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RECENT DEVELOPMENT

***D.L. v. SHEPPARD PRATT HEALTH SYSTEM, INC.*: A JUVENILE’S POST-RELEASE PETITION FOR JUDICIAL REVIEW IS NOT MOOT DUE TO COLLATERAL CONSEQUENCES STEMMING FROM INVOLUNTARY ADMISSION.**

By: Cooper Gerus

The Court of Appeals of Maryland held that a petition for judicial review of an involuntary admission to a mental health facility is not moot when possible collateral consequences flow from such admissions. *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 342, 214 A.3d 521, 522 (2019). D.L. faced possible collateral consequences, including the impact of her involuntary admission on future employment outcomes and court proceedings, her ability to own firearms and obtain a driver’s license, and the social stigmatization associated with mental illness. *Id.* at 377-78, 214 A.3d at 543-44. The court ultimately remanded D.L.’s case to the circuit court to determine whether “no less restrictive” treatment was available. *Id.* at 346-47, 214 A.3d at 525.

In March 2015, D.L., a fourteen-year-old in the custody of the Department of Social Services (“DSS”), was taken to MedStar Southern Maryland Hospital to be treated for self-inflicted wounds. She was diagnosed with depressive disorder. The doctors determined that D.L. presented a danger to herself and others and that admission to an institutional inpatient care and treatment facility was necessary. D.L. was brought to Sheppard Pratt-Ellicott City (“Sheppard Pratt”) on March 26, 2015. D.L. could not be voluntarily admitted because she was in the care and custody of DSS, and required an involuntary commitment hearing conducted by an administrative law judge (“ALJ”) to determine whether there were less restrictive means of treatment available to D.L. At the hearing, the record reflected that DSS attempted to place D.L. in a less restrictive facility. D.L. had been placed in a psychiatric facility once before, though it was unclear whether the prior admission had been involuntary, or whether she was voluntarily admitted by a parent or guardian. None of the alternative facilities had open beds, so the ALJ ordered D.L. to be involuntarily admitted at Sheppard Pratt, where she stayed from March 26, 2015, to April 10, 2015.

Once released, D.L. filed a petition for judicial review of the ALJ’s decision in the Circuit Court for Howard County on May 1, 2015. The circuit court granted Sheppard Pratt’s motion to dismiss D.L.’s petition on July 28, 2015, without holding a hearing on the merits. D.L. then appealed to the Court of Special Appeals. The court dismissed D.L.’s petition as moot and

held that any collateral consequences of her present admission already existed due to her prior admission to a psychiatric facility. D.L. filed a petition for a writ of *certiorari* to the Court of Appeals of Maryland, which was granted.

The court considered *de novo* whether the Court of Special Appeals erred in finding D.L.'s challenge to involuntary admission was moot, and that no mootness exceptions applied. *D.L.*, 465 Md. at 350, 214 A.3d at 527. D.L.'s only contention in her petition for review was that there might have been a less restrictive form of intervention available. *Id.* at 351, 214 A.3d at 528; Health-General Article ("HG") § 10-617(a)(5).

The court began by noting that the presumption of mootness arises when no judicable case or controversy exists between the parties, and a reviewing court is at risk of rendering an advisory opinion. *D.L.*, 465 Md. at 352, 214 A.3d at 528 (citing *In re Kaela C.*, 394 Md. 432, 452, 906 A.2d 915 (2006); *Adkins v. State*, 324 Md. 641, 646, 598 A.2d 194 (1991)). In order to overcome mootness, a petitioner must demonstrate that "collateral consequences flow from a lower court's decision." *Id.* at 352, 214 A.3d at 528 (citing *Adkins*, 324 Md. at 645–46, 598 A.2d at 194). The court analyzed the collateral consequences of D.L.'s involuntary admission to Sheppard Pratt. *Id.* at 352, 214 A.3d at 528. The court analyzed Supreme Court precedent, then reviewed the doctrine of collateral consequences under Maryland law. *Id.*

In *Fiswick v. United States*, the Supreme Court developed what would be known as the doctrine of collateral consequences. *D.L.*, 465 Md. at 353, 214 A.3d at 529 (citing *Fiswick*, 329 U.S. 211, 213 (1946)). The Court cited civil consequences flowing from a criminal conviction such as the risk of deportation, impact on voting rights, and the ability to sit on a jury or hold public office. *Id.* These consequences did not render a petition for review moot despite the petitioner's release from custody. *Id.*

