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**DISTRICT I**

November 26, 2024

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

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2023AP1295-CR

State of Wisconsin v. J.L.S. (L.C. # 2021CF3894)

Before Donald, P.J., Geenen and Colón, JJ.

**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).**

J.L.S. (“Judaea”)<sup>1</sup> appeals an order of commitment for treatment, in which the circuit court ordered the involuntary administration of medication for Judaea to return him to competency for his probation revocation hearing. Based upon our review of the briefs and

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<sup>1</sup> To preserve confidentiality and promote readability, the appellant’s brief referred to J.L.S. by the pseudonym “Judaea.” See WIS. STAT. RULE 809.19(1)(g) (2021-22). For consistency, we use the same pseudonym in this opinion.

All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We dismiss this appeal because we conclude that the matter is moot.

In December 2021, Judaea pled guilty to one count of burglary as a party to a crime. The circuit court imposed an evenly bifurcated four-year sentence which was stayed, and Judaea was placed on probation for three years.

In January 2023, the Department of Corrections sought to have Judaea's probation revoked for a number of violations relating to his aggressive behavior while living under community supervision. The matter was scheduled for a revocation hearing in February 2023; however, prior to the hearing, both Judaea's counsel and probation agent raised concerns about his competency. The administrative law judge who was to hear the case referred the matter to the circuit court for a determination regarding Judaea's competency.

A competency hearing was held in April 2023, where the circuit court heard testimony from the psychologist who evaluated Judaea. Based on that testimony, as well as its own observations during interactions with Judaea, the court found Judaea not competent to proceed but likely to regain competency within the statutory time frame. The court therefore suspended the revocation proceedings, and Judaea was placed at the Wisconsin Resource Center (WRC) for treatment to competency.

Judaea has a long history of mental health episodes and substance abuse problems. He has had numerous contacts with the Behavioral Health Division (BHD) dating back to 2010, although those contacts did not previously result in inpatient services. Upon his admission to the WRC, Judaea began "exhibit[ing] instances of bizarre behavior," including a "preoccupa[tion] with his fecal matter," which he repeatedly spread all over his cell and himself. A WRC

psychiatric provider noted that Judaea was “stuporous and internally occupied.” Judaea was prescribed the antipsychotic drug risperidone, but he was not consistently compliant in taking it.

After a subsequent evaluation, the psychologist concluded that Judaea remained incompetent to proceed, but that his mental illness was “treatable.” Given his inconsistent compliance with taking the prescribed medication, the psychologist opined that an order for the involuntarily administration of medication would be required to return him to competency.

A motion for an order for the involuntary administration of medication was filed by WRC on June 28, 2023, and a hearing was held on July 14, 2023. After hearing testimony from Judaea’s treating psychiatrist, the circuit court granted the motion for the involuntary administration of medication to Judaea. Judaea moved for the order to be stayed pending appeal, which was granted by the circuit court.

This appeal followed. The issues raised by Judaea include that the circuit court lost competency by failing to hold the hearing on the motion for an order for the involuntary administration of medication within the statutory time frame; that the circuit court failed to make necessary statutory findings regarding Judaea’s competency to refuse medications; and that the State failed to prove the *Sell*<sup>2</sup> factors by clear and convincing evidence. Furthermore, this court requested additional briefing from the parties to address any impact of our decision in *State v. J.D.B.*, 2024 WI App 61, \_\_ Wis. 2d \_\_, \_\_ N.W.3d \_\_, on this matter.

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<sup>2</sup> See *Sell v. United States*, 539 U.S. 166 (2003).

In its supplemental brief, the State concedes that, based on our decision in *J.D.B.*, the proposed treatment plan for Judaea “would fall short of *Sell*’s requirement of an individualized treatment plan, as interpreted by *J.D.B.*, and reversal would be in order.” However, the State argues that this matter is now moot; not only did the circuit court’s order for the involuntary administration of medication to Judaea expire as of April 4, 2024, but Judaea was found to have been restored to competency on March 4, 2024. The circuit court therefore reinstated the revocation proceedings, and the matter was referred back to the Division of Hearings and Appeals.

“An issue is moot when its resolution will have no practical effect on the underlying controversy.” *Portage Cnty. v. J.W.K.*, 2019 WI 54, ¶11, 386 Wis. 2d 672, 927 N.W.2d 509 (citation omitted). We generally decline to reach moot issues. *Id.*, ¶12. In fact, our supreme court has previously determined that when an appellant appeals a medication order “‘to which he or she is no longer subjected,’ the case is moot.” *State v. Fitzgerald*, 2019 WI 69, ¶21, 387 Wis. 2d 384, 929 N.W.2d 165 (citing *Winnebago Cnty. v. Christopher S.*, 2016 WI 1, ¶31, 366 Wis. 2d 1, 878 N.W.2d 109). “Mootness is a question of law that we review independently[.]” *PRN Assocs. LLC v. DOA*, 2009 WI 53, ¶25, 317 Wis. 2d 656, 766 N.W.2d 559.

We conclude that this case is moot. Judaea is no longer subjected to the involuntary medication order; in fact, he was found competent, and his revocation proceedings have moved forward. Furthermore, the order for involuntary medication at issue in this case was never enforced as it was immediately stayed upon being entered, pending this appeal.

Although there are exceptions under which we may review issues that are otherwise moot,<sup>3</sup> the facts of this case do not compel review based on any of those exceptions. Furthermore, Judaea has not demonstrated—or even argued—that any of the exceptions are applicable in this case. We do not develop arguments for parties.<sup>4</sup> See *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992).

Therefore, resolving the issues raised in this appeal “will have no practical effect on the underlying controversy.” See *J.W.K.*, 386 Wis. 2d 672, ¶11 (citation omitted). Accordingly, we dismiss the appeal on the grounds that it is moot.

Upon the foregoing,

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<sup>3</sup> The established exceptions that appellate courts may employ to address moot issues are:

- (1) the issues are of great public importance; (2) the constitutionality of a statute is involved; (3) the situation arises so often a definitive decision is essential to guide the trial courts; (4) the issue is likely to arise again and should be resolved by the court to avoid uncertainty; or (5) the issue is capable and likely of repetition and yet evades review.

*Portage Cnty. v. J.W.K.*, 2019 WI 54, ¶12, 386 Wis. 2d 672, 927 N.W.2d 509 (citation and internal quotation marks omitted).

<sup>4</sup> Judaea instead argues that the State forfeited raising the issue of mootness because it was not raised in its initial response brief. However, “it is within this court’s discretion to disregard alleged forfeiture and consider the merits of any issue because the rule of forfeiture is one of judicial administration and not of power.” *State v. Wilson*, 2017 WI 63, ¶51 n.7, 376 Wis. 2d 92, 896 N.W.2d 682.

IT IS ORDERED that this appeal is dismissed as moot. *See* WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*