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COURT OF APPEALS
DECISION
DATED AND FILED

December 15, 2020

Sheila T. Reiff
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. 2019AP1567 **Cir. Ct. No. 2019ME7**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

IN THE MATTER OF THE MENTAL COMMITMENT OF N. J. P.:

VILAS COUNTY DEPARTMENT OF HUMAN SERVICES,

PETITIONER-RESPONDENT,

V.

N. J. P.,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Vilas County: NEAL A. NIELSEN III, Judge. *Affirmed.*

¶1 SEIDL, J.[1] John[2] appeals orders committing him to inpatient treatment and involuntary medication for a period of six months. He argues the

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

Vilas County Department of Human Services (the Department) failed to establish by clear and convincing evidence that he is dangerous under any of the five standards set forth by WIS. STAT. § 51.20(1)(a)2. We agree with the circuit court that there is clear and convincing evidence that John is dangerous under the fourth standard, § 51.20(1)(a)2.d. Therefore, we affirm.

BACKGROUND

¶2 On January 28, 2019, investigator Brian Rates of the Lac du Flambeau Tribal Police Department filed a "Statement of Emergency Detention by Law Enforcement Officer," stating that he had cause to believe that John was mentally ill and could cause physical harm to himself or others. According to the detention statement, police department staff had observed John on January 25, 2019, "acting very suspicious as he was video taping the inside of the Police Department and staff, through the lobby window." Rates subsequently made contact with John in a nearby parking lot.

¶3 Rates observed John to have "very dirty, torn, ragg[ed]y clothing." Rates had prior knowledge that John was not allowed at the homeless shelter in the area due to a recent incident involving him. Accordingly, Rates asked John where he was currently staying, to which he responded with "very erratic" statements that "did not make logical sense." In Rates' opinion, John acted "extremely paranoid." After consulting with a Vilas County crisis screener, Rates detained John pursuant to WIS. STAT. § 51.15 because of John's suspicious behavior, incoherent statements, and failure to dress for the subzero temperatures at the time.

[2] Following N.J.P.'s lead, and pursuant to policy underlying WIS. STAT. RULE 809.86, we refer to him using the pseudonym "John."

¶4 On January 30, 2019, the circuit court held a probable cause hearing. The court found there was probable cause to believe John was mentally ill, a proper subject for treatment, and dangerous to himself or others. The court additionally ordered the involuntary administration of medication, finding probable cause to believe that John was not competent to refuse psychotropic medication or treatment because, due to his mental illness, he was "substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his ... condition in order to make an informed choice as to whether to accept or refuse psychotropic medications."

¶5 A final hearing was held on February 8, 2019. Two witnesses testified at the hearing, Drs. Marshal Bales and Shari Weyenberg, both of whom had filed written reports with the circuit court prior to the hearing.

¶6 Doctor Bales testified he is a psychiatrist with Outagamie County and evaluated John at the Winnebago Mental Health Institute on January 31, 2019. Bales opined that John had bipolar disorder, was "clearly in a manic psychotic state," and had some borderline personality traits. Additionally, Bales testified that John's thought, mood, and perception were substantially impaired and that his judgment, behavior, capacity to recognize reality, and ability to meet the ordinary demands of life were grossly impaired. Bales also testified that he believed John was a proper subject for treatment.

¶7 According to Dr. Bales, John was dangerous "in a number of ways." Relevant to the issues on appeal, Bales testified John would not pursue voluntary treatment. Bales further opined that John would "not ... be able to live anywhere. No one can handle him. No homeless shelters. Maybe the jail. But he[] doesn't

have active criminal issues right now. So I just think this is dangerous and he just will not get the help he needs."

¶8 Further, Dr. Bales opined that John was not capable of applying and understanding the advantages and disadvantages of treatment. Bales explained:

> I spoke to the nurse today[] [f]rom his psychiatric unit and [the nurses believe] he's been cheeking and spitting out his medications .... [A]nd with my discussion with him as well[,] [h]e just couldn't have any kind of rational discussion about his medication. He said he was allergic to all of the psychiatric medications. All of them. And he just was irrational. He denies mental illness. But then he wants to blame everybody that tried, the police, the doctors that call[] him mentally ill. He wants to, you know, it's just irrational and paranoid. And he's also manic with this.

Accordingly, Bales thought a medication order was necessary because John would not take medications voluntarily. Bales admitted on cross-examination that the nurses did not know "for sure" whether John had been "cheeking his meds," but Bales testified such conduct was "highly suspected," in part because John made irrational comments about the side effects of certain medicines. Thus, Bales opined that John "needs to get back on his medications and he can transition to outpatient care once they say he's stable."

¶9 Doctor Weyenberg is a psychologist who also examined John in person prior to the hearing. She opined that John had paranoia and met the standard for schizophrenia. Weyenberg testified that John's condition substantially impaired his thought, mood, perception, orientation and/or memory. In her view, John's judgment, behavior, capacity to recognize reality, and ability to meet the ordinary demands of life were grossly impaired by his illnesses. Weyenberg further opined that an involuntary medication order was necessary

because John was incapable of applying and understanding the advantages and disadvantages of receiving psychotropic medications.

¶10 Additionally, Dr. Weyenberg testified John was a proper subject for treatment and was dangerous "[t]o himself as far as [his] ability to care for himself." She explained that her opinion of him being dangerous to himself was based on John's condition at the time of his emergency detention, when "he was wearing clothes that were raggedy, dirty. He had poor hygiene.... [H]e was making comments of paranoia. And ... he went out with little clothing. Just a T-shirt. A torn shirt in 20 below zero weather."

¶11 At the close of evidence, the circuit court concluded that the Department "clearly" had met its burden of demonstrating John suffered from a mental illness and that his condition was treatable. The court remarked, however, that whether he was dangerous to himself or others was "razor close." Although the court determined there was insufficient evidence that John was dangerous to others, it ultimately concluded that John was a danger to himself.

