

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 9, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

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. 99-1472

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**IN THE MATTER OF THE MENTAL
COMMITMENT OF MICHAEL R.:**

FOREST COUNTY,

PETITIONER-RESPONDENT,

v.

MICHAEL R.

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Forest County:
ROBERT E. KINNEY, Judge. *Affirmed.*

¶1 CANE, C.J. Michael R. appeals from an order extending his involuntary commitment for one year under § 51.20, STATS. Michael contends that because Forest County failed to prove that he was mentally ill, as that term is defined under § 51.01(13)(b), STATS., the circuit court erred by extending his

commitment. Although Michael's medication currently controls the manifestation of the symptoms that satisfy the statutory definition of mental illness, he nevertheless remains mentally ill. The order is therefore affirmed.

¶2 Michael has been subject to various commitments under ch. 51, STATS., since June 1990. In their briefs, both parties agree that after a jury trial in January of 1997, Michael was again subject to commitment under ch. 51. In July 1997, another jury trial resulted in an extension of Michael's commitment. A subsequent petition for recommitment was filed, but was resolved by a stipulation between the parties that Michael's commitment would extend to January of 1999.

¶3 On January 6, the circuit court heard the most recent petition for an extension of Michael's commitment. After hearing testimony from both Chuck Burbank, a case manager, and Dr. Jeffrey Holmgren, Michael's treating psychiatrist, the court ordered Michael's commitment to be extended for another year. This appeal followed.

¶4 Michael argues that the circuit court erred by extending his commitment. An extension of commitment is proper where an individual "is mentally ill ... and is a proper subject for treatment," and where that individual is "dangerous." Section 51.20(1)(a)1 and 2, STATS. Where, as here, an individual has been "the subject of inpatient treatment for mental illness ... immediately prior to commencement of the proceedings as a result of a ... commitment ... ordered by a court under this section," dangerousness, as contemplated under the statute, "may be satisfied by a showing that there is a substantial likelihood, based on the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn." Section 51.20(1)(am), STATS.

¶5 Michael does not dispute that the “dangerous” element has been satisfied. In fact, in its oral disposition, the circuit court found that Michael’s counsel had conceded the issue of dangerousness. Rather, Michael asserts that the County failed to prove that he is currently mentally ill as that term is defined under § 51.01(13)(b), STATS. Whether Michael is mentally ill requires the application of the statute to a set of undisputed facts, a question of law that this court reviews de novo. See *State v. Collett*, 207 Wis.2d 319, 321, 558 N.W.2d 642, 643 (Ct. App. 1996).

¶6 Under § 51.01(13)(b), STATS., and for purposes of involuntary commitments, mental illness “means a substantial disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, but does not include alcoholism.” Michael disregards the fact that his medication prevents the manifestation of the symptoms of his mental illness and contends that because he does not currently exhibit the requisite substantial disorder of thought, mood, perception, orientation or memory, he is not mentally ill within the statutory definition. This court disagrees.

¶7 At the hearing, Dr. Holmgren testified that Michael was suffering from a mental illness. Although Holmgren had termed Michael’s illness “bipolar disorder,” he clarified that Michael was “somewhat atypical compared to other individuals with bipolar disorder.” Holmgren opined that despite the absence of symptoms of thought or mood disorders, Michael nevertheless suffered from mental illness. He explained: “If a person responds satisfactorily to treatment, they become in terms of a current day when you’re seeing them ... to appear quite normal.” Holmgren further stressed:

The curious, mysterious part of bipolar disorder is that without adequate medicine for stabilization, dramatic symptoms occur rapidly which result in not only a dramatic and disturbing disorder of mood, but also of thought, and this has happened in Michael's case at least six times in the last six years.

¶8 As the circuit court, relying on Holmgren's testimony, recognized, Michael's "symptoms have been controlled by medication." It further noted that if the medications were withdrawn, the symptoms would reappear, "but he continues to have the underlying mental illness and the mental illness is one which involves problems with impaired judgment and behavior." These findings are supported by the record. The fact that Michael's medication currently controls the manifestation of the symptoms that satisfy the statutory definition of mental illness, does not erase the existence of his mental illness, as that term is defined under § 51.01(13)(b), STATS. Accordingly, we affirm the order extending Michael's commitment.

By the Court.—Order affirmed.

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

