

**S.W., Appellant**

**v.**

**S.W.M. and Commonwealth of Kentucky, Appellees and  
Commonwealth of Kentucky ex rel. Daniel Cameron, Attorney General, Appellant**

**v.**

**T.C.; C.M.; and S.C., Appellees and  
C.M., Cross-Appellant**

**v.**

**S.C.; Commonwealth of Kentucky ex rel. Daniel J. Cameron, Attorney General; and  
T.C., Cross-Appellees**

NO. 2020-CA-0307-DG, NO. 2020-CA-0525-DG, NO. 2020-CA-1096-DG.

**Court of Appeals of Kentucky.**

April 1, 2022; 10:00 A.M.

ON DISCRETIONARY REVIEW FROM BOONE CIRCUIT COURT, HONORABLE JAMES R.  
SCHRAND, JUDGE, ACTION NO. 19-XX-00014.

ON DISCRETIONARY REVIEW FROM PULASKI CIRCUIT COURT, HONORABLE DANIEL J.  
VENTERS, SPECIAL JUDGE, ACTION NO. 19-XX-00008.

REVERSING NO. 2020-CA-0307-DG; AFFIRMING NOS. 2020-CA-0525-DG, AND 2020-CA-1096-DG;  
AND REMANDING.

BRIEFS AND ORAL ARGUMENT FOR APPELLANT S.W.: Timothy G. Arnold, Frankfort, Kentucky.

BRIEFS FOR APPELLANT/CROSSAPPELLEE COMMONWEALTH OF KENTUCKY: S. Chad  
Meredith, Matthew F. Kuhn, Brett R. Nolan, Frankfort, Kentucky, Martin L. Hatfield, Chasiti P. Ross,  
Somerset, Kentucky.

ORAL ARGUMENT: Matthew R. Nolan, Frankfort, Kentucky.

BRIEF FOR APPELLEE COMMONWEALTH OF KENTUCKY: Daniel Cameron, Attorney General of  
Kentucky, Frankfort, Kentucky, Andrew M. Boyer, Assistant Boone County Attorney, Special Assistant  
Attorney General, Burlington, Kentucky.

ORAL ARGUMENT FOR COMMONWEALTH OF KENTUCKY: Brett R. Nolan, Frankfort, Kentucky.

BRIEFS AND ORAL ARGUMENT FOR APPELLEE/CROSS-APPELLANT C.M.: Timothy G. Arnold,  
Frankfort, Kentucky.

## OPINION

GOODWINE, JUDGE:

These consolidated actions are on discretionary review and involve the constitutionality of the Matthew Casey Wethington Act for Substance Abuse Intervention ("Casey's Law") codified in KRS<sup>[1]</sup> 222.430-222.437. Having considered all arguments and applicable authority, we hold the "probable cause" standard of proof in KRS 222.433(2) unconstitutional. In Kentucky, the applicable standard of proof in civil commitment cases is "beyond a reasonable doubt." Denton v. Commonwealth, 383 S.W.2d 681, 682 (Ky. 1964) and KRS 202A.076(2). "[W]hen a proceeding may lead to the loss of personal liberty, the defendant in that proceeding should be afforded the same constitutional protection as is given to the accused in a criminal prosecution." Denton, 383 S.W.2d at 682.

We are mindful that the United States Supreme Court subsequently held that clear and convincing evidence was constitutionally sufficient for civil commitments. Addington v. Texas, 441 U.S. 418, 423-24, 432-33, 99 S. Ct. 1804, 1808, 1812-13, 60 L. Ed. 2d 323 (1979). This represents the minimum standard or floor, not a ceiling, for state constitutional challenges. States may adopt the heightened "beyond a reasonable doubt" standard. *Id.* at 431, 99 S. Ct. at 1812.

The essence of federalism is that states must be free to develop a variety of solutions to problems and not be forced into a common, uniform mold. As the substantive standards for civil commitments may vary from state to state, procedures must be allowed to vary so long as they meet the constitutional minimum.

*Id.*

Based on our review, finding the standard of proof unconstitutional, we reverse the order of the Boone Circuit Court in *S.W. v. S.W.M. and Commonwealth*, No. 2020-CA-0307-DG and affirm the order of the Pulaski Circuit Court in *Commonwealth v. C.M.*, No. 2020-CA-0525-DG and No. 2020-CA-1096-DG. We remand both cases with instructions to vacate the district courts' orders.

## BACKGROUND

Casey's Law was enacted by our General Assembly in 2004 and has received relatively little attention from Kentucky courts since its enactment. No one disputes its well-intended purpose, which is to provide family members and loved ones of those battling a cycle of addiction with a decisive intervention resource. However, in its current form, Casey's Law is poorly drafted, inviting constitutional challenges for unconstitutional vagueness and overbreadth, lack of procedural due process, as well as equal protection and substantive due process challenges under both the United States and Kentucky Constitutions.

In both cases in this consolidated appeal, the individuals were ordered to attend drug treatment under

Casey's Law, which creates a private right of action through which an individual can obtain an order to commit another adult to involuntary inpatient drug treatment on pain of contempt. KRS 222.430-222.437. The petitioner must file a petition setting forth certain facts, including their belief "that the respondent is suffering from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self, family, or others if not treated for substance use disorder." KRS 222.432(4)(f). The petitioner must also certify that they will "pay all costs for treatment of the respondent[.]" KRS 222.432. [2] Then, the court can order the respondent to be evaluated "by two (2) qualified health professionals, at least one (1) of whom is a physician." KRS 222.433(2)(c). "[U]pon completion of the hearing," the court may order the respondent to attend inpatient treatment for up to 360 days or for a period otherwise agreed to at the hearing. KRS 222.433(3). The level of proof required by KRS 222.433 is "probable cause."

## ***S.W. v. S.W.M. and Commonwealth of Kentucky, No. 2020-CA-0307-DG***

The circuit court summarized the underlying facts as follows:

On October 2, 2019, ... [S.W.'s] mother[] filed a Verified Petition for Involuntary treatment against her. On November 8, 2019, [the Boone District Court] held a hearing on the Casey's Law Petition. At said hearing, the attorneys were permitted to examine evaluations by two mental health professionals and the two evaluations were admitted into evidence without objection. Petitioner's counsel then moved to dismiss the Petition, arguing that as one of the evaluations did not have the boxes in Section 2.B. checked that [S.W.] presented an "imminent danger to herself, family, or others as a result of a substance use disorder or there exists a substantial likelihood of such a threat in the near [future]" that evaluator had not made such a finding. As an alternative to dismissal, counsel argued the [district court] should allow for a final hearing at which the mental health professionals could be questioned regarding their findings. The [court] denied both motions, granted the Petition, and ordered the Appellant to involuntary substance abuse treatment. The Appellant was then ordered to complete long term inpatient treatment at Liberty Place Recovery Center for [Women]. The Appellant was admitted to Liberty Place on November 8, 2019 and left against staff advice on November 9, 2019. Liberty Place stated they would only take the Appellant back for treatment after she spent thirty (30) days in jail. On November 12, 2019, this matter came back before the [district court]. The Appellant failed to appear. The [court] found that the Appellant had violated the [court's order] by failing to comply with court-ordered treatment and issued a bench warrant. The Appellant was served with that warrant on November 18, 2019 and lodged in the Boone County Jail. This matter came back before the [court] on November 27, 2019 at which time the [district court] entered a new Judgment and Order for Involuntary Treatment, ordering that the Appellant be transported by the Boone County Sheriff to Liberty Place for residential treatment. The Appellant was admitted back to Liberty Place on November 27, 2019 and left against staff advice shortly thereafter. Again, Liberty Place stated they would readmit

her after she served thirty (30) days in jail. On December 2, 2019, Appellant filed her Notice of Appeal. On December 27, 2019, Appellant filed her Statement of Appeal. The Commonwealth's Statement of Appeal was filed on January 23, 2020.

2020-CA-0307 Record (R.) at 90-91.

