THE HIGH COURT

[2024] IEHC 440

Record No. 2024 1011 SS

IN THE MATTER OF AN APPLICATION FOR AN ENQUIRY PURSUANT TO ARTICLE 40.4 OF THE CONSTITUTION OF IRELAND

BETWEEN

A. R.

APPLICANT

AND

DEPARTMENT OF PSYCHIATRY OF CONNOLLY HOSPITAL

RESPONDENT

RULING of Ms. Justice Siobhán Phelan made on the 16th of July, 2024

INTRODUCTION

1. On this application, the Applicant seeks an Inquiry, pursuant to the provisions of Article 40.4.2° of the Constitution, into the lawfulness of her involuntary admission under s. 14(1) Mental Health Act, 2001 (as amended) ("the 2001 Act") whereby she is detained in the Department of Psychiatry, Connolly Hospital (hereinafter "the Approved Centre"). The Inquiry is sought by reason of an alleged failure to provide sufficient reasons for her involuntary admission in reliance on the recent decision in *A.A. (Anonymised) v Clinical Director of the Ashlin Centre* [2024] IEHC 408 (Simons J.).

2. An Order is also sought pursuant to s. 27(1) of the provisions of the Civil Law (Miscellaneous Provisions) Act, 2008 (hereinafter "the 2008 Act") prohibiting the publication or broadcast of any matter relating to the proceedings which would, or would be likely to, identify the Applicant and her condition. A s. 27(1) Order was already made in these proceedings by Hyland J., on an *ex parte* basis, on the 10th of July, 2024, and I am satisfied to continue this order.

3. In circumstances where the order is limited to the publication of information which may identify the Applicant, and she is a person in respect of whom a diagnosis of a medical condition has been made, and she is liable to be subjected to undue stress were her personal medical information disclosed in a manner which identifies her as a person with that condition, and the order would not be prejudicial to the interests of justice, I am satisfied that the criteria of s. 27(3) of the 2008 Act are met.

FACTUAL SUMMARY

4. As deposed to on behalf of the Applicant by her legal representative, she is a lady in her late forties who has a long and complicated medical history of gastrointestinal problems and nutritional difficulties. She has been diagnosed with a severe somatoform disorder. Immediately prior to her admission to the Approved Centre, the Applicant was receiving treatment in Connolly Hospital, having been admitted with severe weight loss, swallowing and bowel difficulties.

5. According to her solicitor, the Applicant was detained in the Approved Centre for a period of up to 21 days on foot of an Admission Order dated 27th of June, 2024 made by reference to s. 14 of the 2001 Act, purportedly on the ground that she was suffering from a mental disorder within the meaning of s. 3(1)(b)(i) and (ii) of that Act.

6. A mandatory statutory review of the admission order (by reference to s. 18 of the 2001 Act) by a Mental Health Tribunal ("the Tribunal"), appointed, pursuant to s. 48(1) of the 2001 Act, by the Mental Health Commission ("the Commission") was scheduled and a solicitor was appointed by the Commission, pursuant to the provisions of s. 17 of the 2001 Act, as the Applicant's Legal Representative.

7. Following his appointment, the Applicant's solicitor downloaded documents in respect of her admission from the Commission's Central Information System, which included the:

   I. Application for Involuntary Admission by an authorised officer dated the 21st of June 2024: Statutory "Form 2" specified by the Commission;
   II. Recommendation for Involuntary Admission dated the 21st of

June 2024: Statutory "Form 5" specified by the Commission;

III. Admission Order dated the 27th of June 2024: Statutory "Form 6" specified by the Commission;

IV. Patient Notification Form.

8. The Applicant's solicitor exhibits these documents for the purpose of this Inquiry.

9. Having reviewed the documentation provided to him and having taken instructions from the Applicant regarding the circumstances of her admission and regarding her wishes to not receive antipsychotic medication and to return to Connolly Hospital to continue her treatment, including assisted feeding via gastronomy tube, her Legal Representative had concerns about the lawfulness of her detention. .

10. In grounding this application the Applicant's legal representative deposes to a belief that both the Statutory "Form 2" (application for a recommendation for involuntary admission pursuant to s. 9) and the Statutory "Form 5" (recommendation for involuntary admission pursuant to s. 10) are deficient because the authorised officer failed to give adequate reasons for the making of an application for involuntary admission and the registered medical practitioner failed to provide adequate reasons for making the recommendation, and to engage with the criteria for a "mental disorder" within the meaning of s. 3 of the 2001 Act. He further deposes to a belief that the Admission Order dated the 27th of June, 2024 pursuant to s. 14 using Statutory "Form 6", is deficient as the Consultant Psychiatrist, who purported to complete it, failed to provide, on the relevant form, any adequate reasons, with reference to the criteria for involuntary detention under s. 8 of the 2001 Act, for her opinion that the Applicant fulfilled the criteria for suffering from a mental disorder.

11. Although it is exhibited, the Applicant's legal representative makes no complaint in relation to the Patient Notification Form completed pursuant to s. 16 of the 2001 Act. Except for the Patient Notification Form, all other forms exhibited namely Statutory Forms 2, 5 and 6 are in the form specified by the Commission pursuant to powers vested in it under ss. 9(3), 10(1) and 14(1)(a) of the 2001 Act.

12. "Form 2" requires (at para.7), that the authorised officer "s*tate reason for making application*". This paragraph begins with the prompt: "*I am applying for a recommendation for the involuntary admission of the above-named person because*" with the reason to be given in the space provided thereunder. In the application for involuntary admission (Statutory "Form 2") in this case, in relation to the reasons for making the application for involuntary admission, Ms Blessing Obioha, who is identified as an authorised officer, records the following (set out at para.7):

> *"Diagnosis of severe Somatoform disorder. Currently her delusional beliefs on physical health issues has intensely affected her eating process. Significant weight loss and low BMI."*

13. "Form 5", which must be completed by a registered medical practitioner who is making the recommendation for involuntary admission, requires (para.10) that the registered medical practitioner give an opinion as to whether the person the subject of the recommendation "*is suffering from a mental disorder*" and (para.11) a "*clinical description of the person's mental disorder*" which begins the sentence with: "*My opinion above is based on the following grounds*" and is followed (para.12) with a further sentence: "*I recommend that the above named person be admitted to the above named approved centre*". In the recommendation for involuntary admission (statutory "Form 5") in this case, Professor Claire Smyth, Gastroenterologist, based her opinion (expressed at para. 10) that the Applicant was suffering from a mental disorder within the meaning of s. 3(1)(b)(i) and (ii) of the 2001 Act on the following grounds (set out at para. 11):

> *"Mrs* [AR] (*suffers from* a *severe somatoform disorder resulting in severe malnutrition. She has had a feeding tube placed to improve nutrition. I feel she is now at* a *BMI that she can be transferred to the Department of Psychiatry to facilitate treatment for her somatoform disorder."*

14. "Form 6" is completed by the Consultant Psychiatrist who conducts an examination for the purpose of making an admission order and it requires (para.7) that the consultant psychiatrist in the approved centre give an opinion as to whether the person the subject

of the recommendation "*continues to suffer from a mental disorder*" and (para.8) a "*clinical description of the person's mental disorder*'" which begins the sentence with: "*My opinion above is based on the following grounds*" and is followed (para.9) with a further sentence: " . . . *I make an Admission order for the reception, detention and treatment of the above named person for a period of 21 days from the date of the making of this Order.*"

15. In the admission order (made using Statutory "Form 6") in this case which is dated 27th of June, 2024, Dr Richelle Kirrane, Consultant Psychiatrist, based her opinion (expressed at para. 7) that the Applicant is suffering from a mental disorder within the meaning of s. 3(1)(b)(i) and (ii) of the 2001 Act on the following grounds (set out at para 8):

> *"Patient has severe somatoform disorder with delusional symptoms associated with same and separately has paranoid delusions regarding nursing staff and medications."*

16. On that same date, the 27th of June, 2024, Dr. Kirrane completed a Patient Notification Form in which she provided the Applicant with a general description of the treatment proposed, involving 1:1 nursing, and the participation of the multi-disciplinary team together with medication, and advised the Applicant of her rights under the 2001 Act.

17. In grounding the application, the Applicant's legal representative refers to the recent decision of the High Court (Simons J.) in *A.A. (Anonymised) v Clinical Director of the Ashlin Centre* [2024] IEHC 408, in which it held that the detention of the applicant in that case was unlawful by reason of, what it is contended, were similar deficiencies.