¶12 The circuit court found that John, due to the extremely cold weather on the day of his emergency detention, "put himself in a situation where there was a threat of serious physical harm to himself. Based on his grossly impaired judgment." It stated that "it's clear to the Court from [the doctors'] testimony and reports that without adequate treatment, [John's] condition will deteriorate. That means on his own, his circumstances will not improve." It explained further:

> I do find that recent acts of or omissions by [John] due to his mental illness, he's unable to satisfy basic needs for shelter or safety. And perhaps for nourishment or medical care because he doesn't have any insight into his psychiatric needs to a degree that there is a substantial probability that he could suffer serious physical debilitation. Unless he receives that prompt and adequate

> treatment for his illness, he doesn't recognize the need. Doesn't recognize the degree of severity of his illness. And specifically opposes taking medications that will without question provide him relief from current ... symptoms and help him. So very close case I think from the element of dangerousness. But I do find sufficient dangerousness based on the factors that I've just addressed.

¶13 Accordingly, the circuit court ordered John committed for six months. The court also ordered John to undergo involuntary medication and treatment during the entire commitment period. John now appeals.[3]

DISCUSSION

¶14 In order to commit John under WIS. STAT. ch. 51, the Department has the burden to show by clear and convincing evidence that he meets one of the five statutory standards of dangerousness set forth in WIS. STAT. § 51.20(1)(a)2. *See* ***Langlade Cnty. v. D.J.W.***, 2020 WI 41, ¶23, 391 Wis. 2d 231, 942 N.W.2d 277 (citing WIS. STAT. § 51.20(13)(e)). Whether the Department presented sufficient evidence that John is dangerous under one of the five statutory standards is a mixed question of law and fact. *See* ***id.***, ¶¶23-24. We will uphold a circuit court's findings of fact unless they are clearly erroneous. ***Id.***, ¶24. Whether the facts satisfy the statutory standard of dangerousness is a question of law that we review independently. ***Id.***, ¶25.

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[3] Although John indicates in his notice of appeal that he is appealing both the order for commitment and the order for involuntary medication and treatment, he does not develop a separate argument regarding the reversal of the latter order. His position appears to be that if his commitment is unlawful, the involuntary medication and treatment order would then be unlawful as well. Because John makes no developed argument on whether the Department proved the criteria of WIS. STAT. § 51.61(1)(g)4. for the circuit court to order his involuntary medication and treatment, we do not further address that issue. *See* ***Industrial Risk Insurers v. American Eng'g Testing, Inc.***, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82 (stating that this court will not abandon its neutrality to develop arguments for a party).

¶15 As a threshold matter, the parties dispute which standard of dangerousness is at issue on appeal. The fourth statutory standard of dangerousness requires the Department to demonstrate that John

> [e]vidences behavior manifested by recent acts or omissions that, due to mental illness, he ... is unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue unless [he] receives prompt and adequate treatment for this mental illness ....

WIS. STAT. § 51.20(1)(a)2.d. For John to be found dangerous under the fifth standard, § 51.20(1)(a)2.e., the Department must demonstrate that

> after the advantages and disadvantages of and alternatives to accepting a particular medication or treatment have been explained to him ... and because of mental illness, [John] evidences either incapability of expressing an understanding of the advantages and disadvantages of accepting medication or treatment and the alternatives, or substantial incapability of applying an understanding of the advantages, disadvantages, and alternatives to his ... mental illness in order to make an informed choice as to whether to accept or refuse medication or treatment; and evidences a substantial probability, as demonstrated by both the individual's treatment history and his ... recent acts or omissions, that the individual needs care or treatment to prevent further disability or deterioration and a substantial probability that he ... will, if left untreated, lack services necessary for his ... health or safety and suffer severe mental, emotional, or physical harm that will result in the loss of the individual's ability to function independently in the community or the loss of cognitive or volitional control over his ... thoughts or actions. The probability of suffering severe mental, emotional, or physical harm is not substantial under this subd. 2.e. if reasonable provision for the individual's care or treatment is available in the community and there is a reasonable probability that the individual will avail himself ... of these services ....

¶16 The circuit court determined John was dangerous under the fourth standard: "I do find that recent acts of or omissions by [John] due to his mental illness, he's unable to satisfy basic needs for shelter or safety." The written commitment order is consistent with the court's oral pronouncement, in which it notes John "evidences behavior within one or more of the standards under §§ 51.20(1) or (1m), Wis. Stats. *(except for proceedings under §51.20(1)(a)2.e., Wis. Stats.)*"—i.e., the fifth standard. John thus argues in his brief-in-chief that the court erred because the Department failed to present sufficient evidence that he was dangerous under the fourth standard.

¶17 Surprisingly, the Department responds that we should affirm John's commitment *only* on the fifth standard of dangerousness. In other words, it makes no appellate argument that there is clear and convincing evidence John is dangerous under the fourth standard. In fact, the Department maintains that the fourth standard "is inapplicable to the case at bar," even though the circuit court determined John dangerous under the fourth standard. As a result, John argues in his reply brief that the Department has conceded that there is insufficient evidence of dangerousness to commit John under the first four statutory standards. *See* ***State v. Hurley***, 2015 WI 35, ¶61 n.20, 361 Wis. 2d 529, 861 N.W.2d 174.

¶18 However, we are not bound by a party's alleged concession, particularly one involving a question of law. *See* ***id.***; *see also* ***Cramer v. Eau Claire Cnty.***, 2013 WI App 67, ¶11, 348 Wis. 2d 154, 833 N.W.2d 172. Under the circumstances of this case, we decline to deem the Department to have conceded that there was insufficient evidence to commit John under the fourth standard by its failure to respond to his arguments in his brief-in-chief. The Department's position that the fourth standard is inapplicable to the facts of this case belies the record and plainly ignores the circuit court's decision. We

therefore proceed to address the merits of John's argument regarding the sufficiency of the evidence on his commitment under the fourth standard, and we decline to address the Department's argument and John's arguments in his reply brief regarding the fifth standard. *See* ***Sweet v. Berge***, 113 Wis. 2d 61, 67, 334 N.W.2d 559 (Ct. App. 1983) (observing that this court need not address an issue when resolution of another issue is dispositive to the appeal).

¶19 We conclude the Department presented clear and convincing evidence that John is dangerous under the fourth standard. John's recent inability to properly dress himself to be outside with temperatures twenty degrees below zero and his inability to live at a homeless shelter or some similar location because "[n]o one can handle him" are evidence that he is unable to satisfy his basic needs for shelter or safety.

¶20 Additionally, Drs. Bales' and Weyenberg's testimony provided evidence that John's inability to satisfy his basic needs is caused by his mental illness. Bales testified John's thought, mood, and perception were substantially impaired and that his judgment, behavior, capacity to recognize reality, and ability to meet the ordinary demands of life were grossly impaired. Similarly, Weyenberg testified John's condition substantially impaired his thought, mood, perception, orientation and/or memory and that John's judgment, behavior, capacity to recognize reality, and ability to meet the ordinary demands of life were grossly impaired. The doctors' testimony provides a reasonable explanation to why John was outside in subzero temperatures without proper attire, and, thus, is evidence that John cannot satisfy his basic needs due to his mental illness.

¶21 Finally, the doctors' testimony provided evidence that a substantial probability exists in which John could incur imminent death, serious physical

injury, debilitation, or disease unless he received prompt and adequate treatment for his mental illness. After meeting with John in person, both doctors opined that he cannot care for himself because his judgment and capacity to recognize reality are substantially impaired. Accordingly, a reasonable inference from John being outside in temperatures twenty degrees below zero without proper clothing is that he lacks the capacity to recognize situations in which he faces a substantial probability of, at a minimum, serious physical injury or debilitation. We therefore agree with the circuit court that there is clear and convincing evidence that John is dangerous under WIS. STAT. § 51.20(1)(a)2.d.

By the Court.—Orders affirmed.

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

STATE OF WISCONSIN CIRCUIT COURT VILAS COUNTY

IN THE MATTER JOHN ,

CASE NO: 19-ME-07
FINAL HEARING

TRANSCRIPT OF PROCEEDINGS, had in the above-entitled matter, held before Hon. Neal A. Nielsen III, Circuit Judge in Circuit Court for Vilas County, held on the 8th day of February, 2019, in the Court House, in the City of Eagle River, Wisconsin. Reported by Patricia Kane.

APPEARANCES

Meg O'Marro, Assistant Corporation Counsel, appeared on behalf of the Plaintiff.

Chad Lynch, Attorney, appeared on behalf of Mr. JOHN .

Mr. JOHN in person.

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THE COURT: This is 19-ME-07, In the Matter of JOHN . Mr. JOHN is here in person with his attorney Chad Lynch. The County appears by Assistant Corporation Counsel Meg O'Marro. We're before the Court today for a final hearing in this matter. Court has received written reports from Dr. Marshal Bales and Dr. Shari Weyenberg. So Ms. O'Marro.

MS. O'MARRO: Your Honor, this is a contested hearing. However, we do have a stipulation to each doctor's qualifications. At this time, the County calls Dr. Marshal Bales.

THE COURT: All right. Thank you. We'll get Dr. Bales by phone. Mr. Lynch, I do have a stipulation as to qualifications?

MR. Lynch: For the doctors, yes, Your Honor.

THE COURT: Thank you. I appreciate that. Good morning, Dr. Bales.

DR. BALES: Hello.

THE COURT: Hi. This is Judge Nielsen. We're in Court in the matter of JOHN and your testimony has been requested. Are you prepared to do that?

DR. BALES: Yes.

THE COURT: Would you raise your right hand for me please, Doctor?

(The Court administered the oath to Dr. Bales.)

DR. BALES: Yes.

THE COURT: Very well. Mr. JOHN is here, of course. His attorney is Chad Lynch. The County is represented by Assistant Corporation Counsel Meg O'Marro, who will question you first. Ms. O'Marro?

DIRECT EXAMINATION

BY MS. O'MARRO:

Q. Could you please state and spell your name for the record?

A. Yes. Marshal Bales, B-A-L-E-S.

Q. Are you employed?

A. Yes.

Q. How are you employed?

A. I'm a psychiatrist with Outagamie County. And I do independent court evaluations like this one.

Q. Okay. Do you know JOHN ?

A. I met him one time.

Q. And what was the purpose of your meeting?

A. It was a court evaluation for Vilas County.

Q. When did that meeting take place?

A. That was on January 31st of this year.

Q. And where did that take place?

A. At Winnebago Mental Health Institute.

Q. Did you review any collateral information

regarding JOHN ?

A. Yes.

Q. What did --

A. I reviewed the Winnebago records from previous admissions. I reviewed detention documents. And then I tried to call the family member whose number he gave me but I couldn't get through to anybody.

Q. Based on your meeting with Mr. JOHN and your review of collateral information, are you able to form an opinion as to his mental status or condition?

A. Yes.

Q. What is that opinion?

A. Yes. Well, he clearly has bi-polar disorder. And he was clearly in a manic psychotic state when I met with him. But his bi-polar condition is complicated by some clear personality problems. He's both antisocial and has got some borderline personality traits.

Q. Do his conditions substantially impair his thought, mood, perception, orientation, and/or memory?

A. Thought. Mood. And perception.

Q. What about his judgment behavior, capacity to recognize reality or the ability to meet the ordinary demands of life?

A. I think all of those are impaired.

Q. Are they grossly impaired?

A. Yes.

Q. Okay. Do you believe he's a proper subject for treatment?

A. Yes.

Q. What about dangerousness? Is he a danger to himself or others?

A. Well, yes. And I think he's dangerous. And really it's in a number of ways. And yet, he's not apparently been suicidal. So but in the other ways, he's really threatening. He puts others in fear for their safety. He goes around accusing people. The police. Really anyone. And to the point where they fear for their safety. And with this, he will not pursue voluntary treatment. And so I think that especially with the conditions that they are, he's not going to be able to live anywhere. No one can handle him. No homeless shelters. Maybe the jail. But he's doesn't have active criminal issues right now. So I just think this is dangerous and he just will not get the help he needs.

Q. Okay. Is he capable of applying and understanding the advantages and disadvantages of treatment?

A. No. In fact, I spoke to the nurse today. From his psychiatric unit and he's been cheeking and spitting

out his medications. They believe. And therefore, he -- and with my discussion with him as well. He just couldn't have any kind of rational discussion about his medication. He said he was allergic to all of the psychiatric medications. All of them. And he just was irrational. He denies mental illness. But then he wants to blame everybody that tried, the police, the doctors that calls him mentally ill. He wants to, you know, it's just irrational and paranoid. And he's also manic with this.

