

# Commitment Case Law

---

2004 Annual Conference for Civil  
Commitment Counsel

January 23, 2004

Mark Botts

School of Government, UNC-CH

# Issues raised on appeal

---

- Procedural issues related to the initiation of the commitment
- Right to confront and cross-examine witnesses
- Sufficiency of evidence in support of criteria
  - Relevant past
  - Dangerous to self
  - Dangerous to others

# Legal process initiating commitment

---

- In re Ingram, 74 N.C.App. 579 (1985): Commitment order vacated on grounds petition was not duly sworn.
- Because commitment statutes provide for a drastic remedy, those that use them must do so with “care and exactness.” Citing Samons, 9 N.C.App. 490 (1970)
- Where statute requires oath and requirement not met, person involuntarily committed is deprived of liberty with legal process

# In re Ingram—(continued)

---

- Facts presented in petition:  
“Respondent has strange behavior and is irrational in her thinking. Leaves home and no one knows or her whereabouts, and at times spends the night away from home. Accuses husband of improprieties.”

# In re Ingram—(continued)

---

- Petition satisfied neither statutory nor due process requirements, and so was insufficient to establish reasonable grounds for issuance of custody order.
- Statute requires affidavit to contain the facts on which the affiant's opinion is based. Mere conclusions do not suffice.
- Due process requires neutral officer to determine reasonable grounds exist for initial deprivation of liberty. *In re Reed*, 30 N.C.App. 227 (1978)

# Completion of physician examination forms

---

- Failure of examining physician to check box on examination form indicating respondent was dangerous to himself did not preclude commitment where report contained sufficient facts to support finding of dangerousness. In re Woodie 116 N.C. App. 425 (1994)

# Documentation of physician examinations

---

- Statutory requirements not complied with where statute requires two physician examinations and record fails to establish (other than through testimony of one physician) that second physician conducted examination required by statute. In re Barnhill, 72 N.C. App. 530 (1985) (commitment order vacated)

# Right to cross examination at commitment hearing

---

- GS 122C-268(f)(inpatient commitment hearing) and GS 122C-286(c)(substance abuse commitment):

Certified copies of reports and findings of physicians and psychologists and previous and current medical records are admissible in evidence, but the respondent's right to confront and cross-examine witnesses may not be denied.

# Right to cross examination at commitment hearing

---

- Trial court erred in admitting into evidence a medical report prepared by doctor who did not appear at hearing, since doctor's failure to appear deprived patient of his right of confrontation and cross-examination. *In re Mackie*, 36 N.C. App. 638 (1978); *In re Hogan*, 32 N.C. App. 429 (1977); *In re Benton*, 26 N.C. App. 294 (1975).
- Commitment orders reversed since remaining evidence insufficient to support findings required by statute.

# Sufficiency of evidence

---

- To order inpatient commitment the court must find by “clear, cogent, and convincing evidence” that the respondent is (1) mentally ill and (2) dangerous to self or others
- These findings must be supported by facts found from the evidence and recorded by the district court. *In re Medlin*, 59 N.C. App. 33, 36 (1982).

# Relevant Past

---

- Acts are relevant if they occur close enough in time to the district court hearing to have probative value on the ultimate question before the court of whether there was a reasonable probability that such conduct would be repeated. *Davis v. NC DHR*, 121 N.C. App. 105, 115 (1995) (acts 6 months prior to hearing were relevant for purposes of determining danger to others).

# Dangerous to self

---

- A two prong test that requires a finding of:
  - a lack of self-care ability regarding one's daily affairs, and
  - a probability of serious physical debilitation resulting from the more general finding of lack of self-caring ability. In re Monroe, 49 N.C.App. 23 (1980).