for the second certificate to be conducted within 24 hours *after* admission, the statute ensures a respondent is not detained based on a mere passing episode." (Emphases in original.) *Id.* ¶ 41. However, the dispute in *Bonnie S.* concerned when the certificate was filed with the court, not when the examination took place, so this observation was only a cursory aside.

¶ 35 *Julie M.* likewise did not rule on this question. In *Julie M.*, 2021 IL 125768, ¶ 36, the supreme court considered whether the second examination was completed before the deadline provided in section 3-610. After quoting section 3-610, the court explained that "the 24-hour deadline begins at 'admission of a respondent pursuant to this Article' and ends with the execution—not filing—of a second examination and certificate." *Id.* ¶ 37. Later, the court reasoned that "[s]ection 3-610's 24-hour deadline to secure a second examination and certificate began" at the time of admission. *Id.* ¶ 67. The court found that the second examination was completed before the expiration of the 24-hour deadline, so section 3-610 was satisfied. *Id.* Admittedly, the quoted language suggests that the time period for the second examination begins

with admission, not before. Nevertheless, the respondent in *Julie M.* did not argue that the examination occurred too early. She argued only that it occurred too late. The court did not consider whether an examination before "admission" would satisfy section 3-610, so we do not find that *Julie M.* overturned *Luker*.

¶ 36 *Luker* held that the Code's "reference to 24 hours 'after admission' only sets the outside limit for examination," so an examination before admission can satisfy section 3-610. *Luker*, 255 Ill. App. 3d at 372. *Luker* remains good law, and we follow its conclusion that the State could satisfy section 3-610 with an examination and certificate completed before admission, as long as it was completed by, at the very latest, 24 hours after admission.

¶ 37 We now determine whether the State satisfied this requirement here. To do so, we first consider when respondent was admitted. Our supreme court has determined that a person is considered "admitted" to a mental health facility only as provided in Chapter III of the Code and that "[e]ach article within Chapter III contains a number of necessary conditions that must be met for the legal status of 'admitted as provided in Chapter III' to attach." *Julie M.*, 2021 IL 125768, ¶ 43. Here, respondent was admitted pursuant to article VI of Chapter III, which governs emergency admission by certification. See *id.*; see also 405 ILCS 5/3-600 (West 2022) ("A person 18 years of age or older who is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization may be admitted to a mental health facility pursuant to this Article."). For emergency admission by certification, the supreme court explained that a person is admitted when "a petition and certificate [are] presented to the facility director." *Julie M.*, 2021 IL 125768, ¶ 44; see 405 ILCS 5/3-600 to 3-602 (West 2022); see also *In re Andrew B.*, 237 Ill. 2d 340, 350-51 (2010). The court relied in part on section 3-601, which states:

> "When a person is asserted to be subject to involuntary admission on an inpatient

> basis and in such a condition that immediate hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of age or older may present a petition to the facility director of a mental health facility in the county where the respondent resides or is present." 405 ILCS 5/3-601 (West 2022).

The court added that "these two necessary conditions (petition and certificate) are not always sufficient to constitute a legal admission" because

> "the determination may take into account other facts, including the physical presence of the respondent, any previous treatment, and any change in legal status prior to the admission at issue. [Citation.] These facts may belie or support a finding of admission in certain circumstances. The bottom line, however, is that, until the petition and certificate are properly executed, no legal admission under article VI has occurred." *Julie M.*, 2021 IL 125768, ¶ 45.

¶ 38 Here, the record indicates Tunget signed the petition on September 5, 2024, at 8 a.m. The first certificate was based on an examination that took place at 10:30 a.m. that day. The second certificate was based on an examination that took place at 11:30 a.m. The petition was filed with the circuit court at 3:30 p.m. The record does not indicate precisely what time the petition and certificate or certificates were presented to the facility director. However, the director must have been presented with the petition before it was filed in court at 3:30 p.m. on September 5. Therefore, the second examination and presentation to the director both occurred on September 5. Following *Luker*, it does not matter which occurred first. *Luker*, 255 Ill. App. 3d at 372. The second examination took place before the outside limit of 24 hours after admission set by section 3-610, as interpreted by *Luker*, so we find no violation, and we reject respondent's ineffective assistance

claim.

¶ 39 C. False Statements

¶ 40 Respondent also argues that the State's petition contained statements it knew to be false. The Code states, "Every petition, certificate and proof of service required by this Chapter shall be executed under penalty of perjury as though under oath or affirmation, but no acknowledgement is required." 405 ILCS 5/3-203 (West 2022). Respondent contends that the State violated this provision of the Code by relying on at least three "materially false statements."

¶ 41 First, the petition stated, "[Respondent] was brought to the emergency department by EMS after a suicide attempt." Respondent contends, immediately after her suicide attempt, she was first brought to a different hospital for a few days, and then she was transferred to Blessing, so this statement was false. We are not persuaded. It is true that respondent attempted suicide and that she was brought to Blessing. The statement was, at worst, imprecise, and it does not provide any basis to reverse.