Q. Is a medication order necessary?

A. Yes. He will not take medications voluntarily. That I can tell.

Q. Thank you, Doctor.

MS. O'MARRO: I have nothing further.

THE COURT: Mr. Lynch?

MR. LYNCH: Thank you.

CROSS-EXAMINATION

BY MR. LYNCH:

Q. Doctor, you testified that he's not had any threats to harm himself, correct?

A. Not this time. I asked him about the scars on his arm. And he said that was the past. He has deep scars from past suicide attempts. But do deny that he's suicidal right now.

Q. So no recent threats or thoughts to harm himself then. That's what you're saying, correct?

A. Yes.

Q. And you stated that other people are in fear. Is he threatening those people?

A. He scares people. He goes around and just will point fingers, he'll yell, he'll be loud. He'll be agitated. He'll make accusations. And it's all to the point where they fear him. He's not, that I know of, actually assaulted people. But he does have a history of felonies and prison. And problems that way. And I certainly don't want to get to that point. And yet, I could not see where he's actually assaulted anyone. But he has put people in fear repeatedly. Everywhere he goes.

Q. So again, the long answer or short answer, he has not recently threatened or assaulted or been violent with people that you know of, correct?

A. Correct. And I verified that with Winnebago. He's not assaultive. But he's overly demanding and needy. He's not thinking clearly. And I just think it's still dangerous in my opinion.

Q. And when you met with him, was he yelling or pointing fingers at you or threatening towards you at all?

A. I did not fear for my safety. But he was agitated, he was loud, he was irritable, and he was manic and suspicious. But I never feared for my safety, no.

Q. And in your experience, are people -- is it common for subjects to be loud and irritable at a locked inpatient facility like Winnebago Mental Health Institute?

A. That can happen. But this agitation and loud speech was related to the manic psychotic state he's in rather than him being confined. And that same loud speech and agitation and paranoia has also gone on in the community.

Q. And you testified previously that the staff thinks he is cheeking his meds, but they don't know for sure, correct?

A. They don't know for sure. But that is highly suspected. And they started giving him his medication in liquid form to make sure he gets it. He really does not understand the need for medications. I tried to reason with him and he just only wants Adderall and Ativan and not the proper medications. And he says things like the medicines will make his gall bladder explode and it's just not rational, sir.

Q. So he relayed to you he's concerned about the

medications he's taking for the way they make him feel; is that correct?

A. Yes. But he just says things like all psychiatric medications he's allergic to them. Except Adderall and Ativan which by the way are addictive and makes things worse at times. And so I just couldn't reason with him.

Q. All right. And you stated that I believe the quote unquote no one can handle him. But then you listed shelters and only the jail. Is there any indication that his family could not handle him or he could not stay with a family member?

A. I tried to call family. He did give me a phone number and I could not get through to them. I believe that in his current mental state, he will be difficult to manage outside of an inpatient locked psychiatric unit. That is my opinion.

Q. All right. And again just to clarify, you're not -- you have no direct knowledge of any recent threats to harm himself or others, correct?

A. Not that I know of.

MR. LYNCH: Okay. Thank you.

THE COURT: Doctor, this is the Judge. We have a history here of potentially of these psychiatric disorders. But is there any history that you reviewed

of any long-standing treatment? In other words, my question is this: Is this a situation where Mr. Monson [sic] has simply gone off of his medications for whatever reason and needs to be stabilized? Or has he essentially, you know, been in the community untreated for some extended period of time?

DR. BALES: I think he's been untreated for a period of time. But his condition is treatable. This is and being very frank here, I want the treatment to be outside of a correctional setting as we all do. And he gets manic and difficult and has been put in prison and jail before. And so I think he needs to get back on his medications and he can transition to outpatient care once they say he's stable. But I'm told he's not stable for discharge yet.

THE COURT: Well, and question about outpatient care would be some degree of recognition of his circumstances and unwillingness to continue on a course of medication?

DR. BALES: Yes. That's why I'm asking for a medication order.

THE COURT: All right. Thank you. Any follow up, Counsel?

MS. O'MARRO: No.

THE COURT: Thank you very much, Dr. Bales, for

your help today. We appreciate it.

DR. BALES: Okay. Thank you.

MS. O'MARRO: The County calls Dr. Shari Weyenberg as its next witness.

THE COURT: Good morning, Dr. Weyenberg. This is Judge Nielsen.

DR. WEYENBERG: Good morning.

THE COURT: We're in court on in the Matter of JOHN and your testimony has been requested. Are you prepared to do that?

DR. WEYENBERG: Yes.

THE COURT: Would you raise your right hand for me please, Doctor?

DR. WEYENBERG: Sure.

(The Court administered the oath to Dr. Weyenberg.)

DR. WEYENBERG: I do.

THE COURT: Very well. Mr. JOHN is here, of course. His attorney is Chad Lynch. The County is represented by Assistant Corporation Counsel Meg O'Marro, who will question you first. Ms. O'Marro?

DIRECT EXAMINATION

BY MS. O'MARRO:

Q. Could you please state and spell your name for the record?

A. Shari, S-H-A-R-I, Weyenberg, W-E-Y-E-N-B-E-R-G.
Q. Are you employed?
A. I'm sorry. What?
Q. Are you employed?
A. Yes.
Q. How so?
A. I have a private practice. I work at Winnebago Mental Health Institute.
Q. What is your position?
A. I'm a psychologist.
Q. Have you met with JOHN ?
A. Yes.
Q. And what was the purpose of your meeting?
A. To evaluate him for Chapter 51.
Q. Did you review any collateral information?
A. Yes.
Q. What did you review?
A. I reviewed previous records from Winnebago. And his emergency of detention.
Q. Based on your meeting with Mr. JOHN and your review of collateral information, are you able to form an opinion as to his mental status?
A. Yes.
Q. What is that opinion?
A. Opinion that he is dealing with paranoia. He

meets the standard of schizophrenia, classification schizophrenia.

Q. Does his condition substantially impair his thought, mood, perception, orientation, and/or memory?

A. Yes.

Q. Is his judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life grossly impaired?

A. Yes.

Q. Is he a proper subject for treatment?

A. Yes.

Q. Will he benefit from treatment?

A. Yes.

Q. Is he able to express an understanding of the advantages and disadvantages of treatment?

A. Not at this time.

Q. Is he capable of applying and understanding as to whether or not to receive or not receive psychotropic medications?

A. No.

Q. Is a medication order necessary?

A. Yes.

Q. Do you have an opinion as to whether or not he's dangerous?

A. To himself as far as ability to care for

himself.

Q. Okay. Thank you, Doctor. I have nothing further.

A. Okay.

THE COURT: Mr. Lynch?

MR. LYNCH: Thank you.

CROSS-EXAMINATION

BY MR. LYNCH:

Q. Doctor, how much time did you spend with Mr. JOHN ?

A. It was approximately 30 minutes.

Q. Okay. And I'm looking at the report that you submitted. And I guess just for clarification for myself, at the bottom of the first page you state rule out schizoaffective disorder. Rule out paranoid personality disorder. Does that mean it's your opinion that he does not have those conditions?

A. No. That actually wasn't written by me. That was according to Dr. Ramacher and Jennifer -- I don't know how to pronounce her last name. I was putting that in there as what they had written.

Q. Okay. So that whole paragraph is according to his record from previous --

A. Yes. Previous record. His current record from Winnebago. What I had written because he pretty much

refused to talk to me. But he stayed in the interview. That's why the interview was so short.

Q. So they were ruling out those disorders. Is that -- am I reading that correct? That that means that he does not have those disorders?

A. No. A rule out means that there is not enough evidence at that moment in time. They need to do a psychological assessment. And this was on the day of his arrival. So what they do is put those out, they need more information before they can diagnose him.

Q. Okay. Thank you. You also or you testified that he's a danger to himself because of his inability to care for himself. When he was picked up on the emergency detention, was he not dressed properly or was he not fed? What evidence do you have of his inability to care for himself?

A. According to the emergency detention, when he was picked up, he was wearing clothes that were raggedy, dirty. He had poor hygiene. And he was making comments of paranoia. And he also stated that -- and he went out with little clothing. Just a T-shirt. A torn shirt in 20 below zero weather.

Q. Are you aware of any recent threats to harm himself made by Mr. JOHN ?

A. No.

Q. Okay. Any recent threats to harm others?
A. No.
Q. Any actual acts to harm himself or others recent?
A. Other than his behavior of being out in twenty below zero weather and not being able to make proper decisions based on his paranoia.
Q. Do you have any opinion of potentially how long until Mr. JOHN is stable?
A. I would leave that up to a psychiatrist to determine how long it will take for the medications that he is currently taking.
Q. Do you feel treatment can be provided to Mr. JOHN once he is stable in the community in an outpatient form?
A. Once he's more stable.
Q. Okay. Thank you. Nothing further.
THE COURT: Anything further?
MS. O'MARRO: Nothing further.
THE COURT: Dr. Weyenberg, thank you very much for being with us today.
DR. WEYENBERG: Thank you.
THE COURT: Have a good day. County have further testimony?
MS. O'MARRO: No.

THE COURT: Mr. Lynch, do you have testimony today?

MR. LYNCH: Can I have one second, Your Honor?

THE COURT: Sure.

(Attorney Lynch conferring with his client off the record.)

MR. LYNCH: Your Honor, we have no testimony at this time.

THE COURT: Okay. The parties like to be heard? Go ahead.

MS. O'MARRO: Sure, Your Honor. Your Honor, I believe the County has met its burden of proving that Mr. JOHN is mentally ill and is a proper subject for treatment and that he is dangerous. There has been sufficient testimony to establish that he's got a substantial disorder of thought, mood, perception orientation and memory. And that judgment and behavior is grossly impaired. We have evidence he's dangerous to himself. He was not dressed appropriately at the time of emergency detention. Certainly not proper for the weather and there is issues with his medication so we would ask the Court to order a six-month commitment as well as a medication order.

I would also ask the Court I believe there are a couple of letters that Mr. JOHN had authored that have

been filed with the Court and I believe those letters establish the disorder in thoughts as well.

THE COURT: Mr. Lynch.

MR. LYNCH: Thank you, Your Honor. I just want to start by saying this is obviously a very serious case. And should not be overlooked that his liberties are being completely restrained right now. And also just because someone suffers from a mental illness does not necessarily make them a danger to themselves and others.

One doctor testified he was a danger because he -- other people are fearful of JOHN there. Because he was agitated and loud. And they thought showing signs of paranoia and what not. The other doctor mentioned, my recollection of the testimony that the inability to care for himself or others. I'm not aware of any other calls to law enforcement about JOHN being out in the cold below zero. Not dressed for the temperature.

There is some allegation that he's homeless and doesn't have a place to stay. I'm not sure that is enough with the heightened burden at the final hearing and again just because someone may suffer from a mental illness does not necessarily make them a danger. Both doctors testified there was no assaultive behavior recently. No attempt to harm himself or others

recently. So again, I just, I'm not sure the County has met its heightened burden here at the final hearing. So I would ask that you not order the court commitment at this time and not order the involuntary med order.

THE COURT: There is no question that we experience a degree of homelessness in our county. That is something that I guess is everywhere. But in most respects, it falls way under the radar. It might be more obvious in urban settings. Because most often, people who are homeless here find some degree of shelter from the elements ultimately. I think of all of the nights that I have spent in Madison on official business, coming back to a hotel from dinner, in the winter, terrible temperature, terrible wind, and passing lumps of humanity. People who are covered with blankets and cardboard and sleeping along the square surrounding the capital. Sometimes simply sleeping. Other times, talking to themselves or yelling into the wind.

And one feels tremendous concern for people who are clearly suffering from mental illness and from homelessness and potential to exposure to very poor conditions. And yet nonetheless, that situation is permitted to continue. Presumably because no one can make the requisite findings that those individuals are direct danger to themselves or others.

Danger that we have here is not to others, even though Mr. JOHN may be somewhat threatening in his demeanor. I don't know that there is anything that has been demonstrated in any recent period of time that would give rise to finding of dangerousness to others. He's really a danger to himself. He's a danger to himself because he does suffer from mental illness and that mental illness impairs his judgment significantly. Circumstances which led to his emergency detention were, at least according to the emergency detention documents and police reports, that he had been asked to leave a shelter facility based on his disruptiveness and his behavior. He was observed videotaping or recording on his phone public places including Police Department in Lac du Flambeau. He has paranoid ideations regarding law enforcement.

And when law enforcement comes into contact with him, it's on an extraordinary cold night. He is ill prepared to sustain himself in that weather. And when we had the initial probable cause hearing, we have these same discussions that the real basis for the finding probable cause in this situation is that Mr. JOHN put himself in a situation where there was a threat of serious physical harm to himself. Based on his grossly impaired judgment. The doctors tell us the same thing

today.

And yet, we don't have any more developed degree of dangerousness. He hasn't exhibited it at Winnebago or Saint Mary's. And so we still have the same situation essentially that we had when we began the matter. Part of the problem is that when we start talking about alternatives for Mr. JOHN, no one is suggesting any. There are no family members here. There is no other plan proposed. And it may be that with appropriate supervision of his person making sure that he was safe, making sure that he was taking medications, that he could be adequately cared for at an outpatient setting.

So the question that is before the Court today is a very difficult one and a moral one as well as a legal one. Because we're not in much better condition today than we were when we began this. The high expected for today is five degrees. Mr. JOHN doesn't have any more clothing today than he had when he was picked up. And if I find he's not a proper subject for detention, they're going to remove the shackles and he's going to walk out of the courtroom with no place to go.

THE DEFENDANT: I have a place to go.

THE COURT: No one to care for him.

THE DEFENDANT: I have people to care for me.

THE COURT: And it's never the intention of the 51-42 board or anyone else to hospitalize people any longer necessary than to stabilize them and get them into the situation where they can be returned safely to the community. At this point I don't even know what community that is. It appears Mr. Monson is from Sawyer County and finds himself in our county in the Lac du Flambeau Reservation. If there are family members who are willing and able to step up and provide him a place to live and some supervision so that he can proceed in an outpatient basis, that has not been made known to the Court.

So the Court believes that this is a razor close call. And I need to be careful. I think that I'm making that call based on a legal determination and not a moral one. Because morally, it's indefensible to let Mr. Monson walk out of this courthouse. Legally, it might be. Because this element of dangerousness is really so close to declare. And I'm really concerned that making a finding of dangerousness based on matters outside of Mr. Monson's control, that is the temperature, is of some concern. We were hearing this case in Alabama, would he be detained under these facts? I don't know.

Regardless of correct diagnosis, and the doctors

do have some degree of disagreement as to what that may be, it's clear to the Court from their testimony and reports that without adequate treatment, his condition will deteriorate. That means on his own, his circumstances will not improve. Now that's not to say that being surrounded by people who were continually looking out for him and caring for him could potentially avoid that type of danger that he imposes to himself. Ones again, I don't have any basis for thinking that is imminent.

Clearly the County has met its burden for the Court to determine that Mr. JOHN suffers from a mental illness. And that mental illness is treatable. The element that we're all discussing here today is whether he poses a sufficient danger to himself or others. I do not find from the evidence presented that he is a danger to others even though people may be concerned by his behavior. That is a perception that is carried by the recipient of his conduct, if you will, and not necessarily by any justifiable fear based on any recent acts.

I do find that recent acts of or omissions by Mr. JOHN due to his mental illness, he's unable to satisfy basic needs for shelter or safety. And perhaps for nourishment or medical care because he doesn't have

any insight into his psychiatric needs to a degree that there is a substantial probability that he could suffer serious physical debilitation. Unless he receives that prompt and adequate treatment for his illness, he doesn't recognize the need. Doesn't recognize the degree of severity of his illness. And specifically opposes taking medications that will without question provide him relief from current systems that -- symptoms and help him. So very close case I think from the element of dangerousness. But I do find sufficient dangerousness based on the factors that I've just addressed.

The Court will order that Mr. Price be subject to a commitment to the Vilas Oneida Forest 51.42 board for a period of six months. The initial reception facility will be the Winnebago Mental Health Institute. Transportation to that facility will be provided by the Vilas County Sheriff's Department. As a result of this order, Mr. JOHN will be prohibited from possessing firearms and will sign an appropriate order and notification to him in that regard. It is my hope that this will not be a long period of involuntary commitment. It doesn't appear that would be necessary based on testimony of the doctors. I think it's important for the 51-42 board to put an appropriate

system in place for him to receive that treatment in the community setting. And I want to give them an opportunity to do that. Court, also as indicated, is going to approve an order for involuntary administration of medications. Is there anything else this morning.

MS. O'MARRO: Nothing further. Thank you.

THE COURT: Good luck to you. Thank you.

(The hearing was adjourned at 12:05 p.m.)

- - -

I, Patricia L. Kane, RPR, Official Court Reporter in and for the State of Wisconsin do hereby certify:

That I reported stenographically the proceedings that were held in the above-entered case; that my notes were thereafter transcribed with computer-aided transcription; and the foregoing transcript, consisting of pages number from 1 to 27 inclusive, is a full, true, and correct transcription of my shorthand notes taken during the proceeding had on February 8, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of July, 2019.

Electronically signed by Patricia L. Kane

Patricia L. Kane, RPR

COURT OF APPEALS
DECISION
DATED AND FILED

May 20, 2020

Sheila T. Reiff
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. 2019AP2010 **Cir. Ct. No. 2019ME134**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT II

IN THE MATTER OF THE MENTAL COMMITMENT OF L.F.-G.:

WINNEBAGO COUNTY,

PETITIONER-RESPONDENT,

V.

L. F.-G.,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Winnebago County: GARY L. BENDIX, Judge. *Reversed and cause remanded.*

¶1 REILLY, P.J.[1] "Emily"[2] appeals from an order extending her involuntary commitment for twelve months and an order for involuntary medication and treatment.[3] Emily argues that Winnebago County failed to prove by clear and convincing evidence that she is dangerous to herself or others. As the evidence presented at Emily's commitment hearing fails to support extending the commitment, we reverse and remand.

¶2 WISCONSIN STAT. § 51.20 governs involuntary commitment for treatment. To involuntarily commit a person, the County has the burden to prove by clear and convincing evidence that the person is (1) mentally ill, (2) a proper subject for treatment, and (3) dangerous. *See* § 51.20(1)(a)1.-2., (13)(e). The same standards apply to extensions of the commitment, except the County no longer must demonstrate proof of a recent act but may satisfy the showing of dangerousness by demonstrating that "there is a substantial likelihood, based on the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn." Sec. 51.20(1)(am); ***Portage County v. J.W.K.***, 2019 WI 54, ¶19, 386 Wis. 2d 672, 927 N.W.2d 509.

