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DISTRICT II

December 23, 2015

To:

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T.L.M.
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You are hereby notified that the Court has entered the following opinion and order:

2015AP1809-NM

In the matter of the order for involuntary medication of T.L.M.:
Sheboygan County v. T.L.M. (L.C. #2011GN62)

Before Hagedorn, J. ¹

T.L.M. appeals from an order for involuntary psychotropic medication after the trial court determined that he is mentally ill and has refused to take the medication voluntarily, and that, unless it is administered involuntarily, he would incur a substantial probability of physical harm to himself or present a substantial probability of physical harm to others as shown by one of the WIS. STAT. § 51.20(1)(a)2.a.-e. dangerousness criteria. T.L.M.'s appointed appellate counsel has

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). T.L.M. was provided with a copy of the no-merit report and informed of his right to file a response, but he has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders*, we conclude that there are no issues with arguable merit for appeal. We therefore summarily affirm the order. *See* WIS. STAT. RULE 809.21.

The no-merit report identifies as a potential issue whether the evidence was sufficient to order involuntary medication. We agree with appellate counsel's analysis and her conclusion that this issue has no arguable appellate merit.

A person subject to commitment has a right to refuse medication unless a court determines he or she is not competent to do so. WIS. STAT. § 51.61(1)(g)3. A mentally ill person is not competent to refuse medication if, after the advantages, disadvantages, and alternatives to accepting the medication are explained to the person, he or she either is "incapable of expressing an understanding" or is "substantially incapable of applying [that] understanding ... to his or her mental illness" to make an informed choice as to whether to accept or refuse the treatment or medication. Sec. 51.61(1)(g)4. The County must overcome the presumption of competence by clear and convincing evidence. *Outagamie County v. Melanie L.*, 2013 WI 67, ¶37, ¶49, 349 Wis. 2d 148, 833 N.W.2d 607. Whether the County has done so is a question of law this court reviews independently. *Id.*, ¶39.

T.L.M. was sixty-five years old at the time of the court trial. An adult protective services specialist who worked with T.L.M., his medication nurse, another nurse who had daily contact with him, and his treating psychiatrist testified to the following: T.L.M. has had a diagnosis of chronic paranoid schizophrenia since early childhood; he is delusional; he is generally

noncompliant with medication; he said he did not need it and is not mentally ill; and the more he refused his medication, the more delusional he became. The psychiatrist also testified that T.L.M. is “so mentally ill at this point” that he is incapable of expressing an understanding of the medications’ advantages and disadvantages or of making an informed choice about accepting or refusing them. Satisfied that the County met its burden of proof, the court ordered that T.L.M. be involuntarily medicated.

We agree that the County met its burden of proof. The testimonial evidence demonstrated that T.L.M. is mentally ill, that his mental illness makes him incapable of expressing an understanding of the advantages and disadvantages of accepting the medication or treatment and the alternatives, and that he is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives. *See* WIS. STAT. § 51.61(1)(g)4. Any argument challenging the sufficiency of the evidence to support the order for involuntary medication would lack arguable merit. Our independent review of the record discloses no other potentially meritorious issue for appeal. Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Martha K. Askins is relieved of further representation of T.L.M. in this matter.

Diane M. Fremgen
Clerk of Court of Appeals