



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

November 30, 2016

To:

Hon. Kristine E. Drettwan
Circuit Court Judge
P.O. Box 1001
Elkhorn, WI 53121

Kaitlin A. Lamb
Assistant State Public Defender
735 N. Water St., Ste. 912
Milwaukee, WI 53202

Sheila Reiff
Register in Probate
Walworth County Courthouse
P.O. Box 1001
Elkhorn, WI 53121-1001

Estee Elizabeth Scholtz
Assistant Corporation Counsel
Walworth County Judicial Center
P.O. Box 1001
Elkhorn, WI 53121-1001

M. M. L.
N8525 County Road H
Whitewater, WI 53190

You are hereby notified that the Court has entered the following opinion and order:

2016AP762-NM

Walworth County v. M.M.L. (L.C. # 2014ME45)

Before Hagedorn, J.¹

M.M.L. appeals from an order extending for one year her commitment for mental health treatment under WIS. STAT. § 51.20, and authorizing the involuntary administration of medication and treatment. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967).² M.M.L. received a copy of the report, was advised of her right to file a response, and has elected not to do so. Upon

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.

² The appeal was filed April 13, 2016 as a merit appeal. It was converted to a no-merit appeal on counsel's motion on September 12, 2016.

consideration of the report, we summarily affirm the order because the expiration of the commitment and a subsequent extension render the appeal moot. *See* WIS. STAT. RULE 809.21.

M.M.L. was first committed for treatment on May 5, 2014. The initial commitment order was affirmed on appeal. *Walworth Cty. v. M.M.L.*, No. 2014AP2845, unpublished slip op. (WI App July 15, 2015). M.M.L.'s initial commitment was extended for one year on November 5, 2014. The extension order was summarily affirmed on appeal. *Walworth Cty. v. M.M.L.*, No. 2015AP2305-NM, unpublished op. and order (WI App Feb. 3, 2016). This is an appeal from an order entered May 5, 2015 extending the commitment and involuntary administration of medication and treatment for one year. Thus, the commitment and related medication order expired May 5, 2016. The no-merit report indicates that M.M.L.'s commitment was extended on April 28, 2016, and that no involuntary administration of medication order was entered with the subsequent extension.

The no-merit report addresses whether there was sufficient evidence to support the extension of M.M.L.'s commitment and involuntary administration of medication. As to the commitment extension, the report concludes that it was a proper application of the controlling law to the facts of record and therefore, there are no arguably meritorious issues. As to the involuntary administration of medication, the report concludes that even if the doctor's testimony

and report failed to sufficiently address and discuss the statutory standard,³ any potential issue is moot because M.M.L. is no longer subject to the medication order.

We have not conducted a review of the record because even if issues of arguable merit exist for an appeal, the appeal is moot because the commitment extension and the related medication order have expired. “An issue is moot when its resolution will have no practical effect on the underlying controversy.” *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶3, 233 Wis. 2d 685, 608 N.W.2d 425. This court does not generally consider moot issues. *Id.*

M.M.L. is no longer subject to the commitment extension and related medication order and an appellate ruling on any potential appellate issue will have no practical effect on her. *See G.S. v. State*, 118 Wis. 2d 803, 805-06, 348 N.W.2d 181 (1984) (where the appellant is no longer subject to the commitment order, the case is rendered moot). Moreover, the record reflects that M.M.L.’s initial commitment order, which was affirmed on appeal, included a firearms prohibition. Also, her current commitment is under a subsequent extension order and not the one on appeal. Thus, even if the 2015 commitment order was reversed on appeal, M.M.L. would still be subject to the firearms restriction and subject to commitment.

Because any potential appellate issues are moot, there are no arguable issues for appeal. For that reason, we may relieve appointed counsel of the duty of representation under WIS. STAT. RULE 809.32(3).

³ The no-merit report observes that the doctor testified only that M.M.L. was not capable of making an informed choice about medication where the standard under WIS. STAT. § 51.61(1)(g)4.b is whether the person is “substantially incapable” of applying an understanding of the advantages and disadvantages of medication or treatment. The report also notes that the doctor’s report states that M.M.L. is “substantially incapable of understanding and applying” the advantages and disadvantages of treatment where the standard under § 51.61(1)(g)4.b is whether the person is incapable of “applying an understanding” of the advantages and disadvantages.

Upon the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Kaitlin A. Lamb is relieved from further representing M.M.L. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals