

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 2, 2005

Cornelia G. Clark
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. 04-1241
STATE OF WISCONSIN**

Cir. Ct. No. 03ME000211

**IN COURT OF APPEALS
DISTRICT II**

**IN THE MATTER OF THE MENTAL COMMITMENT
OF ANDREW O.:**

WINNEBAGO COUNTY,

PETITIONER-RESPONDENT,

V.

ANDREW O.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Winnebago County:
WILLIAM H. CARVER, Judge. *Dismissed.*

¶1 BROWN, J.¹ In this appeal, Andrew O. challenges a six-month involuntary mental health commitment. The term of his commitment has expired. Winnebago County has not sought to extend it and could not do so even if it so desired. Thus, no matter how we resolve the various issues Andrew raises with respect to why his commitment was defective, our decision will have no effect on his present or future interests. Accordingly, we dismiss the appeal as moot.

¶2 On May 20, 2003, a Petition for Involuntary Commitment for Mental Health Care was filed against Andrew, an inmate of the state correctional system. On June 4, the circuit court found probable cause to believe that Andrew was mentally ill and a proper subject for treatment, pursuant to WIS. STAT. § 51.20(1)(ar). It scheduled a final hearing for June 24, at which time it concluded that grounds for commitment existed pursuant to this section and signed an order committing Andrew to the care of the Department of Health and Family Services for a period of six months. This six-month term expired in December 2003. Now Andrew appeals this expired commitment.

¶3 Before reaching the various grounds of error Andrew alleges, we must resolve the parties' debate over whether the issues have become moot. A moot issue is one that circumstances have rendered purely academic, such that our decision would 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. Ordinarily, we do not consider such issues. *Id.*

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2003-04). All subsequent references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

¶4 Andrew acknowledges that his commitment from June 24, 2003 to December 2003 is over and done with. He appears to recognize that even if we agreed that the circuit court improperly committed him at that time, our decision would not have any effect on him now. Nonetheless, Andrew contends that a live controversy remains because if the County ever seeks to recommit him, this prior commitment can somehow be used against him so as to relieve the County from having to prove a recent overt act, attempt, or threat of harm to himself or others. *See* WIS. STAT. § 51.20(1)(am). He alleges that such recommitment proceedings are currently being instituted.

¶5 We reject Andrew's conclusion that this June 24 to December 2003 commitment could have any effect on a current commitment proceeding. We first note that the record does not reveal any present attempts by the County to commit Andrew. We will not rely on allegations undocumented in the record. *Olson v. Peabody*, 121 Wis. 675, 679-80, 99 N.W. 458 (1904); *Jenkins v. Sabourin*, 104 Wis. 2d 309, 313, 311 N.W.2d 600 (1981). Moreover, we reject Andrew's characterization of this alleged current proceeding as an "extension" of the 2003 one. Initial commitments cannot exceed six months. *G.O.T. v. Rock County*, 151 Wis. 2d 629, 633, 445 N.W.2d 697 (Ct. App. 1989); WIS. STAT. § 51.20(13)(g)1. Precisely for this reason, the law requires that any extension hearing take place *before* the initial commitment expires. *G.O.T.*, 151 Wis. 2d at 633. Nothing in the record reveals that the circuit court held such a hearing before Andrew's six-month commitment term ended. Thus, any proceedings currently underway, if indeed there are any, contemplate an entirely new commitment, not the extension of an old one.

¶6 We dismiss Andrew's appeal. His commitment is over and cannot be extended. Therefore, it makes no difference with respect to either Andrew's

present interests or his future commitment status how we resolve the issues he raises. Because such resolution is purely academic, those issues are moot, and we need not consider them.

By the Court.—Order dismissed.

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

