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DISTRICT IV

November 15, 2016

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

2016AP572

Bradley M. Jones v. Sand Ridge Secure Treatment Center, Deborah McCulloch and Bret Holton (L.C. # 2015CV24)

Before Lundsten, Sherman and Blanchard, JJ.

Bradley Jones appeals the circuit court's order denying his motion for summary judgment and granting summary judgment in favor of Sand Ridge Secure Treatment Center and two of its employees, Director Deborah McCulloch and Officer Bret Holton. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Jones is an inpatient at Sand Ridge Secure Treatment Center as a result of his commitment under WIS. STAT. ch. 980. He filed a complaint in the circuit court challenging Sand Ridge Policy # SR 118, which requires that all outgoing patient mail be stamped to show that it is being mailed from a secure Wisconsin institution. Jones filed a motion for summary judgment, arguing that the policy violates his patient rights under WIS. STAT. § 51.61. The defendants-respondents filed a cross-motion for summary judgment. The circuit court denied Jones's motion and granted the motion of the defendants-respondents. Jones now appeals.

This court reviews summary judgment decisions de novo, applying the same legal standard and methodology employed by the circuit court. *Palisades Collection LLC v. Kalal*, 2010 WI App 38, ¶9, 324 Wis. 2d 180, 781 N.W.2d 503. “In order to be entitled to summary judgment, the moving party ... must prove that no genuine issue exists as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Lambrecht v. Estate of Kaczmarczyk*, 2001 WI 25, ¶24, 241 Wis. 2d 804, 623 N.W.2d 751.

On appeal, Jones asserts that # SR 118 violates his rights as a patient under WIS. STAT. § 51.61. He further asserts that the defendants-respondents are not entitled to discretionary act immunity from liability. We need not decide the immunity issue because, for the reasons discussed below, we conclude that Jones's statutory arguments are without merit.

We turn first to Jones's argument that policy # SR 118 violates his right to send and receive mail under WIS. STAT. § 51.61(1)(cm). We disagree. Although § 51.61(1)(cm)1. states that patients have “an unrestricted right” to send and receive sealed mail to certain persons and institutions, § 51.61(1)(cm)2. states that those rights are subject to certain limitations in the case of a patient detained or committed under WIS. STAT. ch. 980. A Sand Ridge officer or staff

member may delay the delivery of a patient's mail, open and inspect the mail for contraband, and, in certain instances, return the mail to the sender. *See* § 51.61(1)(cm)2.a. Members of the facility treatment staff also may, with authorization from the facility director, read a patient's mail under certain circumstances. WIS. STAT. § 51.61(1)(cm)2.b. Nothing in § 51.61(1)(cm) prohibits Sand Ridge from stamping outgoing mail as sent from a secure Wisconsin institution. Given that Jones's status as a sex offender and sexually violent person is a matter of public record, we fail to see how Jones might suffer any detriment from having his outgoing mail stamped according to policy # SR 118. Because Jones has no legitimate basis to conceal from recipients that he resides in a secure facility, Jones fails to persuade us that policy # SR 118 violates his right to send and receive mail under § 51.61(1)(cm).

Next, we address Jones's argument that policy # SR 118 violates his right to have the least restrictive conditions necessary to achieve the purposes of his commitment, his right to a humane psychological and physical environment, and his right to be treated with respect and recognition of his dignity and individuality under WIS. STAT. § 51.61(1)(e), (m), and (x). None of these subsections cited by Jones pertain to mail. Given our conclusion that Sand Ridge's policy of stamping outgoing mail does not violate § 51.61(1)(cm), the subsection of the patients' rights statute pertaining specifically to mail, we fail to see how the policy violates any of the statute's more general provisions.

Moreover, even if we were to accept, without deciding, Jones's vague assertion that his constitutional rights have been violated in some way, this court has recognized that the constitutional rights of involuntarily committed persons are not absolute and might at times be infringed in order to serve other predominating governmental interests. *See West v. Macht*, 2000 WI App 134, ¶17, 237 Wis. 2d 265, 614 N.W.2d 34. In *West*, this court stated that, to be

lawful, “the restriction on the involuntarily committed’s constitutional rights must be reasonably related to legitimate therapeutic and institutional interests. Such interests might include the orderly administration of the facility, the security of patients, visitors and staff, and the therapeutic goals of all the patients.” *Id.* (citation omitted).

In support of its summary judgment motion, the defendants-respondents submitted the affidavit of Doug Bellile, the acting director of Sand Ridge. Bellile averred that the mail stamping policy “is designed to reduce the risks to the public of certain behaviors that some patients have exhibited and to promote treatment.” Jones did not present any evidence to the contrary and, as such, we conclude, as did the circuit court, that the defendants-respondents were entitled to summary judgment.

IT IS ORDERED that the order is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals