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DISTRICT III/I

March 14, 2018

To:

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

2017AP2103-NM

In the matter of the mental commitment of A.D.S.Z:
Outagamie County v. A.D.S.Z. (L.C. # 2014ME66B)

Before Brennan, 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).

A.D.S.Z. appeals from orders of the circuit court that committed him for six months of outpatient mental health treatment and that authorized involuntary treatment and administration

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

of psychotropic medication. Appellate counsel, Leonard D. Kachinsky, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32. A.D.S.Z. was advised of his right to file a response, but he has not responded. Upon this court's independent review of the record, as mandated by *Anders*, and counsel's report, we conclude there is no issue of arguable merit that could be pursued on appeal. We therefore summarily affirm the orders.

A petition for emergency detention was filed with the circuit court in early July 2017, indicating law enforcement had cause to believe A.D.S.Z. was mentally ill, that he was evincing behavior constituting a substantial probability of physical harm to himself or others; and that taking A.D.S.Z. into custody was the least restrictive alternative necessary to meet A.D.S.Z.'s needs. The petition and attached police report alleged that A.D.S.Z., who has diagnoses of bipolar and schizoaffective disorders, had been off his medication for over two weeks and was screaming outside the home he shares with his mother. He was displaying multiple warning signs of decompensation, which his mother recognized from paperwork provided to her after A.D.S.Z. had a prior mental health hold. His mother reported that she no longer felt safe because of his escalating behavior, and she feared he would hurt himself or others.

Counsel was appointed and a probable cause hearing was timely held pursuant to WIS. STAT. § 51.20(7)(a). After hearing testimony from A.D.S.Z.'s mother and A.D.S.Z., the court commissioner found there was probable cause to believe A.D.S.Z. was mentally ill and evincing behavior that would "constitute a substantial probability of physical harm to [him]self or others." The commissioner did not expressly find that A.D.S.Z. was a "proper subject for treatment," *see* WIS. STAT. § 51.20(7)(a), (1)(a)1., but did place A.D.S.Z. at Winnebago Mental Health Institute and authorized the treatment teams to determine if A.D.S.Z. could be released prior to the final

hearing. Thus, it is clear that the commissioner implicitly deemed A.D.S.Z. a proper subject for treatment.

Two examiners were appointed pursuant to WIS. STAT. § 51.20(9)(a)1., and both submitted their reports more than forty-eight hours before the final hearing. *See* WIS. STAT. § 51.20(10)(b). A final hearing was timely held, *see* WIS. STAT. § 51.20(7)(c), and the circuit court ultimately entered an order committing A.D.S.Z. to outpatient treatment for six months and an order authorizing involuntary administration of medication during the commitment period.² Thus, as counsel concluded in the no-merit report, any challenge to A.D.S.Z.'s commitment and the medication order based on a failure to comply with mandatory statutory deadlines or procedures would lack arguable merit.

The no-merit report also addresses whether sufficient evidence supports the commitment and involuntary medication orders. The no-merit report contains correct statements of the applicable statutes and legal standards for commitment and involuntary administration of medication and properly applies the law to the facts. We agree with appellate counsel that sufficient evidence supports the commitment order. Specifically, Marshall J. Bales, a psychiatrist and licensed physician who prepared one of the pre-hearing reports, testified about his evaluation of A.D.S.Z. and his professional conclusions. Bales' testimony also established that he had explained proposed medication to A.D.S.Z., as required by *Outagamie Cty. v.*

² The six-month commitment order was entered in July 2017 and expired in January 2018, so we have considered whether to dispose of this appeal on mootness grounds. However, based on subsequent events listed in the docket entries that are outside the scope of our current review, it is unclear whether A.D.S.Z. might still be subject to effects of the orders appealed from, so we decline to invoke mootness to dispose of this appeal.

Melanie L., 2013 WI 67, ¶67, 349 Wis. 2d 148, 833 N.W.2d 607. Although A.D.S.Z. gave a sworn statement to the court in which he disputed some of Bales' testimony, the circuit court was not required to accept A.D.S.Z.'s testimony. Accordingly, we are satisfied that there would be no arguable merit to a challenge to the sufficiency of the evidence supporting the orders.

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Leonard D. Kachinsky is relieved of further representation of A.D.S.Z. in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals