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**COURT OF APPEALS
DECISION
DATED AND FILED**

January 20, 2021

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. 2019AP1950

Cir. Ct. No. 2018ME407

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

IN THE MATTER OF THE MENTAL COMMITMENT OF G. S.:

OUTAGAMIE COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES,

PETITIONER-RESPONDENT,

v.

G. S.,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Outagamie County:
VINCENT R. BISKUPIC, Judge. *Affirmed.*

¶1 STARK, P.J.¹ George² appeals WIS. STAT. ch. 51 orders for involuntary commitment and involuntary medication and treatment. 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.

Outagamie County Department of Health and Human Services (“the County”) failed to present sufficient evidence to show that he was dangerous under WIS. STAT. § 51.20(1)(a)2.c. We conclude the County presented sufficient evidence to establish that George was dangerous. We therefore affirm.

BACKGROUND

¶2 On November 22, 2018, George was detained pursuant to a statement of emergency detention issued under WIS. STAT. § 51.15. The filing of a statement of emergency detention has the same effect as a petition for involuntary commitment under WIS. STAT. § 51.20. *See* WIS. STAT. § 51.15(5). On November 27, a Green Lake County circuit court judge held a hearing and determined that probable cause existed to believe that George was mentally ill, a proper subject for treatment, and dangerous to himself or others. The court also concluded there was probable cause for the issuance of an involuntary medication and treatment order. At the conclusion of the probable cause hearing, venue was changed from Green Lake County to Outagamie County, where George lived.

¶3 The Outagamie County Circuit Court held a final hearing on December 6, 2018. At the beginning of the hearing, the parties informed the court that the sole contested issue was whether George was dangerous. George stipulated to the other elements required for the entry of an involuntary commitment order—namely, that he was mentally ill and a proper subject for treatment. *See* WIS. STAT. § 51.20(1)(a)1. George also stipulated that the court

² For ease of reading, we refer to the appellant in this case using a pseudonym, rather than his initials. *See* WIS. STAT. RULE 809.19(1)(g).

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could enter an order for involuntary medication and treatment if it concluded the County had established the grounds for involuntary commitment.

¶4 The County called two witnesses to testify at the final hearing. Green Lake County sheriff's deputy Michael Majeskie testified that on November 22, 2018, George called law enforcement stating that he wanted to make a "citizen's arrest on some duck hunters" due to "[s]ome sort of hunting violation" or "trespassing." George told dispatch he was "some anaconda type agent with Donald Trump, and he was going to ... take action on that authority." Dispatch then sent Majeskie to George's location at Big Green Lake.

¶5 When Majeskie arrived at the lake, he made contact with five duck hunters on the shore. Majeskie testified the hunters "seemed upset, kind of scared." They told Majeskie that George "just rolled up to them and told them that my name is trouble and I am a federal marshal." George also told the hunters that he was "going to need some backup and people are jamming their cell phone and stuff like that. There's going to be a Mexican standoff with these people over some duck decoys."

¶6 George was in his boat, which was in the water about 100 yards out from the shore, when Majeskie arrived at the lake. George subsequently proceeded to the shore to speak with Majeskie. He told Majeskie that the other hunters were trespassing, and that he had "a deputy federal DNR warden status." George did not, however, provide proof of any law enforcement or governmental authority.

¶7 While speaking to George, Majeskie observed two firearms in George's boat: a shotgun and a rifle. Both guns were encased. Majeskie testified he had told dispatch to instruct George to make sure that his firearms were

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unloaded, and when he spoke to George at the scene, George stated “he had done that already.” George’s response led Majeskie to believe that the firearms had been loaded “at one point.”

¶8 Majeskie testified that the type of shotgun George had in his boat was commonly used for bird hunting. He stated the rifle was appropriate for deer hunting, and he acknowledged that his encounter with George occurred during deer hunting season. He testified, however, that it would be “unusual” to use that type of rifle while in a boat in the middle of a lake. He also testified that George specifically told him the rifle was “for protection.” Majeskie further testified that during George’s confrontation with the hunters, he was “well within shotgun range” and was “[d]efinitely within ... rifle range at all times.”

¶9 Majeskie ultimately took George into custody based on “criminal charges ... for an impersonation issue” and because he was “concerned about [George] being a danger to others.” When Majeskie searched George at the jail, he found approximately ten shotgun shells in George’s pocket.

¶10 Majeskie conceded that he never saw George holding a firearm during their encounter. He also conceded that he had no knowledge that George had pointed a firearm at anyone on the day in question. He further acknowledged that George’s encounter with the hunters was “verbal” in nature and that George did not discharge a firearm while speaking with the hunters.

¶11 The circuit court then questioned Majeskie about George’s statement of emergency detention, on which Majeskie wrote that George “has been firing guns into the air causing ammunition to land among residences.” Majeskie explained that sentence referred to an incident that had occurred the day before the confrontation with the duck hunters. Although Majeskie was not on duty at that

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time, he learned about the incident during a subsequent briefing. When the court asked whether George could have been innocently firing a gun into the air while duck hunting, Majeskie responded:

I spoke with the DNR warden, who initially took and investigated this complaint. And he advised me that yes, although [George] made the claim he was shooting at ducks, [the warden] didn't think he was. And it was not a safely handled firearm, as the shot was landing amongst homes and vehicles and officers that were arriving on scene to take another complaint.

¶12 The County also presented the testimony of psychiatrist Michele Andrade at the final hearing. Andrade had been appointed by the circuit court to perform an evaluation of George following his emergency detention. The evaluation took place on November 29, 2018, and lasted approximately forty-five minutes. Andrade testified it was difficult to “get a clear history” from George about the confrontation with the hunters “because he was so disorganized.” According to Andrade, George “said he was duck hunting. And then he was like making motions that he was firing off a rifle a couple of times.” She testified George denied that he believed he was “a federal marshal in the DNR,” but he then told Andrade “that he worked for the President of the United States” and that he “was unable to say [the president's] name, because of his secret work for the president.”

¶13 When Andrade asked George about his comment to the hunters regarding a “Mexican standoff,” George was “very disorganized” and told her he thought it was “odd that there was four of them against me.” Andrade testified it was “really hard to follow [George's] train of thought.” He made comments about a game warden having a vendetta against him, and he “would go off on something, then he would say 411, 911. And it just didn't make any sense.” Andrade

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testified George confirmed that he was armed during the confrontation with the hunters, and he acknowledged holding a weapon in his hands at some point. Andrade also testified that George described discharging a firearm. However, that description appeared to be in reference to the incident in which ammunition fell on houses, which occurred the day before the confrontation with the hunters.

¶14 Andrade further testified that George told her he had been “chapered” ten times—referring to prior hospitalizations under WIS. STAT. ch. 51. She opined that George’s behavior was consistent with that of someone who was mentally ill. She conceded, however, that George had not demonstrated any dangerous behaviors during his most recent hospitalization.

¶15 The circuit court then questioned Andrade regarding her report. In particular, the court asked Andrade to explain the basis for the conclusion in her report that George was “a danger to himself and others based on [his] past and current history.” In response, Andrade stated George told her that he had previously attempted suicide by trying to asphyxiate himself in a garage with his truck running. Andrade also testified George reported that others had told him he had been drinking battery acid. She conceded, however, that the garage incident was not “recent” and that she had no information about when George may have consumed battery acid. In addition, Andrade acknowledged there was no medical evidence substantiating George’s recent consumption of battery acid.

¶16 Andrade also stated that George was a danger to others, and possibly to himself, “in terms of this particular episode, having a firearm loaded, firing it, whether it’s in the air or not, indiscriminately.” Again, though, Andrade conceded that she had no knowledge as to whether George had fired a weapon during his confrontation with the hunters.

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¶17 Andrade's report contained additional information in support of her conclusion that George posed a danger to himself and others. Specifically, the report stated that George "[d]oesn't feel he has a mental illness and uses poor judgment in terms of his history of non-compliance with treatment where decompensation occurs and dangerous situations happen." The report later stated:

[George] almost with pride details that he has been hospitalized under [WIS. STAT.] chapter 51 10 times. Then shortly after adds that he will be out of the hospital "in 72 hours." He plans to return to hunting for ducks. Based on his history of multiple hospitalizations and his significant history of non-compliance[,] it is my opinion that he is at high risk to repeat this cycle of decompensation and dangerous behavior if not placed under commitment by the court. He likely is sa[v]vy enough to know how to present to hospital staff in order to evade commitment. As in his rush to be discharged he expects to be discharged in 72 hours. Although he has not shown dangerous behavior while inpatient and no seclusion or restraints[,] he likely is able to present well. This was the case in this interview until as time went on and the interview lengthened[,] he became more and more delusional and disorganized.

¶18 George did not testify or present any witnesses at the final hearing. After hearing arguments by the parties, the circuit court concluded the County had proved by clear and convincing evidence that George was dangerous under WIS. STAT. § 51.20(1)(a)2.c. In support of that conclusion, the court noted that George made a "false representation of having law enforcement authority" during his confrontation with the hunters. While the court did not "read too much into" the report of George shooting into the air, the court found it concerning that George had a rifle during the confrontation with the hunters, given that a rifle is "a gun that's not used for hunting on boats." The court therefore stated George's possession of the rifle was "relevant and probative of the Court looking into the dangerousness issue," along with George's mania and delusional behavior.

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¶19 The circuit court acknowledged that the evidence regarding George's confrontation with the hunters was somewhat vague. The court also noted that it was not concerned about George possessing a shotgun and legitimately hunting ducks. The court stated, however, that it was "pretty significant" that George had falsely portrayed himself as a law enforcement officer while he was in possession of a gun "that's not used for hunting on a boat." Based on this evidence, the court concluded the County had established a pattern of recent acts demonstrating that George's judgment was so impaired that there was a substantial probability of physical impairment or injury to himself or others. *See* WIS. STAT. § 51.20(1)(a)2.c.

¶20 The circuit court acknowledged that the probability of physical impairment or injury under WIS. STAT. § 51.20(1)(a)2.c. is not substantial if reasonable provision for the subject individual's protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of those services. The court referred to that statutory language as "almost" shifting the burden onto George to show that he would avail himself of the relevant services. The court then observed that although George's attorney had represented that George would voluntarily seek treatment for his mental illness, George did not testify, and the court therefore did not know whether he would "follow through with what his lawyer says." The court subsequently stated that it did not have any information to indicate that George would voluntarily avail himself of services in the community.

¶21 The circuit court therefore entered an order involuntarily committing George on an outpatient basis for a period of six months. The court also entered an order for involuntary medication and treatment during the period of George's commitment. George now appeals, arguing the evidence was insufficient to

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support the court's orders because the County failed to prove that he was dangerous under WIS. STAT. § 51.20(1)(a)2.c.³

DISCUSSION

¶22 In order to involuntarily commit an individual under WIS. STAT. ch. 51, a petitioner must prove by clear and convincing evidence that the individual is mentally ill, a proper subject for treatment, and dangerous. *See* WIS. STAT. § 51.20(1)(a), (13)(e). As noted above, in this case, George stipulated that he was mentally ill and a proper subject for treatment. The only issue on appeal is whether the County presented sufficient evidence to prove that George was dangerous under the standard set forth in § 51.20(1)(a)2.c.⁴

¶23 As relevant here, WIS. STAT. § 51.20(1)(a)2.c. states that an individual is dangerous if he or she “[e]vidences such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there is a substantial probability of physical impairment or injury to himself or herself or other individuals.” The term “substantial probability,” as used in WIS. STAT. ch. 51, means “much more likely than not.” *See State v. Curiel*, 227 Wis. 2d 389, 414, 597 N.W.2d 697 (1999). Section 51.20(1)(a)2.c. further provides that “[t]he probability of physical impairment or injury is not substantial ... if reasonable provision for the subject individual's protection is available in the community and

³ Both of the orders at issue in this case expired on June 6, 2019. The County has not sought to extend the orders. The parties agree, however, that George's appeal is not moot because the commitment order continues to affect George's ability to possess firearms, even though it has expired. We therefore address the merits of George's appeal.

⁴ WISCONSIN STAT. § 51.20(1)(a)2. lists five ways in which a petitioner may establish that an individual is dangerous. Only the standard set forth in § 51.20(1)(a)2.c. is at issue in this appeal.

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there is a reasonable probability that the individual will avail himself or herself of these services.”

¶24 Whether the County met its burden to prove that George was dangerous presents a mixed question of fact and law. *See Waukesha Cnty. v. J.W.J.*, 2017 WI 57, ¶15, 375 Wis.2d 542, 895 N.W.2d 783. We uphold the circuit court’s factual findings unless they are clearly erroneous. *Id.* However, whether those facts satisfy the statutory standard is a question of law that we review independently. *Id.*

¶25 Although this is a close case, we conclude the County met its burden to prove by clear and convincing evidence that George was dangerous under WIS. STAT. § 51.20(1)(a)2.c. Evidence was introduced at the final hearing that on the day before the confrontation with the hunters, law enforcement received information that George had been firing guns into the air causing ammunition to land among houses. George asserts that he was duck hunting and therefore had a legitimate reason to fire a gun into the air. Be that as it may, the salient point, for purposes of our analysis, is that George was firing his weapon in such a way that ammunition landed among houses, creating a potentially frightening and dangerous situation for their residents.

¶26 The following day, George confronted a group of hunters while in the possession of two firearms. Based on the evidence introduced at the final hearing, it is reasonable to infer that those guns were loaded during the confrontation. Although George was in a boat and was apparently duck hunting at the time of the confrontation, one of the guns in his possession was a rifle not suitable for duck hunting, and George told law enforcement that gun was “for protection.”

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¶27 George displayed a confrontational attitude during his interaction with the hunters, falsely claiming that he was a federal marshal and telling them that he was going to need “backup” and that there was going to be a “Mexican standoff.” George was close enough to shoot or be shot by the hunters during the confrontation, and Majeskie testified the hunters appeared to be upset and scared by his behavior. When confronted by law enforcement, George continued to assert that he was acting pursuant to some sort of governmental authority. He also told dispatch that he intended to make a “citizen’s arrest.” When interviewed by Andrade seven days later, George continued to display delusional behavior, asserting that he was secretly employed by the president. George also told Andrade that he would be out of the hospital in seventy-two hours and planned to return to duck hunting.

¶28 This evidence was sufficient to establish a pattern of recent acts giving rise to a substantial probability of physical impairment or injury to George or others. Over the course of two days, George was involved in two separate incidents involving firearms that resulted in reports to law enforcement. During the second incident, George confronted a group of hunters while armed, claiming to have some sort of federal law enforcement authority while talking about a “Mexican standoff.” Seven days after that confrontation, George continued to exhibit delusional behavior and stated that he planned to return to hunting upon his release. This pattern of behavior created a substantial probability that George would injure someone else while armed and in his delusional state, or that his behavior would provoke someone else to injure him.

¶29 George emphasizes that no harm actually occurred during his confrontation with the hunters. Actual harm, however, is not required in order to support a finding of dangerousness under WIS. STAT. § 51.20(1)(a)2.c. For the

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reasons explained above, George's pattern of behavior was sufficient to create a substantial probability of harm to either himself or others. That substantial probability of harm was sufficient under § 51.20(1)(a)2.c.

¶30 In his reply brief, George likens this case to *Milwaukee County v. Cheri V.*, No. 2012AP1737, unpublished slip op. (WI App Dec. 18, 2012). In that case, Cheri sought treatment in a mental health facility because she believed she was "being followed by people on Facebook." *Id.*, ¶2. She believed that those people were trying to hurt her and were checking themselves into the same mental health facility. *Id.* A nurse testified that Cheri was "very upset, very angry" and confronted another patient, pointing her finger at him and accusing him of harassing her. *Id.*, ¶3. The nurse became concerned for Cheri's safety and that of the other patients, and she therefore put Cheri in restraints. *Id.*

¶31 The circuit court found Cheri dangerous and ordered her committed. *Id.*, ¶1. On appeal, we reversed the commitment order, concluding there was insufficient evidence to establish that Cheri was dangerous. *Id.* We explained that "yelling at and pointing a finger at another person, irrespective of how dangerous that other person might be, does not" constitute sufficient evidence of dangerousness, "unless there is evidence that the subject of a potential commitment order is trying to goad that other person *in order to* have that other person kill or harm the subject (as in 'suicide by cop')." *Id.*, ¶7.

¶32 George appears to suggest that his conduct in this case was no more indicative of dangerousness than the yelling and finger pointing at issue in *Cheri V.* We disagree. George confronted a group of hunters while armed and repeatedly (and falsely) claimed to have some kind of law enforcement or governmental authority over them. That type of conduct was far more likely to

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result in harm to George or others than merely yelling and pointing a finger at another individual.

¶33 George also argues the evidence was insufficient for the circuit court to find him dangerous under WIS. STAT. § 51.20(1)(a)2.c. because the probability of physical impairment or injury under that statute is not substantial “if reasonable provision for the subject individual’s protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services.” George reiterates that in order to involuntarily commit him, the County had the “burden of proving all required facts by clear and convincing evidence.” *See* § 51.20(13)(e). He then asserts that the court improperly shifted the burden to him to prove that it was reasonably probable he would avail himself of services in the community, rather than requiring the County to prove it was not reasonably probable that he would do so.

¶34 The circuit court’s oral ruling does suggest that the court may have shifted the burden to George as to the likelihood that he would avail himself of services in the community. The court referred to the relevant statutory language as “almost” shifting the burden onto George to show that he would avail himself of the relevant services. The court then observed that although George’s attorney had represented that George would voluntarily seek treatment for his mental illness, George did not testify, and the court therefore did not know whether he would actually seek treatment if not committed. The court later commented that it had no information indicating that George would voluntarily avail himself of services in the community. These comments suggest that the court faulted George for failing to present evidence showing that he would avail himself of the relevant services.

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¶35 Nevertheless, whether the facts satisfy the statutory standard for dangerousness is a question of law that we review independently. *J.W.J.*, 375 Wis. 2d 542, ¶15. Here, upon our independent review, we conclude the County presented sufficient evidence to establish that it was not reasonably probable George would avail himself of services in the community. The evidence at the final hearing showed that George was delusional and believed that he was acting pursuant to authority conferred by the federal government. He reported to Andrade that he had been hospitalized under WIS. STAT. ch. 51 on ten previous occasions. Andrade opined that George does not recognize that he has a mental illness and therefore has a history of noncompliance with treatment, leading to decompensation. Andrade also opined, however, that George is likely savvy enough “to know how to present to hospital staff in order to evade commitment.” On this record, the County met its burden to prove that it was not reasonably probable George would avail himself of services in the community because George did not have insight into his own condition, had a history of noncompliance with treatment leading to decompensation, and was capable of presenting in such a way—at least initially—as to suggest to others that treatment was not necessary.

¶36 For all the foregoing reasons, we conclude the evidence was sufficient to establish that George was dangerous under WIS. STAT. § 51.20(1)(a)2.c. We therefore affirm the circuit court’s orders for involuntary commitment and involuntary medication and treatment. In closing, however, we pause to address an additional argument raised in the County’s appellate brief.

¶37 Specifically, the County argues that given George’s “mental status” on the date of the confrontation with the hunters, “even possessing a fire arm [sic] at all created a substantial risk of harm.” The County further asserts: “This whole

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case frankly begs one question; do we believe that individuals who are as delusional and manic as [George] are capable of possessing firearms. The County asserts that the answer to that question is clearly no.”

¶38 In his reply brief, George responds that he has a fundamental constitutional right to bear arms. He further contends that due process and WIS. STAT. ch. 51 “guarantee that [his] fundamental right to bear arms may not be infringed unless the [C]ounty proved by clear and convincing evidence that [he] is mentally ill *and dangerous*.” George argues his mental illness and possession of firearms, without more, are insufficient to establish that he is dangerous.

¶39 We agree with George that his mental illness and possession of firearms, standing alone, are insufficient to support a finding of dangerousness under WIS. STAT. § 51.20(1)(a)2.c. However, our conclusion that the evidence was sufficient to support a finding of dangerousness under that statute is not premised only on George’s mental illness and possession of firearms. Instead, we conclude the County met its burden to show a pattern of recent acts demonstrating a substantial probability of physical impairment or injury to George or others based on: George’s shooting a firearm into the air in such a way that ammunition fell among houses, vehicles, and officers arriving on the scene; his subsequent confrontational and erratic behavior toward the hunters, while armed with a weapon that was not appropriate for duck hunting and that he admitted was for his own protection; his repeated delusional assertions of law enforcement or governmental authority; and his stated intention to return to hunting after he was released from custody. Taken together, these circumstances—which include but are not limited to George’s mental illness and possession of firearms—created a substantial probability of physical injury or impairment to George or others.

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By the Court.—Orders affirmed.

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

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1 THE COURT: 18-ME-407. Matter involving
2 George . George is here in court. Is
3 present with his attorney, Ian Mevis. Brianne
4 Zaborowski is the case worker from Outagamie County.
5 The Assistant Corporation Counsel present is Patrick
6 Taylor. And then Lori, L-O-R-I, S: George's
7 wife. Mr. Taylor, do you want to give me an update on
8 the status of the case?

9 MR. TAYLOR: Yes, your Honor. It sounds
10 like George will be stipulating to basically the
11 elements of his mental illness and his treatability and
12 if the Court were to find a commitment to the grounds
13 for a medication order. But that he is contesting the
14 element of dangerousness. So I have a deputy from the
15 Green Lake Sheriff's Department lined up to testify by
16 phone. And so I would call that individual as my first
17 witness.

18 THE COURT: All right. What's the phone
19 number?

20 MR. TAYLOR: It is (920)229-5057.

21 THE COURT: Who's the deputy's first name?

22 MR. TAYLOR: Deputy Mike Majeskie.

23 THE COURT: Was he calling in? Because my
24 line was active for some reason. Let me try it again.

25 (Voice mail left.)

1 THE COURT: All right. We're going to
2 stay on the record. Mr. Mevis, can you summarize just
3 so we're clear on which portions of the case you're
4 stipulating to?

5 MR. MEVIS: Sure. Thank you, your Honor.
6 will stipulate to -- as indicated by
7 Attorney Taylor -- the elements of the mental health
8 issue being present; the element of proper subject for
9 treatment being present; and would also stipulate to a
10 Court order for medication. However, George does
11 disagree with the finding that he is in any way a
12 danger to himself or others. And, therefore, that is
13 the sole issue we would be challenging today.

14 THE COURT: Okay. George is that the
15 correct scope of the stipulation?

16 : Yes, sir.

17 THE COURT: All right. So we'll wait for
18 the Deputy Mike Majeskie to call us back.

19 (Off the record.)

20 THE COURT: Back on the record. You can
21 tell us who your next witness is.

22 MR. TAYLOR: Thank you. I will call
23 Dr. Michele Andrade. She is at --

24 THE COURT: Give me the number.

25 MR. TAYLOR: It's area code (262)332-1500.

1 THE COURT: Hi, Doctor. It's Judge
2 Biskupic in Branch 6 in Outagamie County. We're in the
3 middle of the George's hearing.

4 And the Corporation Counsel Patrick Taylor wants to
5 take some testimony from you. Are you available?

6 THE WITNESS: Yeah. Let me go out to --

7 THE COURT: Take your time.

8 THE WITNESS: Yeah. Just a couple seconds
9 here.

10 THE COURT: Sure. That's okay.

11 THE WITNESS: Okay.

12 THE COURT: Going to have you raise your
13 right hand and the clerk is going to swear you in.

14 THE WITNESS: Okay.

15 (Witness sworn.)

16 THE CLERK: Please state your full name
17 and spell your last name for the record.

18 THE WITNESS: That's Michele Andrade,
19 A-N-D-R-A-D-E.

20 THE COURT: Okay. Dr. Andrade, we're
21 going to start with questions from Assistant
22 Corporation Counsel Patrick Taylor, followed by
23 George's attorney, Ian Mevis. They have
24 stipulated to certain portions of the proofs, but the
25 main focus is dangerousness to self or others. And so

1 Mr. Taylor might streamline his questions to you. So I
2 will make sure both lawyers use their microphones so
3 you can hear them. Okay?

4 THE WITNESS: Okay. Great.

5 THE COURT: Go ahead, Mr. Taylor.

6 MR. TAYLOR: Thank you.

7 (DIRECT EXAMINATION)

8 BY MR. TAYLOR:

9 Q Good afternoon, Doctor. This is Patrick Taylor. Can
10 you hear me all right?

11 A Yes. Sure.

12 Q Okay. Thank you. Like the judge said, I'm going to
13 limit my questions to the dangerous aspect. When you
14 met with George , did you speak with him
15 personally?

16 A Yes.

17 Q And do you remember approximately how long you spoke
18 with him?

19 A It was for about 45 minutes I think. Yeah.

20 Q When you spoke with him, did you discuss the events
21 leading up to his evaluation, the ones that resulted in
22 his being taken into custody?

23 A Yes.

24 Q What, if anything, did he acknowledge or say about what
25 had happened?

- 1 A Well, it was pretty hard to get a clear history from
2 him, because he was so disorganized. But he said he
3 was duck hunting. And then he was like making motions
4 that he was firing off a rifle a couple of times. And
5 he denied what the ED had said and also what the
6 admission report says that he believes that he was a
7 federal marshal in the DNR. But he did tell me that he
8 worked for the President of the United States. And
9 that he was unable to say his name, because of his
10 secret work for the president.
- 11 Q And did -- with respect to that last couple of points,
12 did George provide you any proof of his working
13 for the president?
- 14 A No.
- 15 Q Did George describe at all the encounter he had
16 with additional hunters right before he was taken into
17 custody?
- 18 A Yes. I asked him about his comment to them about it
19 being a Mexican standoff. And, again, he was very
20 disorganized. And all he could say was I thought it
21 was odd that there was four of them against me.
- 22 Q So --
- 23 A He said --
- 24 Q So he acknowledged an encounter with hunters that he
25 described to you at that point?

1 A Yes. He says that the warden had loaded his shotgun
2 and that he was hunting illegally.

3 Q Did George clarify whose shotgun the warden had
4 loaded?

5 A He said it was his.

6 Q George's?

7 A Yeah.

8 Q Did George acknowledge being armed when he had the
9 interaction with the hunters?

10 A Yes.

11 Q Did he describe in any other way what he said to the
12 hunters when he encountered them?

13 A It was really hard to follow his train of thought. He
14 would say things like when I listed -- on page one of
15 the report -- he would just say stuff like if the
16 warden -- and he would go off on something, then he
17 would say 411, 911. And it just didn't make any sense.

18 Q With respect to his encounter with the hunters, did he
19 describe what he was claiming that they were doing or
20 violating?

21 A Well, he said that the game warden had a vendetta out
22 against him. But he didn't say what -- specifically
23 what the other hunters said to him.

24 Q So just to recap, George acknowledged having an
25 encounter with multiple other individuals as described

1 in the statement of emergency detention?

2 A Yeah. He acknowledged having an encounter with them,
3 but his story about -- didn't follow exactly what the
4 emergency detention said.

5 Q Did he -- but he did confirm he was armed when he had
6 that encounter with them?

7 A Yes.

8 Q You mentioned him describing how he had discharged a
9 firearm; is that right?

10 A Yes.

11 Q And he said he was duck hunting?

12 A Yes.

13 Q Did he say where this occurred?

14 A No. Because I had asked him what about shooting the
15 rifle and ammunition falling on houses? And he just
16 kind of wandered off to another topic about how the
17 warden doesn't know how to shoot ducks.

18 Q Did he ever clarify who the warden was that he was
19 discussing?

20 A No. He just said junior DNR game warden.

21 Q Did George acknowledge any prior history of
22 hospitalizations?

23 A Yes.

24 Q Did he say approximately how many times he had been
25 "chaptered"?

1 A Ten times.

2 Q You said you discussed the concept of a Mexican
3 standoff with George ?

4 A Yes.

5 Q Did he elaborate on what he understood that term to
6 mean?

7 A Again, he really didn't make any sense. In answer to
8 talking about the Mexican standoff, was tough to
9 follow. It was very difficult to follow. He would say
10 things like tic-tac-toe, two in a row.

11 Q George : hadn't demonstrated any dangerousness while
12 on in-patient treatment; is that right?

13 A That's correct.

14 Q When you spoke with George , were the symptoms --
15 or I'm sorry. Was the behavior that he demonstrated
16 consistent with someone who is mentally ill?

17 A Yes.

18 MR. TAYLOR: Thank you. I don't have any
19 further questions.

20 THE COURT: Mr. Mevis, any questions?

21 MR. MEVIS: I do have questions. But I
22 just make a motion to dismiss the case. There's been
23 no real evidence of dangerousness present yet in this
24 testimony. So unless there's other testimony that
25 might bring that to light, I'd ask the case be

1 dismissed.

2 THE COURT: We're going to wait until we
3 hear back, if the officer calls in.

4 MR. MEVIS: Then I do have a few questions
5 for Dr. Andrade.

6 THE COURT: Go ahead.

7 (CROSS-EXAMINATION)

8 BY MR. MEVIS:

9 Q Dr. Andrade, a lot of the substance of the conversation
10 you had with George involved hunting, correct?

11 A Yes.

12 Q And as far as you know, George is a hunter?

13 A That's what he said.

14 Q Do you know whether he has any authority to provide
15 guidance services in the State of Wisconsin?

16 A To provide what? I'm sorry.

17 Q To act as a hunting and/or fishing guide in the State
18 of Wisconsin?

19 A No. I do not know.

20 Q Okay. And you would agree that if one has -- let's
21 just say hypothetically -- one has licensure that
22 allows them to act as a guide in the sports of hunting
23 or fishing, under the State of Wisconsin that would be
24 something that is sanctioned by the government of
25 Wisconsin, correct?

1 A That's kind of a legal question, but I guess so, yeah.

2 Q And being a member of the union, Wisconsin would also
3 be subject to federal laws and regulations, correct?

4 A Being a member of a union? I'm not understanding what
5 you're saying.

6 Q My question is this: Any authority that
7 might have to act as a guidesman would have been
8 sanctioned by a government entity; is that fair?

9 A I don't know what the credentialing is for that kind of
10 thing. But if it needs a credential from the State of
11 Wisconsin, then I would say yes.

12 Q Okay. There's some indication that
13 acknowledged to you that he was armed while he was
14 in -- while this occurred; is that correct?

15 A Yes.

16 Q Did he describe to you what in what capacity he was
17 armed?

18 A He had two rifles. He mentioned a shotgun. So I'm not
19 clear if he had one rifle and one shotgun, or two
20 rifles, or two shotguns.

21 Q And did he ever tell you that those guns were in cases
22 in his boat?

23 A He had made mention at one point that one of them was
24 and the other one he said the game warden loaded for
25 him.

1 Q So whatever gun we're referring to with respect to the
2 game warden, he would not have had possession of that
3 firearm at that time, correct?

4 A He was so disorganized and so delusional it's --

5 Q Doctor, that's not my question.

6 THE COURT: Don't interrupt her. You can
7 always object and have it stricken later on. We're not
8 going to have two people talking at the same time. Go
9 ahead. Finish your answer, and then we'll decide if
10 it's going to stand or not.

11 THE WITNESS: Okay. So his mental illness
12 interferes with his report of reality.

13 MR. MEVIS: Your Honor, this is totally
14 off reservation. I didn't even ask this question and I
15 am doing cross-examination.

16 THE COURT: Wait for the next question,
17 Doctor. And just listen to the scope of the question.

18 THE WITNESS: Okay. Sorry.

19 THE COURT: It's all right. The other
20 attorney can redirect if he wants.

21 BY MR. MEVIS:

22 Q Did George acknowledge to you at any point in time
23 that he was holding a weapon in his hands?

24 A Yes.

25 Q Okay. Is that the weapon you're referring to that then

1 the sheriff or the warden had loaded for him?

2 A I don't know that for a fact.

3 Q You weren't obviously present when this whole thing
4 occurred, correct?

5 A Correct.

6 Q He wasn't a danger to himself during any sort of
7 in-patient treatment, fair?

8 A Currently?

9 Q While he was in-patient.

10 A Not at this hospitalization.

11 MR. MEVIS: Okay. I don't think I would
12 have any more questions at this time, your Honor.

13 THE COURT: Any redirect, Mr. Taylor?

14 MR. TAYLOR: No, thank you.

15 THE COURT: All right. Just double
16 checking the couple things before I release you. I
17 just want to see if I have any questions.

18 THE WITNESS: Okay.

19 BY THE COURT:

20 Q Your report is five pages; is that correct?

21 A Yes.

22 Q Is everything in this true and correct to the best of
23 your knowledge?

24 A Yes.

25 Q There's -- at the bottom of page four where it says

1 comments and recommendations.

2 A Yes.

3 Q Last line says on the page George is experiencing
4 mania and is both -- and it may be a typo -- seems to
5 be saying is both a danger to himself and others based
6 on past and current history. What do you base that
7 statement on that he's a danger to himself and others
8 based on past and current history?

9 A He admitted to me that he tried to asphyxiate himself
10 in a garage with his truck running in a previous
11 suicide attempt. And in terms of this particular
12 episode, having a firearm loaded, firing it, whether
13 it's in the air or not, indiscriminately is a danger to
14 others and potentially a danger to himself.

15 Q The thing with the garage, is that more dated than
16 recent history?

17 A Yes.

18 Q All right. So focusing on recent history, you're
19 relying on an allegation --

20 A He also told me that he -- others have told him -- that
21 others have said that he has been drinking battery
22 acid.

23 Q He said that?

24 A He said that to me.

25 Q Did he give you a timing of when that supposedly

1 happened?

2 A No.

3 THE COURT: All right. Based on the
4 Court's inquiry, any followup, Mr. Taylor?

5 MR. TAYLOR: No. Thank you.

6 THE COURT: Mr. Mevis?

7 MR. MEVIS: Yes, sir. I do.

8 THE COURT: Go ahead.

9 (FURTHER EXAMINATION)

10 BY MR. MEVIS:

11 Q Dr. Andrade, you referenced firing a gun in the air.
12 When did this occur, if you know?

13 A I don't know.

14 Q Okay. At any point in time during 's
15 interaction with the group of hunters, do you have any
16 knowledge as to whether he fired a weapon?

17 A No.

18 Q Okay. So he may not have fired a weapon, correct?

19 A I don't know.

20 Q So my statement is true that he may not have fired a
21 weapon, correct?

22 MR. TAYLOR: Your Honor, I'm going to
23 object. Attorney Mevis' first question established
24 that she has no knowledge.

25 THE COURT: Can you confirm that, Doctor,

1 that you're not sure?

2 THE WITNESS: Right. Exactly.

3 BY MR. MEVIS:

4 Q And you don't have any specific information regarding
5 drinking battery acid, correct?

6 A The specific information is what he told me. That's
7 all I know.

8 Q Okay. And you said at the time that he was delusional;
9 is that fair?

10 A Yes.

11 Q A statement such that one is drinking or has drank
12 battery acid, does that seem like a delusional
13 statement?

14 A It sounds like a statement of somebody that's mentally
15 ill.

16 Q Okay. But if they weren't actually drinking it, in
17 fact, if the statement was made and it wasn't true,
18 then certainly there would be no danger there, correct?

19 A Correct.

20 Q He wasn't presenting to you with any signs that he had
21 drank battery acid recently, correct?

22 A Correct.

23 Q Based on your training and experience, presumably that
24 would be something that would require in-patient
25 hospitalization; is that fair?

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1 A Right. He was medically cleared.

2 Q Okay. So other than what he represented to you as
3 being a past suicide attempt through asphyxiation and
4 other than drinking battery acid -- I just want to make
5 sure I understand -- is there anything else based on
6 recent history that leads you to believe is
7 dangerous?

8 A His use of firearms in indiscriminately.

9 Q Doctor, didn't you say you don't even know if he fired
10 a firearm?

11 A I said I didn't know if he fired a firearm in front of
12 the hunters.

13 Q Do you have any personal knowledge that
14 fired a firearm in any circumstance leading to his
15 detention?

16 A Personal meaning I was there. I wasn't there, but I
17 read all the reports.

18 Q And in what report are you referencing where he fired a
19 firearm?

20 A The emergency detention.

21 Q Okay. That would be the report that would be put
22 together by a police officer, correct?

23 A Correct.

24 Q And you would agree they would be the individual that
25 would have the most knowledge directly about those

1 facts and circumstances, right?

2 BY THE COURT:

3 Q Do you agree that they're in a better position to know
4 whether that happened or not?

5 A Yes.

6 Q Okay. Just on that topic -- and I am going to let
7 Mr. Mevis continue. Only thing I am reading in the
8 officer's detention report regarding something that may
9 have been recent. I don't know if you pinned down the
10 timing of it, because it's not clear in the report. It
11 says George has been firing guns into the air causing
12 ammunition to land among residence. George thinks is
13 he working for Donald Trump. Did you try and spend
14 some time with him to try and pin down when that may
15 have happened, if it happened at all, regarding firing
16 the guns in the air?

17 A No. He was pretty hard to keep on track, and I didn't
18 get that information.

19 Q Did you say hey, this is what it says in the detention?
20 Did you do that? Did you ask him that kind of a
21 question?

22 A I asked him if he read the detention.

23 Q Say that again.

24 A I asked him if he had read the detention.

25 Q Okay. Then did he dispute some of it?

1 A Yes.

2 THE COURT: Okay. Go ahead, Mr. Mevis.

3 BY MR. MEVIS:

4 Q Doctor, if an individual is hunting birds and their gun
5 is aimed at a plane that's above horizontal, is it fair
6 to say that the bullets or shot from that gun would go
7 up in the air?

8 A I'm not a hunter.

9 Q If you shoot up in the air at a bird, do the bullets go
10 in the air?

11 A Yes.

12 Q Okay. And so at some point in time, those bullets have
13 to come down -- correct -- as a law of physics?

14 A In a bird.

15 Q Unless they're in a bird. Fair clarification. And
16 you're aware that George is a bird hunter,
17 correct?

18 A That's what he says.

19 MR. MEVIS: Okay. Thank you. I don't
20 have any further questions, Judge.

21 THE COURT: Anything else?

22 MR. TAYLOR: No. Thank you.

23 THE COURT: Okay. You're done. We're
24 going to hang up. Thank you, Doctor. All right.

25 Other than the officer, was there anybody else you were

1 going to call as a witness?

2 MR. TAYLOR: No. Thank you.

3 THE COURT: All right. Apparently he's
4 called in, so we're going to put him on the line. Is
5 there somebody on the phone line? Hello?

6 THE WITNESS: Yeah. That would be Mike
7 Majeskie, Green Lake County sheriff.

8 THE COURT: I'm Judge Biskupic. We're
9 going to have you sworn in and then answer some
10 questions from the Assistant Corporation Counsel, whose
11 name is Patrick Taylor. Then the attorney for

12 George, who is Ian Mevis. I'm going to try to
13 keep the lawyers and the judge near the microphone so
14 you can hear us. If at some point you can't hear us,
15 ask us to repeat, because we want to be able to make
16 sure that you have an accurate record of the questions
17 and then also we can hear you. Okay?

18 THE WITNESS: Okay.

19 THE COURT: All right. So the clerk is
20 going to swear you in. So you got to raise your right
21 hand and she'll giving you the oath.

22 (Witness sworn.)

23 THE CLERK: Please state your full name,
24 spell your last name for the record.

25 THE WITNESS: Deputy Michael Majeskie,

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1 M-A-J-E-S-K-I-E.

2 THE COURT: All right. Deputy, you're
3 going to get the questions first from Mr. Taylor and
4 then from Mr. Mevis. I believe they're generally going
5 to be focusing on November 22nd of this year, 2018. Go
6 ahead, Mr. Taylor.

7 MR. TAYLOR: Thank you.

8 (DIRECT EXAMINATION)

9 BY MR. TAYLOR:

10 Q Good afternoon, Deputy. Can you hear me all right?

11 A Yes.

12 Q How are you employed please?

13 A I am a patrol deputy with the Green Lake County
14 Sheriff's Department.

15 Q How long have you been so employed?

16 A Been with that agency since February of 2018.

17 Q Were you working in your capacity as a deputy on the
18 date the judge just mentioned, November 22nd of this
19 year?

20 A Yes, I was.

21 Q On that date, did you have contact with an individual
22 named G eorge ?

23 A I did.

24 Q Do you recall approximately where you had contact with
25 him?

1 A I was at the end of Blackbird Point Lane in Green Lake
2 County. He was out slightly into the water in Big
3 Green Lake.

4 Q George was out slightly into the water?

5 A Yes.

6 Q What time did you proceed to that location
7 approximately on that date?

8 A Approximately 7:00 a.m.

9 Q And were you dispatched there?

10 A Yes.

11 Q For what reason were you dispatched there?

12 A Dispatch received a call from George stating he
13 was going to make some citizen's arrest on some duck
14 hunters. And I learned through briefing that we have
15 been having some problems with him and duck hunters.

16 Q Did George tell dispatch what the citizen's arrest
17 was for?

18 A Some sort of hunting violation, trespassing. He was
19 stating he was some anaconda type agent with Donald
20 Trump, and he was going to take authority on that --
21 take action on that authority.

22 Q And he said take action on that authority?

23 A From what I was understanding from dispatch, you would
24 have to listen to the tape. But this is the
25 information I was getting. He was going to take

1 citizen's arrest. He was definitely trying to act on
2 the power he thinks he has.

3 Q When you went to the location, did you encounter any
4 other individuals besides George ?

5 A I did.

6 Q And who were those individuals?

7 A They were five individuals that were also -- I believe
8 they called the DNR warden as well. They were
9 complainants. And I don't have their names in front of
10 me. It was five of them.

11 Q What was their demeanor when you spoke with them?

12 A They seemed upset, kind of scared. Because this guy
13 just rolled up to them and told them that my name is
14 trouble and I am a federal marshal. And I'm going to
15 need some backup and people are jamming their cell
16 phone and stuff like that. There's going to be a
17 Mexican standoff with these people over some duck
18 decoys.

19 Q And these are all statements that George had made?

20 A Yes.

21 Q Where was George when you responded immediately?

22 A I would say he was about hundred yards out off the
23 point on the waters of Big Green Lake.

24 Q Did he eventually proceed to the shore and have contact
25 with you?

1 A Yes, he did.

2 Q And did you ask him about what had occurred up until
3 then?

4 A Yes.

5 Q What did he tell you?

6 A He told me that these people were trespassing onto some
7 property. He did -- He does have like a deputy federal
8 DNA warden status, because he had a conservation card
9 and a go wild card, which gives him that status. He
10 was really evasive on questions when it came to if he
11 thought he had law enforcement authority. He kept
12 saying he had some DNR federal warden to that effect.

13 Q Did he provide you any proof of that status?

14 A No. Eventually I believe I got some sort of statement
15 out of him where he didn't think he had law enforcement
16 authority once I pressed the issue. I also found no
17 identifying information such as badges or ID cards upon
18 searching incident to arrest.

19 Q Were there any firearms you found on George's
20 boat?

21 A Yes. In plain view there was a shotgun and a .25-06
22 high-powered rifle.

23 THE COURT: A shotgun and what was the
24 other one?

25 THE WITNESS: A .25-06 high-powered rifle.

1 BY MR. TAYLOR:

2 Q Were either of those firearms encased?

3 A Yes, they were.

4 Q Both of them?

5 A Yes. I only saw the cases where the guns were.

6 Q If you know, were either of those guns loaded?

7 A He had to unload them for dispatch. Dispatch told him
8 to unload them. And I asked that they do that, too,

9 because he mentioned to dispatch he had these firearms.

10 I remember specifically asking dispatch tell him to

11 make they're unloaded. He said he had done that

12 already. So at one point leads me to believe that they

13 were loaded at one point.

14 Q Did he have any ammunition on his person?

15 A I took ten -- approximately ten shotgun shells out of
16 his pocket of his coat in the jail for the shotgun. He
17 indicated there were multiple rounds for the rifle.

18 Although I never searched the boat. The warden did. I

19 don't know what they found, but he indicated there

20 were.

21 Q Did George say he was an experienced hunter?

22 MR. MEVIS: Objection; relevance.

23 THE COURT: We'll see if it has. I might

24 not have any weight on it. Go ahead.

25 THE WITNESS: I'm sorry?

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1 THE COURT: Wanted to know if the
2 respondent, George said he was an experienced
3 hunter.

4 THE WITNESS: I don't know if he used
5 those words. But he sure talked like he knew hunting.
6 And he had quite a -- he had a very nice boat. So
7 leads me to believe he knew what he was doing in some
8 capacity.

9 BY MR. TAYLOR:

10 Q Did you eventually place George under your
11 custody?

12 A Yes, I did.

13 Q And why did you do that?

14 A We had criminal charges on him for an impersonation
15 issue. Then also we were concerned about him being a
16 danger to others. So he was held on the criminal
17 charges and for the possible emergency detention.

18 MR. TAYLOR: Thank you. I don't have any
19 additional questions.

20 THE COURT: Go ahead, Mr. Mevis. Other
21 attorney is going to ask you some questions, so just
22 listen closely. Thank you.

23 (CROSS-EXAMINATION)

24 BY MR. MEVIS:

25 Q When you took George into custody, he complied

1 with your requests, didn't he?

2 A It took some persuading to get him from a seated
3 position on the side of his boat up towards us. But he
4 eventually did comply.

5 Q Okay. Verbal persuasion?

6 A Yes, verbal.

7 Q And when you first arrived at the scene, he was roughly
8 100 yards out in the water?

9 A Yes.

10 Q And when you arrived at the scene, you didn't see him
11 holding any firearms, correct?

12 A No. He appeared to be on the phone.

13 Q Okay. When you did get close enough to see -- or when
14 he got close enough to you to see in his boat, you saw
15 two gun cases, correct?

16 A Correct.

17 Q And the firearms were in those cases, correct?

18 A Assumedly.

19 Q And so you don't know at that point in time whether or
20 not the guns were loaded, but they were certainly in
21 the cases; is that fair?

22 A They were in the cases. He advised that he had
23 unloaded them. I had assumed that they would, but they
24 were never checked.

25 Q Okay.

1 A By me any way.

2 Q So on November 22nd, 2018 he never, to your knowledge,
3 pointed a gun at anyone?

4 A No.

5 Q Okay. Otherwise you would have arrested him
6 potentially for pointing a firearm at another, correct?

7 A That would have been an appropriate charge, yes.

8 Q Okay. Are you aware if at any point on November 22nd
9 as to whether he discharged a firearm in his
10 interaction with these hunters?

11 A No.

12 Q Okay. And so it seems like the conversation between he
13 and these hunters was essentially -- was a verbal
14 conversation. There weren't other gestures involving
15 weapons; is that fair?

16 A Yes. It was verbal. Yes, it was.

17 Q Okay. You would agree that it's really not dangerous
18 to have a conversation with someone, is it?

19 MR. TAYLOR: Objection. That calls for a
20 legal conclusion.

21 THE COURT: He can give his interpretation
22 and you can always redirect. Go ahead. Overruled.

23 THE WITNESS: Okay. Depends on what is
24 said and the circumstances.

25 BY MR. MEVIS:

1 Q Well, let's presume that what is in your report is what
2 was said. And there was no gun in George's hand
3 and he's 100 yards off shore. That's not dangerous, is
4 it?

5 A He was 100 yards off shore when I found him. He was
6 right up to the hunters at the time of confrontation
7 well within shotgun range. Definitely within the rifle
8 range at all times.

9 Q But his guns were in cases in his boat?

10 A He stated he cased them. Whether they weren't or not
11 at the time --

12 Q Didn't he come closer to shore at your request?

13 A Later. Initially when he came up to the duck hunters,
14 he did come up to them well within proximity to have a
15 verbal conversation where they can talk to each other.
16 That's how close they were.

17 Q And he didn't point any guns at them at that point in
18 time?

19 A No.

20 Q Okay. And when you arrived, the guns were in their
21 cases?

22 A Yes.

23 Q And -- sorry for interrupting.

24 A Yes. They were away, secure. Put away, yes.

25 MR. MEVIS: Okay. Thank you. No further

1 questions.

2 BY THE COURT:

3 Q Other than the emergency detention report, did you do a
4 separate report?

5 A There is another report sent to the district attorney
6 for criminal charges.

7 Q Okay. I need to understand what you wrote in this,
8 because I don't understand the timing of it. So maybe
9 you can clarify it. In the emergency detention in the
10 section it says describe behavior, and it says George
11 thinks he is a federal marshal and DNR warden and is
12 taking law enforcement action while armed. George
13 made contact with duck hunters and mentioned a "Mexican
14 standoff" with the party.

15 And then this last sentence is what I need some
16 clarification on in particular. It says George has
17 been firing guns into the air causing ammunition to
18 land among the residents. George thinks he is working
19 for Donald Trump. So I need to kind of get an idea of
20 the timing of --

21 A That would be found -- that was the day prior and I was
22 not on duty at that time. That was past during shift
23 briefing that this is what they had with him the day
24 before. So this is a continuation of this type of
25 behavior going on to a second or third day where he is

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1 going out and negligently handling firearms. Now he's
2 confronting people while in possession of these
3 firearms and identifying himself as law enforcement.
4 That's where that was coming from that was in --

5 Q Well, I need to know if it's getting mixed in with just
6 regular hunting for birds. I mean, people do shoot
7 guns into the air when they're hunting. And the phrase
8 is George has been firing guns into the air causing
9 ammunition to land among the residents. Is that
10 distinct from anybody just doing duck hunting or bird
11 hunting?

12 A Yeah.

13 MR. MEVIS: Calls for speculation.

14 THE COURT: I need to know. Somebody is
15 using a firearm here. I got to know whether it's
16 innocent or not.

17 MR. MEVIS: Just making my objection for
18 the record.

19 THE COURT: Fair enough. Go ahead. Just
20 tell me.

21 THE WITNESS: I spoke with the DNR warden,
22 who initially took and investigated this complaint.
23 And he advised me that yes, although he made the claim
24 he was shooting at ducks, he didn't think he was. And
25 it was not a safely handled firearm, as the shot was

1 landing amongst homes and vehicles and officers that
2 were arriving on scene to take another complaint. But
3 I was not there for that case. This is just through
4 shift briefing and information passed to me.

5 Q Was there anything unusual about the guns? Are those
6 typical guns for duck hunting or bird hunting?

7 A The shotgun would be a legitimate firearm to have for
8 birds. The .25-06 he did make a statement that that
9 was for protection. That is a high-powered rifle. And
10 in my experience, that's what killed my partner when I
11 worked for the deputy up in Rusk County. That same
12 firearm.

13 Q Okay. But under hunting laws, can you use that for
14 bird hunting?

15 A No. No, no, no. The bullet would go for miles. It
16 would be unsafe.

17 THE COURT: Going to let the attorneys
18 follow up on my questions, because I think it's
19 important to figure out what you were putting in your
20 report regarding the emergency detention. Go ahead,
21 Mr. Taylor, if you have any follow up.

22 MR. TAYLOR: I don't have any follow up.
23 Thank you.

24 THE COURT: Mr. Mevis, go ahead, if you
25 want to follow up on my questions.

1 MR. MEVIS: Just one or two questions,
2 your Honor.

3 (FURTHER EXAMINATION)

4 BY MR. MEVIS:

5 Q At the time this all occurred, it was in the middle of
6 hunting season for deer, correct?

7 A Yes. It was deer hunting season.

8 Q And the .30-06, is that a gun that could be used in
9 hunting deer legally?

10 A Yeah. The .25-06 would be used. It would be unusual
11 to be using it on a boat in the middle of Green Lake.
12 But, yes, it could be a gun you could be using.

13 MR. MEVIS: Thank you. No further
14 questions.

15 THE COURT: Okay. I appreciate your time.
16 We're going to hang up. Any other witnesses from the
17 County?

18 MR. TAYLOR: No. Thank you.

19 THE COURT: All right. You want to call
20 some witnesses, Mr. Mevis?

21 MR. MEVIS: No. Thank you.

22 THE COURT: All right. Going to let each
23 side summarize their position regarding the issues not
24 stipulated. So go ahead. Take your time -- both
25 sides.

1 MR. TAYLOR: Thank you, your Honor. It's
2 the County's position that there's been clear and
3 convincing evidence to establish dangerousness,
4 specifically part C of Section 51.20. I think it's
5 (1a) (2) that says evidence is such impaired judgment
6 manifested by evidence of a pattern of recent acts or
7 omissions that there's a substantial probability of
8 physical impairment or injury to himself or herself or
9 other individuals.

10 We have a pattern of recent acts or omissions, or
11 even just the pattern of statements made in the events
12 leading up to the detention. But also the prior
13 behaviors, the prior hospitalizations, a pattern of
14 mental illness and delusion on the part of George .

15 And with respect to the encounter, what we have at
16 the conclusion is an individual, who has encased
17 firearms, who has unloaded firearms, and who is
18 speaking with officers. And at no point during that
19 encounter, as far as any of the evidence suggests,
20 pointed a firearm at them.

21 However, the uncontroverted evidence does say that
22 he had called in saying he was making a citizen's
23 arrest, that someone was trespassing and that he was
24 going to take action. And that he had confronted a
25 group of individuals, who were shaken up, who were

1 intimidated when the officer first made contact with
2 them by an individual, who at that point, wasn't 100
3 yards off the shore, but was close enough to be within
4 firing range and that had weapons in his boat that,
5 even though encased when the officer found them, were
6 within his reach. And he told dispatch he had unloaded
7 them, suggesting at some point he had unloaded them.

8 The reason I ask if he was an experienced hunter or
9 knew anything about hunting, in addition to the line of
10 questioning about hunting presented to Dr. Andrade, was
11 that just because the gun is unloaded doesn't mean it
12 can never be loaded again, or because it's in a case
13 doesn't mean it can never be taken out of its case.

14 Surely George is experienced enough that if his
15 delusion was allowed to play out without the
16 intervention of a law enforcement officer, there's a
17 substantial probability of physical impairment or
18 injury to someone if this Mexican standoff continued.

19 I think this was a situation in which
20 was using the statement citizen's arrest trying to get
21 people taken into custody, that things were escalating.
22 And it's only with the intervention of other
23 individuals that it didn't.

24 I think the probability is substantial given that
25 these individuals were rightly not complying with

1 somebody who had no law enforcement authority, had no
2 credentials to take them into custody. And this
3 dangerousness standard doesn't require an actual threat
4 or attempt, because then it would be in Sections 1 or
5 2. It's a pattern of acts or omissions that create a
6 substantial probability of physical impairment or
7 injury to other individuals. And I think --

8 THE COURT: You're reading 51.20(1a) and
9 then --

10 MR. TAYLOR: (2c).

11 THE COURT: (2c). And point to me which
12 language you're relying on to say that he's either a
13 danger to himself or others based on this.

14 MR. TAYLOR: The first sentence --

15 THE COURT: I am looking at it. Which
16 part?

17 MR. TAYLOR: There's a substantial
18 probability of physical impairment or injury to himself
19 or herself or other individuals.

20 THE COURT: What are you pointing to?
21 What were contemporaneous or recent acts to the contact
22 with the deputy from Green Lake?

23 MR. TAYLOR: The creation of a situation
24 in which he was in what he referred to as a Mexican
25 standoff close to other individuals in which he was

1 telling them that he was taking action on his authority
2 based on a crime he believed they were committing.

3 I think it indicates that someone is suffering under
4 that delusion who goes armed with firearms and
5 confronts individuals who there have been no indication
6 were doing anything wrong creates a substantial
7 probability of physical impairment to them, if they
8 rightly don't comply with authority that doesn't exist
9 to follow this individual and place themselves into
10 custody.

11 THE COURT: What's your position on the
12 portion of that that says pattern of recent acts or
13 omissions? I mean, how far back do you believe that I
14 am allowed to look? Because we have got testimony from
15 both the doctor of some things that happened some time
16 ago with a suicide attempt or some vague reference to
17 battery acid that I don't know a specific date.

18 And then the deputy is talking about something the
19 day before about a complaint involving ammunition
20 landing near residences. So what's your position on
21 the how the Court should interpret evidence of a
22 pattern of recent acts or omissions? What time period
23 do you believe I am constrained to?

24 MR. TAYLOR: I would say the suicide --
25 for the sake of this -- the suicide attempt and that

1 any sort of battery acid seem like they're dated enough
2 not to be considered.

3 THE COURT: What about the officer's
4 report from information from dispatch and the DNR
5 wardens from the day before?

6 MR. TAYLOR: I think that's recent.

7 THE COURT: In what way? How do you want
8 me to rely on it, if at all?

9 MR. TAYLOR: I would ask you not to rely
10 on it.

11 THE COURT: All right. So what time
12 period do you think I am constrained to when it says a
13 pattern of "recent acts or omissions?"

14 MR. TAYLOR: I think the recent -- I think
15 the acts -- I think the acts and omissions
16 can constitute this in the pattern of decompensation,
17 at least the --

18 THE COURT: What does that mean?
19 Decompensation?

20 MR. TAYLOR: Not receiving treatment for
21 his mental illness.

22 THE COURT: All right. Anything else you
23 want to add before we shift over to Mr. Mevis?

24 MR. TAYLOR: No. Thank you.

25 THE COURT: Go ahead, Mr. Mevis.

1 MR. MEVIS: Thank you, your Honor. I'm
2 not sure we have any evidence at all before the Court
3 about not complying with treatment for mental illness.
4 We definitely don't have evidence that he ever held a
5 gun or pointed it at anyone. We don't have any
6 firsthand evidence about this prior situation where a
7 gun may have been fired in the air other than the
8 hearsay testimony of a police officer from a briefing
9 that another unnamed police officer gave him from a
10 prior date.

11 I understand the Court would have difficulty making
12 a decision on this. I think I would if I was in the
13 Court's shoes, because George does have a mental
14 illness and some of the statements he made were
15 delusional, as indicated by the doctor, but that
16 doesn't mean he's dangerous. He's agreeing to do
17 treatment voluntarily, your Honor.

18 The suicide attempt reference was when he was 35
19 years old. He's now 61. He got treatment throughout
20 the years voluntarily many times. He tells me all the
21 way through.

22 So given the heightened sense of responsibility, I
23 am sure the Court feels to make sure that firearms
24 don't end up in the wrong hands. I think the
25 inclination of the Court would be to find that there's

1 a dangerousness met here. But I think it's going to be
2 difficult for the Court, based on the evidence before
3 it, to find that there is because there's just been no
4 evidence of it.

5 We have evidence of conversations. We have evidence
6 of George calling the police himself. One could
7 certainly make the argument -- and I will -- that that
8 is a deescalation technique. And getting the police
9 involved was to assure that there wouldn't be any
10 subsequent danger. We know the hunters were armed. We
11 have no idea what they may or may not have been doing,
12 whether they were pointing the firearms. We know the
13 guns were in their cases. I don't think we have any
14 dangerous -- I don't think we have any dangerousness
15 here, your Honor, as indicated by the County under
16 Chapter 51 at all. Certainly not under 51.20(1a)(2c).

