

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

In the Matter of:	:	No. 06AP-769
T.B.,	:	(Prob. No. MI-14604)
(Appellant).	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on October 10, 2006

Jeffrey A. Zapor, for appellant.

David A. Belinky, for appellee Community Mental Health and Recovery Board Serving Licking and Knox Counties.

ON APPLICATIONS FOR RECONSIDERATION

PER CURIAM.

{¶1} Pursuant to App.R. 26(A), appellee, Community Mental Health and Recovery Board Serving Licking and Knox Counties, filed an application seeking reconsideration of this court's decision rendered on September 12, 2006. Specifically, appellee contends paragraph 19 of this court's opinion needs to be clarified in conjunction with the Supreme Court's opinion in *Steele v. Hamilton Cty. Comm. Health Bd.* (2000), 90 Ohio St.3d 176. Because clarification is appropriate, we grant the application for reconsideration and clarify our prior opinion.

{¶2} In addressing the issue of forced medication, this court quoted *Steele*, supra, but referenced that portion of *Steele* dealing with forced medication of patients in

the absence of prior court authorization. The test for forced medication following a court order is slightly different, and requires proof "by clear and convincing evidence that: (1) the patient does not have the capacity to give or withhold informed consent regarding his/her treatment; (2) it is in the patient's best interest to take the medication, i.e., the benefits of the medication outweigh the side effects; and (3) no less intrusive treatment will be as effective in treating the mental illness." *Steele*, supra, at 187-188. To the extent our prior decision suggested otherwise, we clarify that the above-noted three-prong test applies to forced medication pursued subsequent to court approval. Because the evidence meets all three prongs of the *Steele* test set forth above, our decision to permit forced medication stands.

{¶3} Appellant, T.B., also filed an application for reconsideration pursuant to App.R. 26, rearguing those matters addressed in the decision regarding appellant's continued hospitalization. Because appellant's motion neither calls to the attention of the court an obvious error nor raises an issue this court failed to consider at all or failed to fully consider, we deny appellant's motion for reconsideration. *Matthews v. Matthews* (1981), 5 Ohio App.3d 140, 143.

*Appellee's application for reconsideration
granted and judgment clarified; appellant's
application for reconsideration denied.*

BRYANT, J., KLATT, P.J., and FRENCH, J., concur.