¶ 42 Second, the petition states that two certificates of examination were attached to it. The petition bears the signature of "Linnie Tunget," a therapist, who wrote that she signed the form on September 5, 2024, at 8 a.m. However, the accompanying certificates state that examinations were performed on that same day at 10:30 a.m. and 11:30 a.m. Respondent argues that, when Tunget signed the form, the two certificates could not have been attached, because the examinations had not even been conducted yet. Therefore, according to respondent, the statement that two certificates were attached was false.

¶ 43 Once again, we are not persuaded. We are aware of no statute or case law requiring a certificate of examination be stapled to the written petition at the moment the signatory's pen meets the page. Even if the petition did not have the two certificates attached at that moment, we

do not see how this is material to the merits of the petition. As we reviewed the petition, and when the petition was filed with the circuit court, the statement that two certificates were attached was true.

¶ 44 Finally, the petition, signed on September 5, listed the date of "[a]dmission" as September 3, 2024, at "4:33." It also stated, "Within 12 hours of admission to the facility under this status and/or completion of a new petition, I gave the respondent a copy of this Petition." Respondent argues she could not possibly have received the petition within 12 hours of 4:33 on September 3, regardless of whether that is 4:33 a.m. or p.m., because the petition was not completed until September 5, so this statement was false.

¶ 45 Respondent misreads the petition. The phrase, "Within 12 hours of admission to the facility under this status and/or completion of a new petition," clearly references the notice requirement in section 3-609 of the Code, which states, "Within 12 hours after his admission, the respondent shall be given a copy of the petition ***." *Id.* § 3-609. "Admission," as the term is used in the Code, refers to a patient's legal status. See *Julie M.*, 2021 IL 125768. ¶ 41. As explained in *Julie M.*, "admission" requires the presentation of the petition for involuntary admission and certificate of examination to the facility's director. *Id.* ¶ 43. Therefore, a petitioner is required to provide a respondent with a copy of the petition within 12 hours of its presentment to the director. Here, Tunget simply stated that she would do so.

¶ 46 However, as used in the statement that the "Date/Time of Admission" was September 3, 2024, at 4:33, the word "admission" clearly refers to the moment respondent became a patient at Blessing. Dr. Sanchez and respondent both testified she arrived at Blessing on September 3. The petition obviously is not alleging that respondent was "admitted," in the sense of presentation of the petition to the director, two days before the petition was prepared.

Instead, here, "Admission" is used in the colloquial sense of arrival at the hospital, not in the legal sense as used in the Code. It is unfortunate that the petition used the same word in two different ways, but both meanings are clear. We are not persuaded by respondent's attempt to force a contradiction into the petition.

¶ 47 In sum, respondent contends that the petition was invalid because it relied on these assertions the State knew to be false. She further contends that because the petition stated she was admitted on September 3, she was illegally detained beginning on that day. Respondent was not "admitted" on September 3, as the term is used in the Code, and we reject her contention that any false statements invalidated this petition.

¶ 48 D. Untimely Hearing

¶ 49 Respondent further argues that the hearing on the State's petition was untimely. Section 3-611 of the Code states, "Upon the filing of the petition and first certificate, the court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, after receipt of the petition." 405 ILCS 5/3-611 (West 2022). Section 3-800 allows the court to continue the hearing. It states:

> "If the court grants a continuance on its own motion or upon the motion of one of the parties, the respondent may continue to be detained pending further order of the court. Such continuance shall not extend beyond 15 days except to the extent that continuances are requested by the respondent." *Id.* § 3-800.

¶ 50 Here, the State filed its petition on September 5, 2024. The hearing took place on September 16, 2024. Neither party moved for a continuance, and the trial court did not enter an order continuing the hearing on its own motion. Instead, it first scheduled the hearing for September 16. Because there was no continuance granted and the hearing took place more than

five days after the State filed its petition, the hearing was untimely.

¶ 51 The State does not dispute that the hearing was untimely. Instead, it claims that that respondent waived the argument by failing to object and that she did not suffer any prejudice from the delay. Dr. Sanchez testified that he interacted with the respondent on a daily basis until September 16, 2024, except for weekends. The evidence also suggested respondent's condition improved somewhat before September 16. The State argues that the delayed hearing benefitted respondent, because it allowed her to show improvements in her condition. The State contends that because respondent has not shown prejudice, the untimely hearing does not require reversal.

¶ 52 In *In re Lanter*, 216 Ill. App. 3d 972 (1991), we considered the same error. There, the State petitioned to involuntarily admit the respondent, and the hearing took place six days later, excluding Saturday and Sunday. *Id.* at 973. The trial court granted the State's petition, but we reversed. *Id.* at 975. We found that the trial court did not comply with the five-day hearing requirement, so its judgment was erroneous. *Id.* at 974. We explained, "The deadlines in article VI are not mere technicalities, they are bright lines the legislature created to avoid deciding these cases on an *ad hoc* basis and to prevent abuse of the procedures involved." *Id.* We also rejected the State's argument that the respondent waived the error by failing to object at trial. Instead, the error was apparent on the face of the record. We concluded, "Such errors, clearly demonstrating noncompliance with relevant statutory provisions, render the judgment erroneous and of no effect." *Id.*