In *Pollard v. United States*, the Court held the mere possibility of collateral consequences flowing from a disposition justified a post-release hearing on the merits. *Id.* at 354, 214 A.3d at 530 (citing *Pollard*, 352 U.S. 354, 358 (1957)). In *Carafas v. LaVallee*, the Court held that an appeal is not moot when statutorily imposed disabilities and burdens outlast a criminal conviction. *Id.* at 355, 214 A.3d at 530 (citing *Carafas*, 391 U.S. 234, 237–38 (1968)). The doctrine was limited in *Lane v. Williams* where the Court, reinforcing *Carafas*, held that discretionary, non-statutory consequences do not overcome mootness. *Id.* at 355-56, 214 A.3d at 531 (citing *Lane*, 455 U.S. 624, 632-33 (1982)). Such consequences include decisions by employers or judges in future proceedings. *Id.*

The Court of Appeals of Maryland identified several circumstances which, while not concrete or actual, implicate possible collateral consequences to overcome mootness. *D.L.*, 465 Md. at 357, 214 A.3d at 531

(citing *Adkins*, 324 Md. at 654, 598 A.2d 194). For example, the collateral consequences of a prior disposition may impact a petitioner in future child custody proceedings. *Id.* at 357, 214 A.3d at 531 (citing *In re Kaela C.*, 394 Md. at 475–76, 906 A.2d 915). They also may restrict one’s driving privileges, access to employment opportunities, ability to serve on a federal jury, join the military, and own firearms. *Id.* at 358, 214 A.3d at 532 (citing *Kranz v. State*, 459 Md. 456, 473, 187 A.3d 66 (2018); *Toler v. Motor Vehicle Admin.*, 373 Md. 214, 216, 817 A.2d 229 (2003)). Involuntary admissions may impact statutory reporting requirements, immigration status, future admission proceedings, and impose the social stigma associated with involuntary admission and mental illness. *D.L.*, 456 Md. at 360-61, 214 A.3d at 533-534. The court reviewed each collateral consequence as it applied to D.L. *Id.* at 360, 214 A.3d at 533.

The court found that statutorily imposed collateral consequences to D.L.’s driving privileges exist under TA § 16-103.1(3), which bars anyone with a mental disorder from obtaining a driver’s license without being adjudged “competent.” *D.L.*, 465 Md. at 361, 214 A.3d at 534. The court also considered collateral consequences in future guardianship and child custody proceedings. *D.L.*, 465 Md. at 365, 214 A.3d at 536. Local agencies are required to compile a report on a guardian’s suitability, which would uncover past involuntary admissions. *Id.* The court found that D.L. faces no collateral consequences in future naturalization proceedings, but that such inquiries are case-specific and could impact other individuals. *Id.* at 367, 214 A.3d at 537.

The court also discussed the impact of an involuntary admission on D.L.’s employment prospects. *Id.* at 362, 214 A.3d at 534. Sheppard Pratt asserted that employment regulations, which are not an outright ban, mitigate any collateral consequences, rendering her petition moot. *Id.* Contrarily, the court emphasized that the mere possibility of collateral consequences overcomes mootness and that statutory regulations are insufficient mitigators. *Id.* at 363, 214 A.3d at 535.

The court reached a similar conclusion concerning collateral consequences in future involuntary admission proceedings, noting that while HG § 10-632(e) limits the use of prior involuntary admissions, it does not completely bar their introduction in future proceedings. *Id.* at 370-71, 214 A.3d at 539-40. The court again found that D.L. faced collateral consequences concerning firearm ownership and found that though statutes limit when information concerning D.L.’s involuntary admission could be used in purchasing them, any mitigation here would be “ad hoc.” *Id.* at 370-76, 214 A.3d at 539-43. Finally, although D.L. had been previously admitted to a facility, it was unclear whether this was an involuntary admission. *Id.* at 380, 214 A.3d at 545. Had it been a voluntary admission, D.L. would face

no collateral consequences. *Id.* Since her March 2015 admission was involuntary, D.L. faces collateral consequences. *Id.*

In *D.L. v. Sheppard Pratt*, the court held that D.L. faces possible collateral consequences flowing from her involuntary admission, which render her petition for judicial review not moot. Mootness inquiries are highly fact-specific; each case requires a focused analysis as to whether collateral consequences stem from a lower court's disposition. Such inquiries are particularly relevant in cases concerning minors and among individuals in psychiatric facilities, because the impact of a disposition may extend beyond the proceedings to the rest of a person's life. This decision further clarifies the situations in which mootness could be raised and may lead to an extension of the collateral consequences doctrine to other areas of law.