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DISTRICT III

December 20, 2016

To:

Hon. Nancy J. Krueger
Circuit Court Judge
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You are hereby notified that the Court has entered the following opinion and order:

2015AP2576-NM Outagamie County Department of Health and Human Services v.
C. M. J. (L. C. No. 1988ME6)

Before Hruz, J.¹

Counsel for C. M. J. has filed a no-merit report concluding there is no basis to challenge an order for extension of commitment. C. M. J. was advised of his right to respond and has not responded. Upon our independent review of the record, we conclude no issue of arguable merit appears, and the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

A statement of emergency detention was filed on December 21, 1995. An order for commitment was entered on January 3, 1996, and an order for involuntary medication and treatment was entered on January 5, 1996. C. M. J. has been under a WIS. STAT. ch. 51 commitment since that time.²

Clinical psychologist Dr. Lawrence Bergs, Ph.D., testified at the extension hearing that he attempted to examine C. M. J. in anticipation of the hearing, but C. M. J. refused to cooperate with the examination. After reviewing C. M. J.'s treatment records at Trempealeau County Health Care Center (TCHCC), Bergs concluded C. M. J.'s diagnosis included personality disorder, not otherwise specified; unspecified drug and other substance abuse; bipolar disorder, not otherwise specified; and post-traumatic stress disorder, not otherwise specified. Bergs stated C. M. J.'s behavior in refusing medication, his intensely psychotic and paranoid symptoms, including delusions about hearing voices through the ventilation system, as well as his "disturbing" behavior at TCHCC with staff and other residents, supported the opinion that C. M. J. was dangerous to himself or others. Bergs testified that medication is the only way to treat C. M. J.'s bipolar disorder, and that if he discontinued his medication, his condition would deteriorate.

C. M. J.'s social worker testified C. M. J. engages in disruptive behavior that is psychotic, including physical aggression toward other facility residents. The social worker specifically mentioned a recent incident where C. M. J. struck another resident several times in the head before staff could intervene. She also testified C. M. J. is not cooperative with treatment and

² The record indicates C. M. J. has been under a commitment order since 1988. A brief period of community placement occurred in 2014.

engages in verbal outbursts, including loud verbal threats. Bergs opined that “without the very high and skilled level of care that TCHCC provides there would be even more disturbed behavior than we are seeing now.” There is no arguable issue concerning the sufficiency of the evidence to extend C. M. J.’s commitment, and the evidence established TCHCC as the least restrictive environment. *See* WIS. STAT. § 51.20(13)(f); *see also State v. W.R.B.*, 140 Wis. 2d 347, 351-52, 411 N.W.2d 142 (Ct. App. 1987).

There is also no basis to challenge the involuntary medication order. Bergs stated C. M. J. is not competent to refuse medication. He stated C. M. J.’s “mental illness is tenuously controlled with medication,” and although the medication has not been entirely effective in managing C. M. J.’s symptoms, if C. M. J. discontinued the medication his condition would deteriorate. Bergs was unable to explain whether C. M. J. understood the advantages, disadvantages, and alternatives to the medication because he refused to cooperate during the examination. However, the medication was critical to C. M. J.’s treatment and, without the medication, C. M. J. would present a substantial danger to himself or others. C. M. J.’s social worker confirmed that opinion. C. M. J. was thus a proper subject for involuntary medication and treatment. *See* WIS. STAT. § 51.61(1)(g) and (h); *see also Outagamie County v. Melanie L.*, 2013 WI 67, ¶¶9, 32, 349 Wis. 2d 148, 833 N.W.2d 607.

This court’s independent review of the record discloses no other potential issues for appeal. Therefore,

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

IT IS FURTHER ORDERED that attorney Roberta Heckes is relieved of further representing C. M. J. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals