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DISTRICT III

January 23, 2018

To:

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

2016AP2047-NM Oneida County v. M. C. B.
(L. C. No. 2003ME89)

Before Stark, P.J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Counsel for M.C.B. has filed a no-merit report concluding there is no basis to challenge an order for extension of commitment and involuntary medication. M.C.B. was advised of his right to respond and has not responded. Upon our independent review of the record as mandated

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

by *Anders v. California*, 386 U.S. 738 (1967), we conclude there are no issues of arguable merit and the order is summarily affirmed. WIS. STAT. RULE 809.21.

There is no arguable basis for challenging the sufficiency of the evidence. A commitment under WIS. STAT. ch. 51 is subject to extension under WIS. STAT. § 51.20(13)(g)3. if the petitioning party proves by clear and convincing evidence the individual: (1) is mentally ill; (2) is a proper subject for treatment; and (3) meets one of the statutory criteria for dangerousness.

Testimony at the extension hearing showed M.C.B. was detained in Wausau and transported to the hospital after police were notified of a disturbance at a hotel. M.C.B. told doctors that he had been hitchhiking to Illinois and stopped at the hotel. The hotel staff asked him to leave, but he refused. M.C.B. confirmed on cross-examination that he was hitchhiking to Illinois to see a girlfriend he had not seen since middle school and that God had told him they were to be married. M.C.B. further confirmed on cross-examination his desire for cocaine but stated that he would not use it until he is king of the United States and could legalize its use.

A doctor testified that M.C.B. had admitted to him that he had heard the voice of God telling him to kill people. M.C.B. also destroyed a book in a bookstore, calling it “the devil’s creation,” after refusing to take his medication. M.C.B. also indicated to a doctor that the only medication he wanted was cocaine. Even after the doctor informed him of the dangers of cocaine, M.C.B. told the doctor “the disciples did not get sick and so [I will] not.” M.C.B. further indicated to the doctors he was Moses and was going to be king of the United States.

Three doctors testified that M.C.B. had paranoid schizophrenia, a disorder within the WIS. STAT. ch. 51 definition of mental illness because it is a disorder of thought that impairs M.C.B.’s behavior to a severe degree if he is not under a treatment order. All three doctors also

agreed that M.C.B. was a proper subject for treatment and that medication had therapeutic value for M.C.B. The doctors also agreed that if treatment were withdrawn, M.C.B. would be unable to avail himself of available community services, would be in imminent danger, and would become a proper subject for commitment, thus meeting the definition of dangerous under WIS. STAT. § 51.20(13)(g)3.

There is also no basis to challenge the involuntary medication order. An individual subject to commitment has a right to refuse treatment and medication unless a court determines he or she is not competent to do so. WIS. STAT. § 51.61(1)(g)3. A person may not be found incompetent to refuse medication or treatment unless there is evidence that, after the advantages and disadvantages to accepting medication or treatment are explained to the person, he or she is either incapable of expressing an understanding of the advantages and disadvantages, or substantially incapable of applying that understanding to his or her mental illness in order to make an informed choice of whether to accept the treatment or medication. Sec. 51.61(1)(g)4.

Testimony from several doctors at the extension hearing established that the advantages and disadvantages of the medications were explained to M.C.B. However, the doctors did not believe M.C.B. was capable of expressing an understanding of the advantages and disadvantages of accepting medication and the alternatives to it. They explained that medication is a critical part of M.C.B.'s treatment that helps to alleviate the symptoms of schizophrenia. Testimony also established that M.C.B.'s schizophrenia was treatable and the treatment was likely to alleviate his symptoms and to reduce danger "to a degree." However, M.C.B. lacked insight into the need for treatment and did not believe himself to be mentally ill or in need of medication, which he referred to as "tools of the devil." Numerous witnesses testified regarding M.C.B.'s insistence that he does not have a mental illness, as well as his history of refusing medication and

the problems that stemmed from that refusal. M.C.B. was thus a proper subject for involuntary medication.

This court's independent review of the record discloses no other potential issues for review.

Therefore,

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

IT IS FURTHER ORDERED that attorney Sara Kelton Brelie is relieved of further representing M.C.B. in this matter.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Acting Clerk of Court of Appeals