¶3 Our supreme court recently explained that "[t]his paragraph recognizes that an individual receiving treatment may not have exhibited any recent overt acts or omissions demonstrating dangerousness because the treatment

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

[2] The parties refer to the appellant, L.F.-G., by the pseudonym "Emily," and, for convenience, we will as well.

[3] Emily does not challenge or make any specific arguments regarding the order for involuntary medication and treatment.

ameliorated such behavior, but if treatment were withdrawn, there may be a substantial likelihood such behavior would recur," calling WIS. STAT. § 51.20(1)(am) an "alternative evidentiary path, reflecting a change in circumstances occasioned by an individual's commitment and treatment." ***J.W.K.***, 386 Wis. 2d 672, ¶19. "However, dangerousness remains an element to be proven to support both the initial commitment and any extension." ***Id.*** "Each extension hearing requires the County to prove the same elements with the same quantum of proof required for the initial commitment." ***Id.***, ¶24. "The dangerousness standard is not more or less onerous during an extension proceeding; the constitutional mandate that the County prove an individual is both mentally ill and dangerous by clear and convincing evidence remains unaltered." ***Id.*** The statute was designed to avoid revolving-door commitments where reoccurring cycles of treatment, lack of treatment, and demonstrations of dangerousness would be required. *See* ***State v. W.R.B.***, 140 Wis. 2d 347, 351, 411 N.W.2d 142 (Ct. App. 1987). Whether the facts in the record satisfy the statutory standard for recommitment is a question of law that this court reviews de novo. ***Waukesha County v. J.W.J.***, 2017 WI 57, ¶15, 375 Wis. 2d 542, 895 N.W.2d 783.

¶4 Dr. Michael Vicente, M.D., was the only witness to testify at Emily's commitment extension hearing.[4] Vicente testified that he had been treating Emily for three years and that Emily was diagnosed with schizoaffective

[4] We recognize that the record also includes a "Report of Examination" written by Dr. Marshall J. Bales, M.D. We note that this report contains evidence pertaining to Emily's condition that was relevant to the issue in this case. However, Bales never testified at the hearing, and this report was not entered into evidence. Accordingly, we do not consider the contents of the report in our decision. We acknowledge that the report was likely read by the court and the parties, but it was never entered into evidence. If Vicente could not offer an opinion as to Emily's dangerousness based on her treatment history, then Bales' report should have been entered into evidence either through his testimony or by stipulation.

disorder, which affects areas of thought, mood, and perception. Vicente further testified that those areas were "grossly" affected and that Emily's "judgment, behavior, and capacity to recognize reality" were impaired. According to Vicente, Emily does not believe she has a mental health issue; therefore, she would not comply with treatment without a commitment order as she "does not believe she needs treatment." As to the specific issue in this case, Vicente testified that if treatment were withdrawn, Emily "would ... become a proper subject for commitment" as "[i]n my previous treatment with her, when she was off commitment, she stopped her treatment and became acutely psychotic again."

¶5 We conclude that Vicente's testimony failed to establish that Emily is dangerous and, thus, a proper subject for commitment if treatment is withdrawn pursuant to WIS. STAT. § 51.20(1)(am). The County argues that "[w]e can assume that [Emily's] behavior during the acutely psychotic period of non-treatment was dangerous because she eventually became the subject of an involuntary commitment that required the recommitment hearing at issue." With all due respect, no we cannot. An involuntary mental commitment requires proof of a substantial likelihood of dangerousness by clear and convincing evidence, not assumptions or inferences. As our supreme court explained,

> Each extension hearing requires proof of *current* dangerousness. It is not enough that the individual was at one point a proper subject for commitment. The County must prove the individual "*is* dangerous." The alternate avenue of *showing* dangerousness under [§ 51.20(1)(am)] does not change the elements or quantum of proof required. It merely acknowledges that an individual may still be dangerous despite the absence of recent acts, omissions, or behaviors exhibiting dangerousness outlined in § 51.20(1)(a)2.a.-e.

J.W.K., 386 Wis. 2d 672, ¶24 (citation omitted).

¶6 We also find a recent unpublished, but authored, opinion of this court persuasive in its discussion of this issue. *See* WIS. STAT. RULE 809.23(3)(b). In ***Waupaca County v. K.E.K***, No. 2018AP1887, unpublished slip op. ¶¶23-25 (WI App Sept. 26, 2019), this court explained that the County must prove a substantial likelihood that the subject will harm himself or herself or others in the absence of treatment, and we agree that this is the correct reading of the statute. WISCONSIN STAT. § 51.20(1)(am) requires a "showing that there is a substantial likelihood" that the person "would be a proper subject for commitment if treatment were withdrawn," and a person is a proper subject for *commitment* if the County establishes that the person is (1) mentally ill, (2) a proper subject for treatment, and (3) dangerous. *See* § 51.20(1); *see also* ***K.E.K.***, No. 2018AP1887, unpublished slip op. ¶25 ("[R]ecommitment requires a finding that, if treatment were withdrawn, there is a substantial probability that the individual would be dangerous under at least one of the five alternative dangerousness standards in the initial commitment test.").

¶7 It was the County's burden to show that Emily is a proper subject for commitment—which is to say that Emily is mentally ill, that she would be a proper subject for treatment, and that she is dangerous—if treatment were withdrawn. What we know is that when Emily "was off commitment, she stopped her treatment and became acutely psychotic again" and that she does not believe she needs treatment. All Vicente's testimony establishes is that Emily is mentally ill and that she would be a proper subject for *treatment*. There is no information pertaining to how her "acutely psychotic" state would impact her behavior such that there is a substantial likelihood that she would be *currently* dangerous, pursuant to WIS. STAT. § 51.20(1)(a)2.a.-e., if treatment was withdrawn. *See* ***J.W.K.***, 386 Wis. 2d 672, ¶24. Vicente simply parroted back the language of the

statute without any explanation of why Emily would be dangerous if treatment was withdrawn. Accordingly, the County failed to establish that Emily was a proper subject for commitment by clear and convincing evidence.[5]

By the Court.—Orders reversed and cause remanded.

