

COMMONWEALTH OF MASSACHUSETTS
APPELLATE DIVISION OF THE DISTRICT COURT DEPARTMENT
NORTHERN DISTRICT

IN THE MATTER OF D.H.

NO. 18-ADMH-25NO

In the WALTHAM DIVISION:

Justice: Ellis, J.
Docket No. 1851MH0014
Date of Decision Appealed: February 14, 2018
Date of Entry in the Appellate Division: February 22, 2018

In the APPELLATE DIVISION:

Justices: Coven, P.J., Crane & Nestor, JJ.
Sitting in: Boston, Massachusetts
Date of Hearing: April 20, 2018
Date Opinion Certified: May 7, 2018

APPEARANCE FOR PETITIONER

No brief filed.

COUNSEL FOR RESPONDENT

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OPINION

COVEN, P.J. This appeal arises from a commitment of a person suffering from substance use disorder pursuant to G.L. c. 123, § 35. The commitment occurred on February 14, 2018. It is not disputed that the respondent has now been released from that commitment order.

A controversy is considered moot when the party who claims to be aggrieved ceases to have a

personal stake in the outcome of the case. Mootness may be defeated where the case presents an issue of law that is capable of repetition yet evades review. *Acting Supt. of Bournewood Hosp. v. Baker*, 431 Mass. 101, 103 (2000).

The appellant's challenge is only to the sufficiency of the evidence that there was not clear and convincing evidence upon which the trial judge could issue this commitment order. *Matter of G.P.*, 473 Mass. 112, 117 (2015). There is no other legal issue that has been raised that requires us to address this appeal.

The oral argument has suggested that the appeal is not moot because the respondent continues to suffer the stigma of the commitment order. He also raises a Second Amendment claim that he will be prohibited from seeking a license to carry a firearm for a period of time after the commitment. This Division has previously addressed both of these claims and rejected the arguments in *Matter of J.C.*, 2018 Mass. App. Div. __ (17-ADMH-101NO, March 22, 2018).

As the appeal raises no legal issue for review, the appeal is dismissed as moot.¹

HON. MARK S. COVEN, Presiding Justice
HON. DANIEL C. CRANE, Justice
HON. MATTHEW J. NESTOR, Justice

**This certifies that this is the Opinion
of the Appellate Division in this case.
A True Copy, Attest:**

Brien M. Cooper, Clerk

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Even if the matter were not moot, there was clear and convincing evidence upon which the trial judge could enter this commitment order. According to the respondent's father, he was smoking marijuana daily. Although denying that he smoked on a daily basis, the respondent indicated that when he did smoke, it was three to five grams. These facts are sufficient to show that the respondent suffered from a substance use disorder. Further, the clinician testified that the respondent had been placing knives in a circle around his bed and had no explanation as to why they were there. There was also evidence that he had taken a raft and went out into the middle of the Charles River in the midst of winter getting stuck in the ice and having to be rescued. There was also testimony of intermittent comments of suicide. These facts were sufficient for a finding that there was a risk of serious harm as a result of the respondent's substance use disorder.