COURT OF APPEALS DECISION DATED AND FILED

May 19, 2016

Diane M. Fremgen
Clerk of Court of Appeals

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* WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2016AP255-FT

Cir. Ct. No. 2015ME243

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

IN THE MATTER OF THE MENTAL COMMITMENT OF S. J. M.:

ROCK COUNTY,

PETITIONER-RESPONDENT,

V.

S. J. M.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Rock County: BARBARA W. MCCRORY, Judge. *Affirmed*.

¶1 SHERMAN, J.[1] S.J.M. appeals an order involuntarily committing him to the custody of Rock County for the purposes of mental health treatment. S.J.M. contends that Rock County failed to prove by clear and convincing evidence that S.J.M. is dangerous under WIS. STAT. § 51.20(1)(a)2.b. Because the evidence presented at S.J.M.'s commitment hearing supports the circuit court's determination that S.J.M. is dangerous, this court affirms.

DISCUSSION

¶2 This court's review of a WIS. STAT. ch. 51 involuntary commitment order presents a mixed question of fact and law. *See* ***K.N.K. v. Buhler***, 139 Wis. 2d 190, 198, 407 N.W.2d 281 (Ct. App. 1987). This court will uphold the circuit court's factual findings unless they are clearly erroneous, but reviews de novo whether those facts fulfill the statutory standard. *See* ***id.*** In reviewing whether sufficient evidence supports an order for commitment, this court accepts all reasonable inferences from the facts in the record that support the circuit court's findings. ***Outagamie Cty. v. Melanie L.***, 2013 WI 67, ¶38, 349 Wis. 2d 148, 833 N.W.2d 607.

¶3 To involuntarily commit an individual, the County must prove by clear and convincing evidence that the individual is mentally ill, is a proper subject for treatment, and is dangerous. *See* § 51.20(1)(a)1.-2., (13)(e). On appeal, S.J.M. challenges the sufficiency of the circuit court's determination that he is dangerous under WIS. STAT. § 51.20(1)(a)2.b. Section 51.20(1)(a)2.b. provides that an

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2013-14). Pursuant to a February 19, 2016 order, this case was placed on the expedited appeals calendar. All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

individual is dangerous if the individual "[e]vidences a substantial probability of physical harm to other individuals as manifested by evidence … that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do serious physical harm."

¶4 In seeking the involuntary commitment of S.J.M., Rock County asserted that S.J.M. was dangerous under WIS. STAT. § 51.20(1)(a)2.b. because he had threatened to cause his mother serious physical harm, which placed S.J.M.'s mother in reasonable fear of violent behavior and serious physical harm to herself by S.J.M. S.J.M. argues first that Rock County failed to present sufficient evidence to support a determination that S.J.M. had threatened to cause his mother serious physical harm. I am not persuaded.

¶5 At the commitment hearing, Dr. Marshall Bales testified that based upon his examination of S.J.M., he believed that S.J.M. suffers from paranoid schizophrenia. Dr. Bales testified at the hearing that S.J.M. is "very dangerous," and that S.J.M. "has been threatening to his mother." In a report submitted to the circuit court, Dr. Bales stated that when S.J.M. was detained, S.J.M. was "noted to be making contact with [S.J.M.'s] mother and threatening her." Dr. Bales stated that S.J.M. had admitted that he had stated that "[i]t is as if they are trying to get me to kill [my mother]." Dr. Bales stated in his report that S.J.M. had made threats to his mother over the phone and that legal charges had been filed against him as a result. Dr. Bales also stated in his report that S.J.M. had left his mother messages that S.J.M. wished she would die, and that S.J.M. had threatened his stepfather.

¶6 Also at the commitment hearing Dr. Kevin Miller testified that he had examined S.J.M. and that based on that examination, he believed that S.J.M.

"suffers from paranoid-type schizophrenia based on delusions and a period of symptoms across years." Dr. Miller testified that S.J.M. "presents a substantial risk primarily to others," an opinion that Dr. Miller based on "[t]he net result of [his] evaluation [of S.J.M.] and review of collateral records indicated that [S.J.M.] has allegedly engaged in threatening behavior toward his mother." Dr. Miller also testified that S.J.M. has sent his mother "voluminous [] texts of a threatening and hostile nature." In a report submitted to the court, Dr. Miller set forth an example of one text to his mother, wherein S.J.M. stated "you are a faggot Nazi, you should be given the death penalty, you idiot cunt, I hate you so extremely deeply for buying me eggs in a Styrofoam package just because you know that I don't and never would, I hate you a little more every day you obtuse cunt." Dr. Miller also noted in his report that S.J.M. acknowledged that his mother had alleged that he had threatened to kill her, but maintained that those allegations were false.

¶7 S.J.M. argues that the evidence before the circuit court "makes clear that S.J.M. was troubled and that his relationship with his mother was strained," but that it does not establish that he threatened to cause his mother physical harm. I conclude, however, that from the reports and testimony of Drs. Bales and Marshall, which included admissions by S.J.M. that he had threatened to kill his mother, the circuit court had sufficient evidence upon which to find that S.J.M. had threatened to cause his mother serious physical harm.

¶8 S.J.M. also argues that the evidence was not sufficient to support the circuit court's determination that his mother feared violent behavior and serious harm from him, and that those fears were reasonable. S.J.M. concedes that Dr. Bales' report states that S.J.M.'s mother had stated that S.J.M.'s behavior had worsened over the last six months and that she was "in fear for her safety." However, S.J.M. appears to be arguing that this evidence is insufficient because "it

is utterly devoid of detail." S.J.M. does not explain to this court why this evidence is insufficient, nor does he explain what additional details are necessary to establish that his mother was in fear besides evidence that she had stated that she was in fear. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (we need not consider undeveloped arguments). Nevertheless, even if S.J.M. had presented this court with a developed argument, I would conclude that evidence that S.J.M.'s mother had told authorities that S.J.M.'s behavior had placed her in fear for her safety is sufficient to support the circuit court's determination that S.J.M.'s mother feared violent behavior or serious harm from S.J.M.[2]

¶9 S.J.M. also argues that Rock County failed to present sufficient evidence establishing that S.J.M.'s mother's fears were reasonable. I disagree. At the hearing, Dr. Miller testified that individuals with paranoid-type schizophrenia are in general more violent "toward their family … and specifically toward their mother" than the average person. The testimony of Drs. Bales and Miller established that S.J.M. was suffering from paranoid schizophrenia and that S.J.M. had threatened his mother on more than one occasion, including threatening to kill her. I conclude that such evidence is sufficient to support the circuit court's determination that S.J.M.'s mother's fears were reasonable.

¶10 Accordingly, for the reasons discussed above, I conclude that the evidence was sufficient to support the circuit court's determination that S.J.M. was dangerous under WIS. STAT. § 51.20(1)(a)2.b., and I affirm the court's order of involuntary commitment.

[2] S.J.M. has not challenged the evidence on any basis other than its sufficiency.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.