



in 18 V.S.A. § 7101(17) and a person “in need of further treatment,” *id.* § 7101(16), and that there was no less restrictive treatment available. Thus, the court granted the petition for involuntary treatment. T.H. appeals.

To subject T.H. to involuntary treatment, the State must prove that T.H. is “a person in need of treatment or a patient in need of further treatment.” 18 V.S.A. § 7611. The State has the burden of proving this “by clear and convincing evidence.” *Id.* § 7616(b). A person in need of treatment is defined as “a person who has a mental illness and, as a result of that mental illness, his or her capacity to exercise self-control, judgment, or discretion in the conduct of his or her affairs and social relations is so lessened that he or she poses a danger of harm to himself, to herself, or to others.” 18 V.S.A. § 7101(17). Among other things, a danger to others may be shown with evidence that the person has inflicted or attempted to inflict bodily harm on another or has placed others in reasonable fear of harm. 18 V.S.A. § 7101(17)(A). A danger to self can be demonstrated with evidence of suicide attempts or threats or behavior that shows without treatment the person is “unable, without supervision and the assistance of others, to satisfy his or her need for nourishment, personal or medical care, shelter, or self-protection and safety, so that it is probable that death, substantial physical bodily injury, serious mental deterioration, or serious physical debilitation or disease will ensue.” *Id.* § 7101(17)(B)(ii). In sum, to demonstrate that T.H. was a person in need of treatment, the State was required to prove that T.H. had a mental illness and that he posed a danger to himself or others and this could be shown with evidence of threats or behavior. See *In re L.R.*, 146 Vt. 17, 21, 497 A.2d 753, 756 (1985) (explaining that risk of harm to self or others can be shown by threats or acts).

On appeal, T.H. argues that the court erred in finding that there was clear and convincing evidence that T.H. represented a danger to others. He emphasizes that the evidence showed that he had not assaulted anyone in several years and that the evidence of his assaultive behavior in 2009 was vague. He further argues that the court’s finding that he was likely to become engaged in conflicts with others if released was not supported by the testimony of the SSCF medical director and a note written by a nurse responsible for his care, which both stated that T.H. did not pose a current risk of harm to others.

We conclude that there was no error. The court’s finding that T.H. was a person in need of treatment was supported by the evidence concerning the risk of self-harm. The evidence supports the court’s finding that T.H. presented a risk of harm to himself because his capacity to exercise self-control, his judgment, and his discretion was so diminished by his mental illness that he was unable to satisfy his needs for nourishment, personal or medical care, shelter, or self-protection. T.H. had not engaged in any release planning. Mr. Krulish testified that without someone else’s assistance, T.H. would not be able to function well enough to go to the grocery store and purchase food, to obtain shelter, or to maintain his own self-protection and safety. Because the record supports the court’s finding that T.H. would be at risk of harm to himself, we do not reach the question of whether the evidence supports the court’s finding that T.H. presents a danger to others.

T.H. next argues that the statute requires the State to prove that the proposed patient is in need of treatment both at the time of the application and at the time of trial. T.H. relies on 18 V.S.A. § 7617(a), which states that the court must dismiss an application for involuntary treatment if the proposed patient is not a person in need of treatment “at the time of admission or application or is not a patient in need of further treatment at the time of the hearing.” Assuming that T.H.’s interpretation of the statute is correct, we conclude that there was no error. A person in need of further treatment is defined as a person in need of treatment or a “patient who is receiving adequate

treatment, and who, if such treatment is discontinued, presents a substantial probability that in the near future his or her condition will deteriorate and he or she will become a person in need of treatment.” Id. § 7101(16)(B). T.H. asserts that the court erred in concluding that he was a person in need of further treatment because he claims that the court analyzed his situation under the second possible definition and concluded that he was receiving adequate treatment and would deteriorate if it was discontinued. T.H. argues that this provision does not apply to his situation and is applicable only in cases where the patient has begun accepting treatment at the time the petition is filed and does not pose a present danger at the time of trial.

We conclude that there was no error. It should be recognized that T.H.’s situation is unique because although he had not previously been identified as a person in need of treatment, he was in state custody and was receiving care at the SSCF. Therefore, he was receiving some treatment at the time of the application and at the time of the hearing. It was within that context that the court found that T.H. was a person in need of further treatment because “[w]ithout continued adequate treatment in a hospital setting he will pose an imminent risk of harm to himself and others as noted above.” For a couple of reasons, we do not read this statement as a finding by the court that T.H. was receiving adequate treatment at the time of trial as the term is used in § 7101(16). The reference to the “hospital setting” indicates that the court was referring not to the treatment T.H. was currently getting in the SSCF, but to the State’s request to treat T.H. with hospitalization and medication. In addition, the court’s reference to the risk of harm posed by T.H. “as noted above” indicates that the court was referring to its findings that T.H. was a person in need of treatment. Therefore, we conclude that the court’s decision reflects that the court relied on the first definition of a person in need of further treatment, concluding that T.H. was a person in need of treatment at the time of trial and do not address T.H.’s argument regarding whether he was receiving adequate treatment.

The evidence supports this finding. Mr. Krulish testified that T.H.’s mental health needs at the time of the hearing continued to be the same as when the application was filed. He testified that T.H. was currently at risk of self-harm if released because he would be unable to provide for his own needs. Further, T.H.’s own testimony at the hearing supported the court’s finding that without assistance T.H. cannot provide for his basic needs. In his testimony when discussing his plan after release, T.H. stated that he was an “active ranger” and that he owned “thirteen zoos.”

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Beth Robinson, Associate Justice

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Harold E. Eaton, Jr., Associate Justice