COURT OF APPEALS
DECISION
DATED AND FILED

November 2, 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. 99-1715

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

IN THE MATTER OF CAROLYN L.C.,
ALLEGED MENTALLY ILL:

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

CAROLYN L.C.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Marathon County: DOROTHY L. BAIN, Judge. *Affirmed.*

¶1 PETERSON, J. Carolyn L.C. appeals an order involuntarily committing her to the custody of the Community Board for Langlade, Lincoln and

Marathon Counties for six months.[1] Carolyn claims that the evidence presented at her mental commitment hearing was insufficient to find her dangerous within the meaning of § 51.20(1)(a)2, STATS. Because the trial court's finding that she was dangerous to herself is supported by credible evidence, the order of commitment is affirmed.

¶2 The pertinent facts are undisputed. On December 5, 1998, Wausau police officer Jennifer Schreiber responded to a call from Carolyn's mother who had reported that Carolyn had been outside for about a half-hour without any clothes on. By the time the police got to the residence, her mother had succeeded in getting Carolyn inside. When Schreiber asked what happened, Carolyn responded that "God told her to do that." Schreiber asked whether she felt like hurting or killing herself, and Carolyn responded, "[w]ell, I don't have a gun." Schreiber then asked, "Well, if you had the means of hurting yourself, would you do it?" Carolyn responded: "Well, I have no reason for going on anymore." Carolyn also told Schreiber that she was giving away her possessions. According to her mother, Carolyn had been talking about giving away all her possessions for about three months and claiming that God was instructing her that she "should just not have anything."

¶3 Schreiber took Carolyn into custody for her own protection as authorized under § 51.15, STATS. Two days later, an Emergency Detention Report was filed alleging that Carolyn was mentally ill and dangerous to herself. At a

[1] Although Carolyn's original six-month commitment has expired, her commitment was extended, keeping this appeal from being moot.

probable cause hearing held on December 9, the court ordered two medical evaluations.[2]

¶4 Michael Galli, a clinical psychologist, filed one of the reports and also testified at trial. Galli concluded that Carolyn suffers from a schizoaffective disorder that is treatable with medication. During his examination, Carolyn expressed delusional beliefs, for instance, that people were trying to kill her and the belief that people at the health care center where she was being treated were taking her property. Galli had treated Carolyn in the past and testified that her condition had worsened and that she was no longer cooperating with treatment efforts. Galli testified, to a reasonable degree of medical certainty, that Carolyn constituted a risk of dangerousness to herself requiring involuntary commitment.

¶5 The trial court found that Carolyn suffered from a major mental illness that was treatable but currently caused her to be a danger to herself under § 51.20(1)(a), STATS. It ordered her committed to the mental health system at Marathon Health Care Center (MHCC) for a period of six months. Carolyn concedes on appeal that she is mentally ill and could be treated, but claims there was insufficient evidence to support the circuit court's determination that she was dangerous to herself.

ANALYSIS

¶6 The issue of dangerousness is a mixed question of fact and law, as the court applies the facts found to the legal standard of the statute. *See* ***Wiederholt v. Fischer***, 169 Wis.2d 524, 530-31, 485 N.W.2d 442, 444 (Ct. App.

[2] Carolyn stipulated to probable cause for purposes of the hearing.

1992). When the court's legal conclusion is so intertwined with its factual findings, as it is here, we give weight to the circuit court's legal conclusion. *See* ***id***.

¶7 Here, the State bore the burden of proving by clear and convincing evidence that Carolyn presented a danger to herself. The trial court determined that Carolyn was dangerous to herself under § 51.20(1)(a)2, STATS.[3] After reviewing the record, this court concludes that the evidence was sufficient to support the trial court's finding of danger based on "such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there [was] a substantial probability of physical impairment or injury to … herself." Section 51.20(1)(a)2c, STATS.

[3] Section 51.20(1)(a)2, STATS., provides, in pertinent part:

> The individual is dangerous because he or she does any of the following:
>
> a. Evidences a substantial probability of physical harm to … herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm.
>
> ….
>
> 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 … herself. The probability of physical impairment or injury is not substantial under this subd. 2. c. 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 … herself of these services, if the individual is appropriate for protective placement under s. 55.06 …. Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for … herself, by a person other than a treatment facility, does not constitute reasonable provision for the subject individual's protection available in the community under this subd. 2. c ….

¶8 Carolyn argues that evidence of her impaired judgment notwithstanding, her single act of sitting outside naked for a half-hour does not constitute a pattern of recent acts or omissions, nor does it satisfy the substantiality requirement within the meaning of § 51.20(1)(a)2c, STATS. The record, however, shows numerous other acts that established a substantial probability of physical impairment or injury to herself. Carolyn had begun to complain about persons stealing things and trying to kill her at MHCC. She was attempting to give away all her belongings before she was taken into protective custody. She told Schreiber that she had not slept in days, and her mother testified that Carolyn had not been eating very well. Carolyn herself made suicidal-type statements to Schreiber, commenting that, although she did not have a gun, she had no reason to continue living.

¶9 Galli testified that during his previous experiences with Carolyn she had cooperated with treatment efforts, but now her delusions made her believe that people were trying to harm her. This constituted a fairly drastic change, according to Galli, and if she was untreated it would quickly lead to harm. Galli testified to a reasonable degree of medical certainty that Carolyn constituted a risk of dangerousness to herself requiring her involuntary commitment.

¶10 This court concludes that the evidence was sufficient to prove that there was a substantial probability of Carolyn suffering physical impairment or injury as set forth in § 51.20(1)(a)2c, STATS. The dangerousness prong of the commitment statute does not require that the State wait until an individual has substantially injured herself before taking protective action. A showing of acts or omissions that indicate significantly impaired judgment can be sufficient to prove a substantial probability that injury will occur.

By the Court.—Order affirmed.

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