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

[5] We recognize that prior to the release of this decision our supreme court released its decision in ***Langlade County v. D.J.W.***, 2020 WI 41, ___ Wis. 2d ___, ___ N.W.2d ___. After ***D.J.W.*** was released, Emily filed a motion for summary reversal with this court on April 30, 2020, seeking reversal of the involuntary recommitment order based on the lack of "specific factual findings" under WIS. STAT. § 51.20(1)(a)2. as required pursuant to ***D.J.W.*** The County filed a response on May 12, 2020, arguing that the holding in ***D.J.W.*** may not be applied to this case. Under the circumstances, we conclude that Emily's motion for summary reversal is moot. The holding in ***D.J.W.*** does not impact our decision in this case. We conclude that the County failed to establish that Emily is dangerous under either the law prior to ***D.J.W.*** or the law under ***D.J.W.***

FILED
02-08-2019
Register in Probate
Vilas County
2019ME000007

BY THE COURT:

DATE SIGNED: February 8, 2019

Electronically signed by Neal A. Nielsen III
Circuit Court Judge

STATE OF WISCONSIN, CIRCUIT COURT, VILAS COUNTY

IN THE MATTER OF THE CONDITION OF

[redacted]
Name of Subject

07/08/1989
Date of Birth

Order for Involuntary Medication and Treatment

Case No. 19ME07

THE COURT FINDS AND CONCLUDES:

1. The issue of involuntary administration of medication or treatment was considered at a hearing at or after a
   - ☐ A. probable cause hearing. There is probable cause to believe that medication or treatment will have therapeutic value and will not unreasonably impair the subject's ability to prepare for and participate in future court proceedings.
   - ☒ B. final hearing. Medication or treatment will have therapeutic value.
2. The subject appeared ☒ in person. ☐ by counsel.
3. The subject needs medication or treatment.
4. The advantages, disadvantages, and alternatives to medication have been explained to the subject.
5. Due to
   - ☒ mental illness,
   - ☐ developmental disability,
   - ☐ alcoholism,
   - ☐ drug dependence,

   the subject is not competent to refuse psychotropic medication or treatment because the subject is
   - ☐ incapable of expressing an understanding of the advantages and disadvantages of accepting medication or treatment and the alternatives; or
   - ☒ substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her condition in order to make an informed choice as to whether to accept or refuse psychotropic medications.

THE COURT ORDERS:

Medication and treatment may be administered to the subject, regardless of his or her consent
- ☐ until the final hearing in this matter.
- ☒ during the period of commitment, or until further order of the court.

DISTRIBUTION:
1. Court
2. Parties
3. Treatment Provider

FILED
02-08-2019
Register in Probate
Vilas County
2019ME000007

BY THE COURT:

DATE SIGNED: February 8, 2019

Electronically signed by Neal A. Nielsen III
Circuit Court Judge

STATE OF WISCONSIN, CIRCUIT COURT, VILAS COUNTY

IN THE MATTER OF THE CONDITION OF

[redacted]
Name of Subject

07/08/1989
Date of Birth

☐ Amended

Order of
☒ **Commitment**
☐ **Extension of Commitment**
☐ **Dismissal**

Case No. 19ME07

A hearing was held on [Date] February 8, 2019.

THE COURT FINDS:

☐ 1. Grounds for ☐ commitment ☐ extension of commitment have not been established.

☒ 2. Grounds for ☒ commitment ☐ extension of commitment have been established.
The subject is
A. ☒ mentally ill.
☐ drug dependent.
☐ developmentally disabled.
B. dangerous because the subject evidences behavior within one or more of the standards under §§51.20(1) or (1m), Wis. Stats. *(except for proceedings under §51.20(1)(a)2.e., Wis. Stats.)*.
C. a proper subject for treatment.
D. ☒ a resident of Vilas County, Wisconsin.
☐ a nonresident of the state of Wisconsin.
☐ an inmate of a Wisconsin state prison.

☐ 3. The dangerousness of the subject is likely to be controlled with appropriate medication administered on an outpatient basis.

☐ 4. The subject has been adjudicated pursuant to 18 USC 922(g)(4) as a "mental defective" or committed to a mental institution.

☐ 5. Other: _____

THE COURT ORDERS:

☐ 1. This matter is dismissed.

☒ 2. The subject is committed for six months from the date of this hearing to the care and custody of the
☒ A. Oneida, Forest, Vilas County Department established under §§51.42 or 51.437, Wisconsin Statutes.
☐ B. Department of Health Services.

3. The maximum level of treatment shall be
   A. ☒ a locked ☐ an unlocked inpatient facility.
   The reception facility shall be Winnebago Mental Health Institute, Winnebago, WI.
   Transportation to the facility shall be provided by
   ☒ the sheriff.
   ☐ Other: _____
   B. ☐ outpatient with conditions. The conditions of outpatient commitment on the attached document are incorporated into this order. A violation of any condition may result in the subject being taken into custody by law enforcement for inpatient treatment.

☒ 4. The subject is prohibited from possessing any firearm. Federal law provides penalties for, and you may be prohibited from possessing, transporting, shipping, receiving, or purchasing a firearm, including, but not limited to, a rifle, shotgun, pistol, revolver, or ammunition, pursuant to 18 U.S.C. 921(a)(3) and (4) and 922(g)(4). This prohibition shall remain in effect until lifted by the court. Expiration of the mental commitment proceeding does not terminate this restriction.
   ☒ A. Any firearm owned by subject shall be seized by The Sheriff.
   The subject's firearms may be found at the following location(s): _____.
   Any person residing at the/these locations is required to cooperate with law enforcement attempts to seize firearms. Failure to cooperate may result in contempt sanctions.
   ☐ B. As an alternative to seizure, the following person is designated to store any firearm(s) until the firearm restriction order has been canceled: _____.
   C. The subject is informed of the requirements and penalties under §941.29, Wis. Stat. including imprisonment for up to 10 years, a fine not to exceed $25,000 or both.
   D. The court clerk shall notify the department of justice of the restriction unless the department has been previously informed of a prohibition for this subject.

☐ 5. Other: _____

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.

DISTRIBUTION:
1. Court
2. Subject
3. Attorney
4. Treatment Provider
5. Detention facility (if different)