

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHONG T. VU,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
CHUCK WELLER, DISTRICT JUDGE,
Respondents,

and

RICHARD A. GAMMICK, DISTRICT
ATTORNEY,

Real Party in Interest.

No. 65498

FILED

JUL 10 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

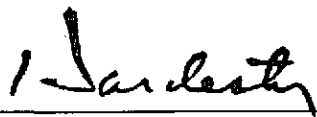
ORDER DIRECTING SUPPLEMENTAL BRIEFING

Oral argument in this original action concerning the court-ordered involuntary admission of petitioner under NRS 433A.310 was held on March 3, 2015. The arguments and briefings, however, did not address the impact the constitutionally mandated heightened evidentiary level of proof that controls the district court's decision may have upon this court's standard of review. *See Addington v. Texas*, 441 U.S. 418, 427, 432-33 (1979) (holding that due process requires that, at the least, clear and convincing evidence be shown to justify involuntarily admitting a person to a mental health facility for treatment), *abrogated on other grounds by Jones v. United States*, 463 U.S. 354, 366-68 (1983); NRS 433A.310(1) (codifying a clear and convincing evidentiary level of proof for such confinement). Other jurisdictions factor this heightened level of proof into their appellate review of involuntary admission proceedings. *See, e.g., Louisiana, In re B.W.*, 566 So. 2d 1094, 1096 (La. Ct. App. 1990).

("Although the lower court's findings are entitled to great weight, the appellate court must, considering the constitutional rights involved, review the evidence presented and strictly require that it meet the high standards [enunciated] by law."); *In re Walter R.*, 850 A.2d 346, 351 (Me. 2004) ("When the burden of proof is clear and convincing evidence, we review the trial court's findings to determine 'whether the fact-finder reasonably could have been persuaded that the required findings were proved to be highly probable.'"); *In re K.L.*, 713 N.W.2d 537, 540 (N.D. 2006) (applying "a more probing clearly erroneous standard when reviewing an involuntary treatment order"). The court thus concludes that supplemental briefing would be beneficial regarding the proper standard of review for this court to apply when reviewing the involuntary court-ordered admission of a person to a mental health facility under NRS 433A.310.

Petitioner shall have 10 days from the date of this order to file and serve a supplemental brief addressing this point. Real party in interest shall have 10 days from the date petitioner serves his supplemental brief to file and serve a response. Petitioner may file and serve a reply of no more than 5 pages (or the corresponding type-volume limitations in NRAP 32) within 5 days of the date that real party in interest serves a response. Unless otherwise indicated, all briefs shall comply with the page-length/type-volume limits on reply merits briefs. See NRAP 32(a)(7)(a).

It is so ORDERED.


_____, C.J.
Hardesty

cc: Washoe County Public Defender
Washoe County District Attorney
Washoe County District Attorney/Civil Division