On appeal to the circuit court, S.W. argued: (1) "there was not sufficient evidence to warrant ordering [her] to attend intensive inpatient treatment," (2) the district court erred in ordering treatment which "far exceeded that suggested by the evaluations provided," and (3) "KRS 222.430 entitles her to a final hearing on the Petition in which she could cross examine the medical professionals who evaluated her." R. at 92-93.

The circuit court affirmed the district court's order. First, the court held the evaluations by the health professionals were sufficient to order S.W. to attend inpatient treatment. Although one health professional "failed to check either box in Section 2.B. of her evaluation ..., she detailed why she felt [S.W.] did present an imminent threat of danger to self, family or others[.]" *Id.* at 92. Second, the circuit court held S.W.'s mother requested long-term treatment, and the district court had the discretion to order the period of time requested in the petition or otherwise agreed to during the hearing under KRS 222.433(3). Finally, the circuit court held although KRS Chapter 202A allows for cross-examination of witnesses during the final hearing, Casey's Law sets out its own provisions for a final hearing that do not include cross-examination. S.W. then moved for discretionary review, which this Court granted.

On appeal, S.W. argues: (1) the evidence was insufficient to commit her under Casey's Law; (2) she was entitled to a final hearing; and (3) alternatively, Casey's Law is unconstitutional.

## ***Commonwealth of Kentucky v. C.M., No. 2020-CA-0525-DG***

On September 6, 2019, C.M.'s mother and stepfather filed a verified petition in the Pulaski District Court seeking to involuntarily commit C.M. to a drug treatment program. The basis for the petition was C.M.'s parents' belief that he was using methamphetamine intravenously, which had impaired his ability to care for his Crohn's disease and might eventually lead to his death. The petitioners were not aware of any past drug overdoses or any evidence that C.M. had ever hurt another person because of his drug use. Two days prior to filing the petition, C.M.'s parents allege he caused significant damages to their garage, and C.M. made a number of threatening statements.

The district court held a preliminary hearing on September 10, 2019. C.M.'s parents were present with counsel, but neither C.M. nor anyone representing him was present. C.M.'s mom testified consistent with the petition. The district court appointed counsel for C.M., ordered the petition be served on him, and directed him to attend and participate in two separate evaluations.

On September 24, 2019, the district court held an evidentiary hearing. Both of C.M.'s parents testified at the hearing. C.M. testified, maintaining that he was not a threat to himself or others, and he stated he felt a yearlong treatment program was excessive.

At the end of the hearing, the district court orally found probable cause to believe C.M. suffered from

substance abuse disorder, he was a danger to himself as a result, and he could reasonably benefit from treatment. Subsequently, the court entered a written order with the same findings and ordered C.M. be committed to the Chad's Hope program. The court ordered C.M. must be assessed by Chad's Hope to determine recommended treatment. If the recommended residential treatment exceeded 90 days, Chad's Hope was required to provide C.M. and the court a written rationale, which would be subject to review by C.M.'s motion.

Approximately fourteen days after C.M. was involuntarily committed to Chad's Hope, he left the facility.<sup>[3]</sup> The Pulaski County Attorney sought to hold C.M. in contempt, and the district court entered an order of forthwith arrest and set a \$500 full cash bond. C.M. was arrested on December 19, 2019 and taken to the Laurel County Jail. On March 3, 2020, the district court held a hearing at which C.M. stipulated to contempt and agreed to go to Adanta and follow treatment recommendations.

Prior to leaving Chad's Hope, C.M. appealed the district court's order. C.M.'s arguments were all raised in his pretrial motions. The county attorney objected to C.M.'s motions for application of KRS Chapter 202A standards but took no position on the constitutionality of Casey's Law. Former Supreme Court Justice Daniel J. Venters, sitting as special judge, reviewed the case. Justice Venters determined Casey's Law generally incorporates KRS Chapter 202A procedures, including the right to a jury trial and the requirement that the certifying professionals testify at the hearing.<sup>[4]</sup> Justice Venters noted the only exception is that "Casey's Law plainly provides, for those allegedly in need of substance abuse treatment, a probable cause standard of proof." R. at 101. Justice Venters further stated:

While this important area of law has received relatively little attention from Kentucky courts, it suffices to say that a clear and convincing standard is the bare minimum legal standard required to commit a respondent in civil commitment proceedings, especially when the deprivation of liberty may persist for as long as 360 days, as in this case. By prescribing a probable cause standard, KRS 222.430-222.437 (Casey's Law) fails to afford the due process protections mandated by the United States Constitution as interpreted by the Supreme Court in *Addington*.

R. at 104. The circuit court reversed and remanded the case, and the Commonwealth's appeal followed.

On appeal, the Commonwealth argues: (1) Casey's Law is constitutional and the applicable standard of proof is clear and convincing evidence; and (2) the circuit court misinterpreted Casey's Law regarding the application of KRS Chapter 202A final hearing procedures.

## STANDARD OF REVIEW

In reviewing "the constitutionality of a statute," we apply a *de novo* standard of review. *Teco/Perry County Coal v. Feltner*, 582 S.W.3d 42, 45 (Ky. 2019) (citation omitted).

"In considering an attack on the constitutionality of legislation, this Court has continually resolved any doubt in favor of constitutionality rather than unconstitutionality." *Hallahan v. Mittlebeeler*, 373 S.W.2d 726, 727 (Ky. 1963) (citing *Reynolds Metal Co. v. Martin*, 269 Ky.

378, 381-82, 107 S.W.2d 251, 253 (1937)). In determining the constitutionality of a statute, "[o]ur functions are to determine the constitutional validity and to declare the meaning of what the legislative department has done. We have no other concern." Johnson v. Commonwealth ex rel. Meredith, 291 Ky. 829, 833, 165 S.W.2d 820, 823 (1942).

*Id.*

## ANALYSIS

Casey's Law is codified in KRS 222.430-222.437. The law provides a mechanism for a family member or friend to secure involuntary drug treatment for a loved one struggling with substance abuse. These appeals concern the applicable standard of proof required to involuntarily commit an individual under Casey's Law and, ultimately, the constitutionality of the entirety of Casey's Law. A person can only be ordered to undergo drug treatment under Casey's Law if they meet the following three criteria under KRS 222.431:

- (1) Suffers from substance use disorder;
- (2) Presents an imminent threat of danger to self, family, or others as a result of a substance use disorder, or there exists a substantial likelihood of such a threat in the near future; and
- (3) Can reasonably benefit from treatment.

KRS 222.433 sets forth the proceedings for an order of involuntary treatment:

- (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.
- (2) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:
  - (a) Set a date for a hearing within fourteen (14) days to determine if there is probable cause to believe the respondent should be ordered to undergo treatment for a substance use disorder;
  - (b) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and
  - (c) Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a physician. The qualified health professionals shall certify their findings to the court within twenty-four (24) hours of the examinations.

(3) If, upon completion of the hearing, the court finds the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.

(4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

We begin our analysis by laying out the general arguments raised in both cases. Both S.W. and C.M., the individuals who were ordered to involuntary residential treatment, argue Casey's Law is wholly unconstitutional, or alternatively, the probable cause standard of proof is unconstitutional. The Commonwealth disagrees but raises different arguments in each case. In S.W.'s case, the Commonwealth argues the constitution does not require parity between criminal law protections and civil commitment procedures. Although the Commonwealth states that clear and convincing evidence is sufficient in civil commitment cases, it does not specifically state that is what should be applied in Casey's Law cases. Instead, it espouses a somewhat conclusory argument that KRS 222.433 procedures are sufficient without directly addressing that the standard of proof is clearly probable cause. In C.M.'s case, the Commonwealth asserts that reading Casey's Law as a whole requires at least proof by clear and convincing evidence, which complies with Addington, 441 U.S. 418, 99 S. Ct. 1804.

At a minimum, all parties agree a probable cause standard of proof does not meet constitutional muster. "To meet due process demands, the standard has to inform the factfinder that the proof must be greater than the preponderance-of-the-evidence standard applicable to other categories of civil cases." Addington, 441 U.S. at 433-34, 99 S. Ct. at 1813. The Commonwealth argues because KRS 222.434(1) requires a clear and convincing standard of proof for 72-hour emergency treatment, that the standard for a final hearing must at least require clear and convincing evidence.

First, we address the Commonwealth's arguments in C.M.'s case. To reiterate, the Commonwealth argues: (1) Casey's Law is constitutional and the applicable standard of proof is clear and convincing evidence; and (2) the circuit court misinterpreted Casey's Law regarding the application of KRS 202A.076(2) final hearing procedures.

First, the Commonwealth asserts that we must look at Casey's Law as a whole and conclude clear and convincing evidence is the standard of proof for a final hearing. We disagree. Casey's law does not contain a clear and convincing standard for the final hearing. KRS 222.433 only includes probable cause as the standard of proof. "[W]e assume that the [Legislature] meant exactly what it said, and said exactly what it meant." University of Louisville v. Rothstein, 532 S.W.3d 644, 648 (Ky. 2017) (internal quotation marks and citations omitted). Based on the plain language of the statute, KRS 222.433 only requires a finding of probable cause as determined by the circuit court in C.M.'s case. As stated earlier, the minimum standard of proof in Kentucky is beyond a reasonable doubt. Thus, the probable cause standard of proof set out in Casey's Law is unconstitutional.

Casey's Law applies procedures and adopts rights in KRS Chapter 202A except where Casey's Law provides otherwise. KRS 222.430; KRS 222.436. KRS 222.433 and KRS 202A.051 set forth procedural requirements for involuntary treatment for substance use disorder and involuntary hospitalizations respectively. Based on our reading of these sections, the language of KRS 222.433 is a modified version of KRS 202A.051. The proceedings described in KRS 202A.051 include separate requirements for preliminary hearings in subsection (6)(a) and final hearings in subsection (9), whereas KRS 222.433 merely references "a hearing" and "the hearing" in subsections (2)(a) and (3).

KRS 202A.076 then describes the conduct of preliminary and final hearings. The final hearing requires proof beyond a reasonable doubt and allows for a jury trial. Casey's Law does not include a section on conduct of hearings, so under KRS 222.436, the conduct of hearings in KRS 202A.076 must apply to Casey's Law cases as the Pulaski Circuit Court held. We also agree with the Pulaski Circuit Court that the probable cause standard of proof in KRS 222.433 violates due process rights, although we disagree on the proper standard of proof which should be utilized.

Next, we must address the severability of KRS 222.433 from the rest of Casey's Law. Severability is governed by KRS 446.090:

It shall be considered that it is the intent of the General Assembly, in enacting any statute, that if any part of the statute be held unconstitutional the remaining parts shall remain in force, unless the statute provides otherwise, or unless the remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that the General Assembly would not have enacted the remaining parts without the unconstitutional part, or unless the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the intent of the General Assembly.

Because Casey's Law applies procedures and adopts rights in KRS Chapter 202A except where Casey's Law provides otherwise, we must consider whether the Legislature intended for the beyond a reasonable doubt standard of proof in KRS 202A.076(2) if the standard of proof in KRS 222.433 were held unconstitutional. KRS 222.430; KRS 222.436. Arguably, the Legislature would want Casey's Law to remain in force even with a different evidentiary standard to promote the public policy of battling Kentucky's drug epidemic. On January 25, 2022, Representative Kimberly Moser introduced House Bill No. 362 seeking to amend KRS 222.433 to change the burden of proof required in an evidentiary hearing from probable cause to beyond a reasonable doubt. It passed 94-0 in the House on March 14, 2022 and 36-0 in the Senate on March 30, 2022. As of this writing, the Bill has been delivered to the Governor. This legislation is indicative of legislative intent to maintain the heightened scrutiny afforded under *Denton* and to bring Casey's Law in line with the heightened "beyond a reasonable doubt" standard in KRS 202A.076.

The remaining sections of Casey's Law "can fully stand on their own and are capable of being executed with the deletion of the unconstitutional portion." *Louisville/Jefferson County Metro Government v. Metro Louisville Hosp. Coalition, Inc.*, 297 S.W.3d 42, 47 (Ky. App. 2009). Instead of the unconstitutional probable cause standard, the heightened standard of "beyond a reasonable doubt" in *Denton* applies.



Since Casey's Law remains in force with a beyond a reasonable doubt evidence standard of proof, we must address the Commonwealth's argument regarding the applicability of the remainder of KRS 202A.076(2). In reviewing C.M.'s arguments on appeal, the Pulaski Circuit Court held that because Casey's Law adopts rights in KRS Chapter 202A unless provided otherwise, Casey's Law partially adopts KRS 202A.076(2). The statute provides:

The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The manner of proceeding and rules of evidence shall be the same as those in any criminal proceeding including the burden of proof beyond a reasonable doubt. Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing.

KRS 202A.076(2).

As held above, KRS 222.433 did not adopt the standard of proof in KRS 202A.076(2) because KRS 222.433 includes its own standard of proof. However, aside from the standard of proof, no portion of Casey's Law expressly addresses the conduct of hearings. Thus, we agree with the Pulaski Circuit Court that Casey's Law incorporates the remainder of the rights established in KRS 202A.076(2). In conclusion, in C.M.'s case, we hold: (1) the standard of proof in Casey's Law unconstitutional and apply the beyond a reasonable doubt standard in *Denton*; (2) the remainder of Casey's Law remains in force with that evidentiary standard; and (3) the Pulaski Circuit Court correctly applied the conduct of hearings in KRS 202A.076(2) except for the standard of proof.

Next, we turn to S.W.'s arguments on appeal. First, S.W. argues there was insufficient evidence to involuntarily commit her to treatment under Casey's Law. We agree. Above, we held the standard of proof required by Casey's Law does not meet minimum due process requirements. If the evidence presented to the district court had been assessed applying the beyond a reasonable doubt evidence standard, it would have likely been insufficient.

Additionally, based on our analysis herein, the district court erred in admitting the affidavits of the mental health professionals. To pass constitutional muster, an individual subject to an involuntary commitment proceeding must have the opportunity to confront and cross-examine the medical professionals whose opinions are relied on by the trial court for said involuntary commitment. *Denton*, 383 S.W.2d at 683 (holding that "the court erred in admitting the evidence of the doctors by certificate or affidavit over objection of appellant's counsel.").

Finally, we address C.M.'s arguments on cross-appeal. C.M. argues Casey's Law violates: (1) substantive due process guarantees because it is not narrowly tailored to meet a compelling government interest and does require a finding of present danger; (2) procedural due process or should be declared void for vagueness; (3) equal protection; and (4) the First Amendment. As we addressed the constitutionality of Casey's Law above and found the standard of proof constitutionally deficient, we

need not address C.M.'s arguments herein. We note, however, this will likely not be the last time these arguments are raised. There will be a case where an injured party has proper standing to raise all these issues and it will present itself sooner rather than later for proper adjudication of these very important constitutional issues.

## CONCLUSION

For the foregoing reasons, we reverse the order of the circuit court in *S.W. v. Commonwealth*, No. 2020-CA-0307-DG and affirm the order of the circuit court in *Commonwealth v. C.M.*, No. 2020-CA-0525-DG and No. 2020-CA-1096-DG. We remand both cases with instructions to vacate the district courts' orders. Because several years have passed since the original evidentiary hearings in each case, the petitioners must refile their petitions if they believe treatment under Casey's Law is still needed. If petitions are refiled, the evidentiary hearings shall be conducted with the proper standard of proof in conformity with this Opinion.

ALL CONCUR.

[1] Kentucky Revised Statutes.

[2] This provision invites equal protection arguments on behalf of those belonging to a socio-economic class that cannot afford to pay for said treatment but have the same worries and concerns for a family member or loved one battling addiction.

[3] It is unclear whether C.M. was ever given the assessment document the district court ordered. Such document was never filed in the record or mentioned in any correspondence with the court.

[4] This finding is also supported by *Denton*, holding that "the court erred in admitting the evidence of the doctors by certificate or affidavit over objection of appellant's counsel." *Denton*, 383 S.W.2d at 683.

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