18. By Certificate of Detention dated the 11th of July, 2024 filed in these proceedings, Dr. Christina McGrady, Clinical Director of the Approved Centre, certified that the Applicant is detained pursuant to an Admission Order made in accordance with s. 14 of the 2001 Act on the 27th of June, 2024 and she attached a copy of the Admission Order (Statutory "Form 6") already exhibited herein.

19. In a replying affidavit sworn by a locum consultant psychiatrist currently responsible for the Applicant's care, namely, Ms. Sinéad Carr, it is explained that Somatoform Disorder, also known as Severe Bodily Distress Disorder, is categorised as a mental disorder in the International Classification of Diseases, 11th edition with the code 6C20.2 and she exhibits the relevant extract (pg. 453). In the exhibited extract it is stated that with Severe Bodily Distress Disorder:

> *"... There is a pervasive and persistent preoccupation with the symptoms and their consequences to the extent that these may become the focal point of the person's life, typically resulting in extensive interactions with the health care system. The symptoms and associated distress and preoccupation cause serious impairment in personal, family, social, educational, occupational, or other important areas of functioning (e.g., unable to work, alienation of friends and family, abandonment of nearly all social and leisure activities). The person's interests may become so narrow as to focus almost exclusively on his or her bodily symptoms and their negative consequences."*

20. In written submissions filed on behalf of the Applicant on the morning of the 15th of July, 2024 in this matter, it was indicated that a Tribunal review of the Applicant's involuntary admission had been scheduled for that afternoon, being the time also assigned for hearing of the Article 40.4.2 Inquiry. It was, however, indicated that an application to adjourn the Tribunal hearing would likely be made to allow for the determination of the application before me.

21. Before the conclusion of the Article 40.4.2° hearing on the 15th of July, 2024, I was advised that the Tribunal hearing had proceeded. In those circumstances, I invited the parties to indicate the best course of action in the light of this. It was submitted on behalf of the Applicant that were the Admission Order affirmed, I should continue with the Inquiry but that the matter would be moot if the Order were revoked. I was referred to the decision of the Supreme Court in *Eastern Health Board v. M (E)* [2000] IESC 67; [1999] 2 I.R. 99 (Keane C.J.) reversing the order of the High Court on an Article 40.4.2 Inquiry in a case which had become moot.

22. Adopting a contrary position, the Respondent submitted, with some force, that I should proceed to determine the Inquiry regardless of the outcome of the Tribunal hearing because the issue which arises is of some public importance and will continue to present before the Courts until finally determined. I reserved my ruling overnight to today's date for electronic delivery and requested that the parties communicate the outcome of the Tribunal decision as soon as it became available.

23. Following the conclusion of the hearing and within the hour, an email was received by the assigned Registrar confirming that the Admission Order had been revoked.

RELEVANT STATUTORY PROVISIONS

24. In assessing the lawfulness of involuntary admission pursuant to the 2001 Act, it is necessary to consider in some detail specific, relevant provisions of that Act.

25. Section 8(1) of the 2001 Act provides:

> *"A person may be involuntarily admitted to an approved centre pursuant to an application under section 9 or 12 and detained there on the grounds that he or she is suffering from a mental disorder."*

26. Section 3 of the 2001 Act defines a "*mental disorder*" as follows:

> *"(1) In this Act 'mental disorder' means mental illness, severe dementia or significant intellectual disability where—*
>
> > *(a) because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons, or*
> >
> > *(b) (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and*

(ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent."

27. The involuntary admission of a person to an approved centre involves a three-step process: an application to a registered medical practitioner for a recommendation for the person's involuntary admission (s.9), a recommendation from a registered medical practitioner for the person's involuntary admission (s.10) and the making of an admission order detaining the person in the approved centre (s.14). The application, recommendation and admission order must be "*in a form specified by the Commission*": s.9(3), s.10(1) and s.14(1)(a), respectively. The Commission has prescribed forms for this purpose: Forms 2, 5 and 6, respectively (specifically, as used in this case, "Form 2" relates to an "authorised officer" only).

28. Section 9 of the 2001 Act sets out the categories of persons who may apply for involuntary admission, including at s. 9(1)(b), "*an authorised officer*" (such as the signatory of the Form 2 in this case) and further provides:

"(3) An application shall be made in a form specified by the Commission.

(4) A person shall not make an application unless he or she has observed the person the subject of the application not more than 48 hours before the date of the making of the application."

29. Section 9(5) provides that where an application is made by a person other than the persons prescribed under s. 9(1)(a)-(c), that is to say, where the application is made by "*any other person*" other than a disqualified person (s. 9(1)(d)), that the application shall contain a statement of the reasons why it is so made, of the connection of the application with the person to whom the application relates, and of the circumstances in which the application is made.

30. Section 9(5) does not apply where an "*authorised officer*" makes the application as occurred in this case. An "*authorised officer*" is further defined as an officer of the

HSE who is of a prescribed rank or grade and who is authorised to exercise powers conferred under s. 9. An "*authorised officer*" is a person of a rank specified by the Mental Health Act 2001 (Authorised Officer) Regulations 2006 (S.I. No. 550 of 2006) adopted under ss. 5(1) and 9(8) of the 2001 Act which regulations prescribe HSE officers empowered to make application under s. 9(2)(b) as the Local Health Manager, General Manager, Grade VIII, Psychiatric Nurse, Occupational Therapist, Psychologist or Social Worker.

31. A registered medical practitioner who has examined a person who is the subject of an application and who is satisfied, following that examination, that he or she is suffering from a mental disorder may make a recommendation for that person's involuntary admission pursuant to s. 10 of the Act which provides as follows:

> *"(1) Where a registered medical practitioner is satisfied following an examination of the person the subject of the application that the person is suffering from a mental disorder, he or she shall make a recommendation (in this Act referred to as "a recommendation") in a form specified by the Commission that the person be involuntarily admitted to an approved centre (other than the Central Mental Hospital) specified by him or her in the recommendation.*
>
> *...*
>
> *(5) A recommendation under this section shall remain in force for a period of 7 days from the date of its making and shall then expire."*

32. To be of any legal consequence, a recommendation made pursuant to s. 10 of the 2001 Act must be received by the clinical director of an approved centre, whereupon a consultant psychiatrist on the staff of the centre is obliged to carry out the duties provided for by s. 14(1) of Act which provides as follows:

> *"(1) Where a recommendation in relation to a person the subject of an application is received by the clinical director of an approved centre, a consultant psychiatrist on the staff of the approved centre shall, as soon as may be, carry out an examination of the person and shall thereupon either—*

(a) if he or she is satisfied that the person is suffering from a mental disorder, make an order to be known as an involuntary admission order and referred to in this Act as "an admission order" in a form specified by the Commission for the reception, detention and treatment of the person and a person to whom an admission order relates is referred to in this Act as "a patient", or
(b) if he or she is not so satisfied, refuse to make such order."

33. Section 2(1) of the Act defines an "*examination*", in relation to a recommendation, admission or renewal order, as:

> *"a personal examination carried out by a registered medical practitioner or a consultant psychiatrist of the process and content of thought, the mood and the behaviour of the person concerned".*

34. Section 14(2) of the Act allows a person who is being examined under s. 14(1) to be detained for the purpose of carrying out the examination but limits the permitted period of detention to a period not exceeding 24 hours:

> *"(1) A consultant psychiatrist, a medical practitioner or a registered nurse on the staff of the approved centre sha l be entitled to take charge of the person concerned and detain him or her for a period not exceeding 24 hours (or such shorter period as may be prescribed after consultation with the Commission) for the purpose of carrying out an examination under subsection (1) or, if an admission order is made or refused in relation to the person during that period, until it is granted or refused."*

35. Section 15 of the 2001 Act provides for the legal effect and duration of both an admission order and a renewal order as follows:

> *"(1) An admission order shall authorise the reception, detention and treatment of the patient concerned and shall remain in force for a period of 21 days from*

the date of the making of the order and, subject to subsection (2) and section 18 (4), shall then expire.

(2) The period referred to in subsection (1) may be extended by order (to be known as and in this Act referred to as 'a renewal order') made by the consultant psychiatrist responsible for the care and treatment of the patient concerned for a further period not exceeding 3 months."

36. Section 16 provides for the provision of information to persons admitted to an approved centre which should include, *inter alia*, a general description of the proposed treatment to be administered during the period of detention (s. 16(2)). Section 16 is notable because it prescribes the information which requires to be provided to the patient. There is no requirement under the 2001 Act to provide a copy of Statutory Forms 2, 5 and 6 at issue in these proceedings to the Applicant.

37. Section 17 of the Act provides for the mandatory review both of an admission order and a renewal order, where applicable, before a Tribunal established by the Commission. It also provides for the appointment of an independent consultant psychiatrist whose report following independent examination of the Patient and medical records shall be available to the Tribunal reviewing the Patient's involuntary detention.

38. Section 18 of the Act provides for the duties and powers of the Tribunal when reviewing an admission or renewal order, referred to it under s. 17 of the Act and provides, in so far as is relevant for present purposes:

"(1) Where an admission order or a renewal order has been referred to a tribunal under section 17, the tribunal shall review the detention of the patient concerned and shall either—

(a) if satisfied that the patient is suffering from a mental disorder, and

(i) that the provisions of sections 9, 10, 12, 14, 15 and 16, where applicable, have been complied with, or

(i) if there has been a failure to comply with any such provision, that the failure does not affect the substance of the order and does not cause an injustice, affirm the order, or

(b) if not so satisfied, revoke the order and direct that the patient be discharged from the approved centre concerned.

...

(5) Notice in writing of a decision under subsection (1) and the reasons therefor shall be given to—

...

(c) the patient and his or her legal representative…"

39. In common with s. 9(5), s. 18(5) of the 2001 Act makes express statutory provision for the giving of reasons. No similar provision is made in respect of a recommendation under s. 10 or an admission order under s. 14. The requirement for the specification of reasons in ss. 9(5) and 18(5) but not elsewhere maybe of some consequence insofar as it reflects a deliberate legislative intention whereby the Legislative provides for the giving of reasons in specific circumstances but not otherwise. It is noteworthy also that in the way this distinction exists, the Legislative distinguishes between a situation where clinical judgment is exercised (as in the exercise of a power under ss. 10 and 14 where no duty to give reasons is specified in the statutory provisions) and those where an administrative or quasi-judicial power is in question such as in s. 18(5), where a duty to give reasons in writing is clearly prescribed.

40. It was common case between the parties during the hearing before me that upon a review of an Admission Order by the Tribunal under s. 18, the Tribunal considers whether the Patient is suffering from a mental disorder within the meaning of s. 3(1) as at the date of the Tribunal hearing and whether there has been procedural compliance with the requirements of ss. 9, 10, 12, 14, 15 and 16. In this way, it was conceded before me that the Tribunal does not engage in a merits based review of the decision to make the Order under review. It was acknowledged, however, that insofar as s. 28(5)(b) of the 2001 Act provides for a review of an Admission Order by the Tribunal even after it has been discharged that there remains an open question, not yet settled on the case-law, as to what such a review entails.

DISCUSSION AND DECISION

41. Although there are some important distinguishing features between this case and *A.A.*, (not least the fact that this case involves an application by an authorised officer under s. 9(1)(b) but also the fact that a diagnosis of a mental disorder was made in respect of Ms. A.R., and the language used in completing the Statutory Forms was different), it was clear from the submissions pursued on behalf of the Respondent that I am urged not only to distinguish the decision in *A.A.* but to depart from it on the basis that it was not fully and comprehensively considered with reference to the statutory framework of the 2001 Act and existing jurisprudence. In this regard, the Applicant has referred me to the *Re Worldport Ireland Ltd.* [2005] IEHC 189 line of authority, which provides for the circumstances in which a court may depart from a decision of another judge of the same court.

42. I have considered the judgment of Simons J. in *A.A. (Anonymised) v Clinical Director of the Ashlin Centre* [2024] IEHC 408 very carefully. In essence, he decided that it should be clear from the record of decision-making culminating in an Admission Order that the statutory criteria governing the making of such an order had been properly considered and applied. He found that an Admission Order made using Statutory Form 6 must display jurisdiction on its face and must indicate that the consultant psychiatrist has understood and engaged with the statutory criteria. In so finding, he observed that a Court or the Tribunal considering the Admission Order must understand the basis upon which it has been reached. He explained that reasons must be stated, not merely to allow the High Court on an application for habeas corpus or the Tribunal to exercise its jurisdiction, but also to allow the person who has been involuntarily detained to know the precise basis upon which their liberty has been taken away.

43. In standing over the lawfulness of the Applicant's involuntary admission on this application, the Respondent fundamentally disagrees with the ratio in *A.A. (Anonymised) v Clinical Director of the Ashlin Centre* (albeit it has not been indicated that this decision is under appeal and an appeal is not yet out of time). It has been contended, on behalf of the Respondent that it is not necessary for a consultant psychiatrist who confirms an opinion that a patient is suffering from a "*mental disorder*" within the meaning of s. 3(1) of the 2001 Act by ticking the relevant box on the Statutory Form 6 to go further in explaining the basis for this conclusion arrived at in exercise of clinical judgment.

44. It is pointed out that the Form 6 is not provided directly to the Applicant but is returned to the Commission (pursuant to s. 16(1)(a)) and is therefore not used to explain the basis for the decision to admit involuntarily the Patient, a factor, it is suggested, which was not considered in *A.A.* Reliance is placed on s. 16 of the 2001 Act as prescribing the information which is provided to the Patient upon the making of an Admission Order which includes information as to the making of the Order but does not require that the Patient be provided with a copy of the Admission Order itself.

45. It is further argued that, insofar as a premise for the decision in *A.A.* was an entitlement to know the reasons to challenge the decision before the High Court or the Tribunal, this is a flawed premise because neither the Tribunal at hearing (or Circuit Court on appeal under s. 19) nor the High Court in an Article 40.4.2° Inquiry engage in a merits-based review of the clinical opinion that a patient was suffering from a mental disorder when the Order was made.

46. As I understand it, however, it is not part of the case made on behalf of the Applicant that reasons are required for the purpose of a merits-based review but rather that the record of the decision should demonstrate that the correct legal test has been applied by the consultant psychiatrist in depriving the Applicant of her liberty. It is the Applicant's case that in identifying the grounds for the opinion that s. 3(1)(b)(i) and (ii) on the Statutory Form 6, the Consultant Psychiatrist should go beyond stating the presence of a mental illness, which may be a component part of the test, but should further address the need for and benefits of treatment which is also part of the test for mental disorder. It is not accepted on behalf of the Applicant that it suffices for the Consultant Psychiatrist to tick a box on the Statutory Form 6 confirming an opinion that a patient is suffering from a "*mental disorder*" and more is required to demonstrate the proper application of the legal test prescribed under s. 3(1).

47. As already noted, there are undoubtedly important distinguishing features between the facts in *A.A.* and this case.

48. Firstly, this case does not engage considerations of s. 9(5) of the Act, described as "*significant*" in the *A.A.* decision (para. 12), and the duty to give reasons therein

prescribed. This is because the application in this case was made by a prescribed person under s. 9(1)(a)-(c).

49. As noted in *A.A.* (para. 32) the statutory requirement for reasons under section 9(5), at that point of the statutory process, is triggered in circumstances where the application is being made other than by (a) the spouse or civil partner or a relative of the person, (b) an authorised officer, or (c) a member of the Garda Síochána, making it clear that the Legislature mandated that an additional layer of protection was to apply in such a contingency. It appears clear that a requirement to explain why a person, being an applicant other than a prescribed category of person, is making the application arises as a safeguard to ensure that only persons with an appropriate interest in the well-being or care or control of a person with a suspected mental disorder have the power to trigger a process under the 2001 Act. As the application in this case is made by an "*authorised officer*" as defined under the 2001 Act, this is not a factor in this case.

50. Furthermore, the level of detail provided on each of the forms relied upon is different in this case to the Forms in issue in *A.A.* Specifically, the Admission Order is made based on an established diagnosis, namely, severe somatoform disorder, in contrast with *A.A.* where no diagnosis, still less an established diagnosis, was referred to. The Admission Order was expressly made for the purpose of facilitating treatment for this mental illness in circumstances where it is noted that the Applicant was presenting with delusional symptoms associated with her diagnosed condition and separately has paranoid delusions regarding nursing staff and medications. The nature of the treatment to be provided at the Approved Centre was further described in general terms in the Patient Notification Form completed on the same date as the Admission Order. In this way, this case is clearly distinguishable from *A.A.* where it appears that not only was no diagnosis recorded but no treatment was identified, even in general terms.

51. Despite these differences which might, in any event, ground a different conclusion to that arrived at in *A.A.* were I proceeding to determine this case, it is clear that the case made on behalf of the Respondent in standing over the lawfulness of the Applicant's involuntary admission is based on a broader and more fundamental disagreement with the ratio of the decision in *A.A.* The far-reaching nature of the case made by the Respondent would require me to engage in a consideration of the correctness of that

recent decision delivered on 3rd July 2024, whether by reason of a failure to address arguments urged on me in the judgment in that case or otherwise were I proceed to rule on the lawfulness of the Applicant's detention on this application.

52. It is established that a court should not lightly depart from a previous decision of the same court unless there are strong reasons, in accordance with the long-standing jurisprudence of this Court restated in cases such as *Re Worldport Ireland Ltd.* [2005] IEHC 189, for doing so. While I would naturally be reluctant to depart from a carefully reasoned decision of a fellow High Court judge, as I have been invited to do on behalf of the Respondent, the propriety of my so doing is highly questionable if it is no longer necessary to do so to determine a live issue *inter partes.* This is a matter of real concern in this case as events have unfolded.

53. This is a case where an Inquiry was sought pursuant to Article 40 of the Constitution. Thus, upon complaint being made by or on behalf of a person that he or she is being unlawfully detained, the High Court is required forthwith to enquire into the complaint. The relief in such proceedings is the release of the person if he or she is found to be held in unlawful custody. The question of whether to release or not in exercise of powers vested in me pursuant to Article 40.4.2 has been superseded by the decision of the Tribunal made immediately after the conclusion of the hearing before me to revoke the admission order on foot of which the Applicant was involuntarily admitted.

54. As observed by Denham C.J. in *J.W. v. HSE* [2014] IESC 8, Habeas Corpus is a unique and important remedy, which may be sought swiftly to enable an inquiry into the detention of a person. The relief sought is the release of that person. It does not have a wider ambit. It is not a judicial review, nor is it a plenary summons. In this case the Applicant has been released from the order that was queried and that order stands revoked by decision of the Tribunal made on the 15th of July, 2024 after the hearing before me concluded. The Admission Order has now been superseded. In consequence it seems to me that the *inter partes* issue is moot. According to the general rule, I should not proceed to deliver a ruling on the lawfulness of the Applicant's detention absent exceptional circumstances.

55. Although there are some instances of an appeal against a decision under Article 40.4.2 proceeding notwithstanding the intervening release of the detained person, I have not been referred to a case where a first instance court such as the High Court in an Article 40.4.2 inquiry has proceeded notwithstanding that release has occurred because the impugned admission order was revoked.

56. While I accept that issues of statutory interpretation of general importance arise on the case argued before me in this matter, it seems to me that this is not enough to justify me in proceeding to deliver a ruling on an Article 40.4.2 Inquiry in circumstances where the Applicant's liberty has been secured through other means albeit following the conclusion of the hearing and before I have had an opportunity to rule.

57. Having carefully reflected on the matter, it seems to me that no sufficiently compelling grounds exist to justify proceeding to determine complex issues arising on an invitation to depart from a very recent, reasoned and clear decision of the High Court where the matter is otherwise moot. Courts do not decide hypothetical or moot points of law unless there is a special jurisdiction such as under Article 26 of the Constitution, or in exceptional cases where it appears that there are compelling reasons why a court would consider hearing an issue that is moot. It seems to me that, if anything, this general rule applied with even greater force where in proceeding to determine an otherwise moot issue the court is invited not only to distinguish but to fundamentally disagree with a Court of equal jurisdiction where the possibility of an appeal against that decision remains open. It seems to me that the question of whether *A.A.* is correctly decided should be determined on appeal or, failing that, in a case where it is necessary to do so to resolve a live issue before the Court. This is not such a case.

CONCLUSION

58. While important questions of law of more general interest have been canvassed in detailed submissions before me, I have decided that it would be an improper exercise of a carefully guarded constitutional remedy were I proceed to rule on this application which has been rendered moot by the intervening decision of the Tribunal in deciding to revoke the Admission Order on foot of which the Applicant was involuntarily

admitted. For this reason, I will refrain from any further consideration of the lawfulness of the Applicant's detention on this application.