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DISTRICT III

August 25, 2015

To:

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

2015AP467-NM

Brown County v. Brittany S. (L. C. #2009GN43)

Before Seidl, J.¹

Counsel for Brittany S. filed a no-merit report concluding there is no arguable basis for Brittany to challenge a protective placement and involuntary medication order. Brittany was advised of her right to respond to the report and has not responded. Upon this court's independent review of the record, no issue of arguable merit appears.

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.

Brittany was initially protectively placed in June 2009 based on mental and behavioral problems that arose following a 2001 traffic accident that caused serious brain injuries. In 2012, the court terminated the protective placement based on Brittany's improved medical condition. However, in July 2014, the County filed the present petition for protective placement and involuntary medication based on deterioration of Brittany's medical condition.

The record discloses no arguable basis for challenging the circuit court's findings that (1) Brittany has a primary need for residential custody and care; (2) she has been determined to be incompetent; (3) as a result of developmental disabilities, chronic mental illness, or other like incapacities, she is so totally incapable of providing for her own care and custody as to create a substantial risk of serious harm to herself or others, either by overt acts or omissions; and (4) the disability is permanent or likely to be permanent. *See* WIS. STAT. § 55.08(1). A report prepared by Dr. Rebecca Angle recommended protective placement with twenty-four-hour supervision in a secure setting. The report noted Brittany's unsuccessful attempts to live independently, indicating she suffers from delusions, paranoia, poor insight, and aggression. She was diagnosed with bipolar disorder, psychosis NOS, conduct disturbance, impulse control disorder, traumatic brain injury, convulsions, orbital disease, ptosis of eyelid, hyperlipodemia, urge incontinence, hematuris, and organic mental disorder.

While confined in an institution pending trial, Brittany was required to take psychotropic medications. Even with those medications, she continued to experience delusions involving her belief that she was pregnant, that there were monitoring devices in the bathrooms, and that she has vaginal infections. The report indicated Brittany demonstrated minimal insights into her mental and physical health, believing she was institutionalized "for a medication check only" and she was institutionalized five years earlier "[s]itting someone else's legal sentence." She

reported she takes vitamins, but should not take them because she is “immune to them” and takes Abilify “because she got into a fight five years ago.” When asked about her previous living arrangements, she said she was evicted from her apartment because she asked another resident for a cigarette. She refused to take showers because “the showers are dirty and I don’t have aids any more yet.” She said, “I can’t have my meds because my brain would crack.”

Doctor Marshall Bales testified regarding Brittany’s paranoia and delusional states, stating Brittany does not believe she is mentally ill or has a problem, but believes others were trying to take her baby and believes Dr. Bales was part of a conspiracy against her. Bales concluded Brittany’s condition is permanent and unlikely to improve.

A Brown County adult protective services employee testified that Brittany believed her medication gave her seizures, strokes, and infections. During the time Brittany was returned to the community, her overall well-being deteriorated and she stopped taking her medication.

Brittany testified she received overdoses of Abilify that caused her to have seizures. She stated she was taken to the mental facility because she “got mad three times” and “they” put “coke in my drink.”

Brittany’s guardian ad litem recommended protective placement in a secure facility despite Brittany’s objection to placement anywhere other than her own unsupervised apartment.

As the arbiter of the witnesses’ credibility, *see Onderdonk v. Keepman*, 81 Wis. 2d 687, 697, 260 N.W.2d 803 (1978), the court could reasonably accept the testimony and opinions of the medical experts and reject Brittany’s explanations for her behavior and thought patterns. In

addition to the experts' testimony, Brittany's disruptive conduct during the trial supports the court's findings.

The record also supports the circuit court's finding that the least restrictive environment for Brittany was a locked, supervised facility. In reaching this conclusion, the court was required to consider (1) the need for health, social, or rehabilitative services; (2) the need for supervision; (3) the reasonableness of the placement; (4) the financial limitations of funding required; and (5) the number of actual or projected individuals who will need protective placement and the limited funds. *See* WIS. STAT. § 55.12(4). Doctor Bales testified Brittany needed a guardian and a "very structured living environment" that included a locked, secured facility with twenty-four-hour supervision. He noted that even in the skilled nursing facility where she was treated pending trial, she was "very challenging, paranoid, antagonistic, and difficult in numerous ways" Bales' testimony provides an adequate factual basis for the court's decision.

Finally, the record discloses no arguable basis for challenging the order for involuntary medication. Under WIS. STAT. § 55.14, the court may order involuntary administration of psychotropic drugs upon finding that: (1) a physician has prescribed the medication; (2) the individual is not competent to refuse medication; (3) the individual has refused medication; (4) the individual's condition would be improved by administration of the medication; and (5) unless the medication is administered involuntarily, the individual will incur a substantial probability of harm. An individual is not competent to refuse medication if, after the advantages and disadvantages of the appropriate treatment and alternatives are explained, the individual is incapable of expressing an understanding of the appropriate treatment options. *Id.* Brittany's statement about the perceived effects of the drugs, her history of noncompliance, and Bales' testimony that Brittany was unable to comprehend the advantages of psychotropic medication

and was unable to weigh the risks, benefits, advantages and disadvantages constitute sufficient evidence to support the court's finding.

This court's independent review of the record discloses no other potential issue 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 her obligation to further represent Brittany S. in this matter.

Diane M. Fremgen
Clerk of Court of Appeals