

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 1, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

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A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 99-0999-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

**IN THE MATTER OF THE MENTAL COMMITMENT OF
RHONDA S.W.:**

WINNEBAGO COUNTY,

PETITIONER-RESPONDENT,

v.

RHONDA S.W.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Winnebago County:
ROBERT A. HAASE, Judge. *Affirmed.*

SNYDER, J. Rhonda S.W. appeals from a § 51.20(1)(a), STATS.,
order involuntarily committing her to the Winnebago County Department of

Community Programs for a period not to exceed six months.¹ She contends that the evidence was insufficient to support the circuit court's finding that she was "dangerous" as that term is defined in § 51.20(1)(a)2. We disagree and affirm the commitment order.

On July 23, 1998, a petition for examination was filed by Rhonda's daughter Amanda W., her sister and her mother alleging that Rhonda was mentally ill² and dangerous to herself or others.³ After a probable cause determination, the circuit court set a final hearing date on the petition for August 6, 1998, and appointed Drs. Chandra Bommakanti and Sangita Patel to examine Rhonda and report their findings. Patel filed a report on August 4, 1998. Bommakanti filed a written report dated July 30, 1998, and testified by phone during the final hearing. Amanda and one of the petitioners for the examination also testified at the hearing. At the close of Winnebago County's case, Rhonda declined to present evidence or testimony, and her adversary counsel stated, "I don't think, Your Honor, the dangerous aspect of this [civil commitment] has been met here."

The testimony of the hearing witnesses, Bommakanti and Amanda, is undisputed. Bommakanti testified that Rhonda is mentally ill, is a proper subject for commitment and is in need of psychotropic medications. As to

¹ The commitment order also designated a mental health care facility to accept placement of Rhonda and authorized involuntary administration of medication. The original commitment order has now been extended through February 4, 2000.

² The petition alleged, inter alia, that Rhonda is diagnosed with paranoid schizophrenia, has gone off her medications, is delusional, is unstable, hears voices and "has written many letters speaking about the end of things and being in Heaven."

³ The petition alleged, inter alia, that Rhonda would not eat, has lost 135 pounds in a few months, is making vague suicide threats, refuses all help and becomes angry when it is suggested that she go back on medication.

dangerousness, Bommakanti opined that Rhonda “would be a danger [to herself and to others] without treatment” because:

Apparently, she is not eating well. She was religiously preoccupied. She told me 40 days before she dies she will say Mother Mary. I do not exactly know what she means by that. When I asked her who told her that, she said, “My life is coming to an end.”

When asked by Rhonda’s counsel what made the statement dangerous, Bommakanti responded:

She is psychotic. I don’t know what she means by that. She may harm herself. She has not been eating well. She may starve herself to get her point across, I don’t know.

Bommakanti testified as follows concerning Rhonda’s need for treatment and psychotropic medications:

Q What do you believe to be the least restrictive place for her treatment?

A At this time she should continue ... at Theda Clark Hospital. Then she needs to receive psychotropic medications.

Q So inpatient on a locked unit at the present time in your opinion would be the least restrictive form of treatment?

A Yes.

Q Did you explain to her the advantages and disadvantages of psychotropic medications?

A Yes, I did.

Q In your opinion, is she capable of expressing an understanding of those advantages or disadvantages?

A No, I do not think she would appreciate the advantages or disadvantages of that form of medication. I do not think she realizes how those could improve her condition.

Amanda testified that she observed Rhonda operating her vehicle dangerously on several occasions “because she was not even paying attention.” Amanda attributed the inattentiveness to a religious preoccupation that resulted in

a deterioration of Rhonda's driving habits and her behaviors. In Amanda's opinion, Rhonda was placing other people in danger as a result of what she was doing. Amanda also testified that Rhonda had lost weight, going from 215 pounds to 130 pounds in "[a]bout a month and a half to two months." Amanda then agreed that the weight loss was to 147 pounds based upon Rhonda's recorded weight when hospitalized.

Rhonda contends that a dangerousness finding cannot be based solely upon Amanda's testimony concerning her inattentive driving and that the record is void of any other proof of dangerousness. We disagree that the record is void of other proof. "Dangerousness" for the purposes of a civil commitment concerns the definitions in § 51.20(1)(a)2.a through e, STATS. The interpretation and application of a statute to a given set of facts is a question of law that this court reviews de novo. See *Braatz v. LIRC*, 174 Wis.2d 286, 293, 496 N.W.2d 597, 600 (1993). We are satisfied that the record clearly and convincingly supports that Rhonda is dangerous to herself as defined in subparas. (1)(a)2.c and 2.e, which read in relevant part:

2. The individual is dangerous because he or she does any of the following:

c. Evidences such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there is a substantial probability of physical impairment or injury to himself or herself...

....

e. For an individual ... after the advantages and disadvantages of ... accepting a particular medication or treatment have been explained to him or her and because of mental illness, evidences either incapability of expressing an understanding of the advantages and disadvantages of accepting medication or treatment ... and evidences a substantial probability, as demonstrated by both the individual's treatment history and his or her recent acts or omissions, that the individual needs care or treatment to prevent further disability or deterioration and a substantial

probability that he or she will, if left untreated, lack services necessary for his or her health or safety and suffer severe mental, emotional or physical harm that will result in the loss of the individual's ability to function independently in the community or the loss of cognitive or volitional control over his or her thoughts or actions.

Rhonda's inattentive driving may evidence impaired judgment and would create a substantial probability of physical injury to herself and others if an automobile accident occurred due to her preoccupation. Her driving, however, is not the only evidence in the record of subpara. 2.c dangerousness. Rhonda lost thirty-two percent of her body weight in a short period of time, is religiously preoccupied and makes references to her life coming to an end. She is psychotic and her statements to Bommakanti indicated that she may do harm to herself. We are satisfied that there is clear and convincing evidence in the record of Rhonda's dangerousness to herself as defined under subpara. 2.c.

In addition, we are satisfied that the record supports Rhonda's need for psychotropic medication to control her mental illness, that Bommakanti explained to her the advantages and disadvantages of the medications and that Rhonda was not capable of expressing an understanding of the proposed medication. Bommakanti's testimony supports "dangerousness" as defined in subpara. 2.e because of a substantial probability that if Rhonda's mental illness is unmedicated and untreated she will suffer severe mental, emotional or physical harm.

The probability of physical impairment or injury under subpara. 2.c or of mental, emotional or physical harm under subpara. 2.e is not substantial if reasonable provision for the subject individual's protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services or if the individual is appropriate for protective

placement under § 55.06, STATS. *See* § 51.20(1)(a)2.c, 2.e, STATS. The record, however, does not support, nor does Rhonda contend, that those exceptions to substantiality are present in her case.

The circuit court record includes evidence of dangerousness as defined in § 51.20(1)(a)2, STATS. In addition to testimony of Rhonda's inattentive driving, the evidence supports that Rhonda is dangerous to herself due to her mental condition and is unable to understand the need for psychotropic medication to avoid mental, emotional or physical harm to herself without a court-ordered civil commitment. We therefore affirm the circuit court order.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.