¶ 53 We are aware of no cases directly challenging *Lanter*. Instead, we find multiple appellate court decisions that cite it approvingly, although none that cite it for its conclusion that an untimely hearing, specifically, justifies reversal, even without an objection. See *In re Linda W.*, 349 Ill. App. 3d 437, 443 (2004); see also *In re M.A.*, 356 Ill. App. 3d 733, 737 (2005); see also

In re Nancy A., 344 Ill. App. 3d 540, 550 (2003) (citing *Lanter* to support the proposition that "[a]ny noncompliance with the statutorily prescribed involuntary commitment procedures renders the judgment entered in such a cause erroneous and of no effect"); see also *In re Jill R.*, 336 Ill. App. 3d 956, 963 (2003) (citing *Lanter* but adding that "when the respondent does not object and does not show prejudice, the State's failure to strictly comply with provisions of the Code may be excused if the record establishes the purposes of the statute have been achieved").

¶ 54 We reach the same conclusion as *Lanter*. It is clear from the record that the hearing on respondent's petition did not take place within five days, as the legislature intended under section 3-611, and no continuance was granted. *Lanter* did not discuss prejudice, finding only that clear noncompliance with the Code rendered the trial court's judgment erroneous. We find that respondent was prejudiced where she was detained beyond the statutory deadline without a hearing. Therefore, this error also requires reversal.

¶ 55 We conclude by emphasizing our disapproval of how this case was handled. The State blatantly ignored section 3-810's written report requirement. The unexplained gap between the filing of the petition on September 5 and the hearing on September 16 is also concerning. Respondent was entitled to a hearing within 5 days of filing, and instead she was detained without a hearing for 11 days. Respondent's attorney neglected to object to either of these reversible errors. Furthermore, the petition contained statements that demonstrated sloppiness and inattention to the Code's procedures.

¶ 56 This disposition is added to a long list of appellate court opinions and orders highlighting the lack of adherence to the requirements of the Code. See, *e.g.*, *Marcus S.*, 2022 IL App (3d) 160710, ¶ 51 ("admonishing trial courts, the state's attorney, and all counsel who represent respondents in involuntary commitment and treatment proceedings to do better in future

cases"); *In re Leo M.*, 2022 IL App (5th) 190211, ¶ 82 (observing "multiple flagrant violations of the Code's requirements" and "reiterating that the Code's procedural safeguards are essential tools to ensure that the liberty interests of respondents are upheld"); *In re Harlin H.*, 2022 IL App (5th) 190108, ¶ 86 (same); *In re Wilma T.*, 2018 IL App (3d) 170155, ¶ 24 (noting that the same respondent was medicated improperly for the same reason in two separate cases, and hoping that "the parties will take the necessary steps to ensure strict compliance occurs from this point forward"); *Amanda H.*, 2017 IL App (3d) 150164, ¶ 46 ("Given the State's continuing disregard of both the statute and our prior pronouncements, we must once again stress the need for strict compliance with legislatively mandated procedural safeguards to protect and balance the competing interests of society and individuals subject to involuntary commitment."); *In re Lisa A.*, 2014 IL App (3d) 130554-U, ¶ 38 ("Although we have repeatedly stated the need for strict compliance with legislatively established procedural safeguards for involuntary commitment proceedings, the State continues to disregard those procedural safeguards."); *In re Alaka W.*, 379 Ill. App. 3d 251, 271 (2008) (questioning *Robinson*'s validity in light of repeated appellate court statements on the need for strict compliance with procedural safeguards); *In re Suzette D.*, 388 Ill. App. 3d 978, 987 (2009) ("Given the serious liberty interests infringed when a recipient is subjected to involuntary treatment, we find the State's perfunctory manner in prosecuting these petitions disturbing."); *In re Luttrell*, 261 Ill. App. 3d 221, 230 (1994) ("We feel compelled to express our increasing dismay at the slipshod manner with which these cases are handled. The procedural safeguards enacted by the legislature are not mere technicalities."); *In re James*, 191 Ill. App. 3d 352, 356 (1989) ("[A] total failure to comply with [section 3-810] evidences a disregard for the legislatively established procedures. It is contrary to the balancing of interests established by the Code and should not be condoned."). Given this pervasive noncompliance with

the Code, we echo our supreme court's reminder to "our courts to be ever vigilant to protect against abuses of power and preserve the fundamental liberty interests of individuals subjected to involuntary-admission proceedings." *Andrew B.*, 237 Ill. 2d at 354-55.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we reverse the trial court's judgment.

¶ 59 Reversed.

Decision Under Review:	Appeal from the Circuit Court of Adams County, No. 24-MH-209; the Hon. John C. Wooleyhan, Judge, presiding.
Attorneys for Appellant:	Saleem B. Mamdani, of SBM Law Office, LLC, of Quincy, for appellant.
Attorneys for Appellee:	Todd R. Eyler, State's Attorney, of Quincy (Patrick Delfino, David J. Robinson, and Timothy J. Londrigan, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.