17 And, finally, I would just indicate in closing that
18 this idea that there's a substantial probability of
19 physical impairment, that needs to be more than a mere
20 likelihood. Has to essentially -- I mean, a
21 substantial probability means that this is likely to
22 happen. This is going to happen, if we don't
23 intervene. And that's not the situation here. So I am
24 asking the Court find that the elements have not been
25 met.

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1 THE COURT: All right. What's been
2 presented to the Court is a doctor's testimony and
3 doctor's report, which has been received into evidence
4 and the deputy's testimony. There are some things that
5 have been referenced from prior history and some of
6 it's vague as to the timing. The doctor's report and
7 opinions offered in the doctor's report are considered
8 by the judge.

9 The doctor concedes she doesn't have firsthand
10 knowledge of what happened. She does go by what the
11 respondent, George has said to him that
12 included -- and that's in part of the report, bottom of
13 page four. She states " George also provided details
14 that he has been hospitalized under Chapter 51 ten
15 times". Then shortly after adds that he will be out of
16 the hospital in "72 hours" and plans to return to
17 hunting for ducks. Based on his history of multiple
18 hospitalizations and a significant history of
19 noncompliance, it is my opinion that he is at high risk
20 to repeat the cycle of decompensation and dangerous
21 behavior if not placed under a commitment by the Court.

22 She opines he's likely savvy enough to know how to
23 present to hospital staff in order to evade commitment
24 and is rushed to discharge. She expects to be
25 discharged in 72 hours. Although he has not shown

1 dangerous behavior while in-patient and no seclusion or
2 restraints, he is likely able to present well.

3 This was the case in this interview until, as time
4 went on, and the interview lengthened, he became more
5 and more delusional and disorganized. He also became
6 more grandiose. He made statements such as "I am
7 Catholic, Mormon, Lutheran, Methodist, Jewish and
8 Amish, too". And also talks in delusional manner about
9 his skills about others and his working with the
10 president. Previously stating that he was a U.S.
11 marshal.

12 The doctor concludes by saying her opinion

13 George has experienced mania and then there's a
14 word his -- I think it should be is -- both a danger to
15 himself and others based on past and current history.
16 Now the Court and George's counsel tried to pin
17 her down on that, what current history was being relied
18 on. There's a past history that's of concern. But the
19 parties have already stipulated that there's a mental
20 illness and that he's a proper subject for treatment.
21 It's just whether there's danger to self or others
22 based on 51.20.

23 In particular (1) (a), the number 2 and the letter C.
24 And that says in particular that the patient "evidences
25 such impaired judgment, manifested by evidence of a

1 pattern of recent acts or omissions that there's a
2 substantial probability of physical impairment or
3 injury to himself or herself or other individuals. The
4 probability of physical impairment or injury is not
5 substantial under this subsection or subdivision 2C, if
6 reasonable provision for the subject individual's
7 protection is available in the community and there's a
8 reasonable probability this individual will avail
9 himself or herself of these services.

10 And Mr. Mevis has said his client will voluntarily
11 do treatment. His client has decided not to testify.
12 I don't know if he will follow through with what his
13 lawyer says. So on that provision in particular, I
14 don't have evidence that he's going to seek an
15 alternative that reduces that probability, or will
16 avail himself or herself to these services. The
17 lawyer's representation is the lawyer's representation.
18 And I am sure it's made in good faith, but I don't have
19 a doctor's testimony and any other witness's testimony,
20 or George 's testimony.

21 And in this case, the Court interprets (1)(a). The
22 number 2 and C is almost a shifting burden when it says
23 if reasonable provisions for the subject's individuals
24 protection is available in the community and there's
25 "reasonable probability" that this individual will

1 avail himself or herself of these services. Now I can
2 look at inferences and say well, he's had apparently on
3 his own word Chapter 51 commitments ten times based on
4 his own statement to the doctor. I don't know if those
5 were things he stipulated to or were voluntarily. I
6 don't have any testimony on that whatsoever.

7 So it's a peculiar case the Court is faced with.
8 There's interpretations that both sides are asking me
9 to make regarding a pattern of recent acts or
10 omissions. There's objection that some of that
11 information is hearsay. But procedurally in this type
12 of civil matter and when doctors are offering opinions,
13 hearsay is often relied on.

14 So the issue remains whether there's compliance with
15 subsection C and the offers of proof here in this case.
16 The combination of things. There's at least to some
17 degree some vague confrontation. The police are
18 called, but there's a call initiated by George.
19 At the time he's involved in this confrontation with
20 hunters is at least reported to the officers that
21 they're concerned and worried about this conversation
22 or confrontation, that he's identifying himself as law
23 enforcement or having authority to take these people
24 into custody. Although the officer's testimony was
25 later he conceded he didn't have that authority. So he

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1 is making a false representation of having law
2 enforcement authority.

3 He has a shotgun, which is typically used for
4 hunting ducks. And as Mr. Mevis points out, people go
5 hunting. They shoot shotguns up in the air and things
6 come down. Court doesn't have to read too much into
7 it. Separately from that, he has a gun that's not used
8 for hunting on boats, and so that raises a concern. It
9 also, at least, is relevant and probative of the Court
10 looking into the dangerousness issue, coupled with the
11 other history described. Described as experiencing
12 mania. He's delusional. He's out on a boat with a
13 rifle that's not used for hunting. He's involved in a
14 confrontation with other hunters. Although Court
15 concedes some of it is vague.

16 But that pattern over that particular day with some
17 reference to the background and the Court interprets
18 recent acts or omissions at least as some of the
19 history of his mental health, coupled with what he was
20 doing on that day with his access to the rifle. I'm
21 not concerned about him with a shotgun legitimately
22 hunting ducks. But falsely portraying themselves as a
23 law enforcement officer, whether a warden or federal
24 marshal, FBI agent, or state or local officer. It's a
25 pretty significant thing when you have a gun that's not

1 used for hunting on a boat.

2 So the Court looks at the evidence of pattern of
3 recent acts and omissions and has to decide whether
4 there's a substantial probability of physical
5 impairment or injury to himself or other individuals.
6 Doesn't require that a gun has to be pointed at
7 somebody else. The Court looks at the aggregate of the
8 behaviors and the words and actions. I don't have any
9 testimony from the doctor, from George . And he
10 doesn't bear the burden. But that statute almost
11 suggests some sort of shifting to some degree, whether
12 there's a "reasonable probability that the individual
13 will avail himself of these services". And the record
14 is void of that, beyond the attorney's representation.

15 So the Court does agree that it's a peculiar case.
16 It's a unique set of circumstances. There are some
17 technical aspects the Court has to deal with and
18 untangle and look at the definition of different
19 phrases within this. So it is unique. And don't
20 diminish the arguments of the lawyers. They bring up
21 good points on both sides.

22 But the Court looking at that language of 2C does
23 find by clear and convincing evidence that the County
24 has met its burden of impaired judgment, manifested by
25 evidence of a pattern of recent acts or omissions, and

1 there's a substantial probability of physical
2 impairment or injury to himself or other individuals.
3 And the Court also looks at the probability of physical
4 impairment or injury is not substantial under this, if
5 the person avails themselves to the services and the
6 community. And I don't have that information. So that
7 does play a role in the Court's decision.

8 So beyond the stipulation, the Court does make that
9 finding and will find that he is a proper subject for
10 treatment under Chapter 51. Order the commitment to
11 the 51.42 board for six months. They have stipulated
12 to the medication order. Is it placement outpatient by
13 agreement?

14 MR. TAYLOR: Yes, it is, your Honor.

15 THE COURT: All right. The Court will
16 agree to that. The firearms restriction is ordered and
17 you can submit a judgment on that.

18 MR. TAYLOR: If I could have one quick
19 note about the firearms restriction. It's my
20 understanding from speaking with George in the
21 back that all of George's firearms are in the
22 possession of an individual named Gary Thiele. I think
23 it's spelled T-H-I-E-L-E. There's an option on the
24 form that says as an alternative to seizure, the
25 following person is designated to store any firearms

1 until the firearm restriction order has been canceled.

2 In speaking with George , she confirmed that
3 this Mr. Thiele is trustworthy, that he's a good person
4 to keep those firearms. So I would ask the Court to
5 authorize that he can hang onto them during this period
6 of time.

7 THE COURT: All right. And, Lori, that's
8 your representation to the Court that it's a reliable
9 person?

10 MS. S Yes.

11 THE COURT: All right. Court will rely on
12 your representations and you can fill that name in on
13 the paper work as needed.

14 MR. TAYLOR: I will do that.

15 THE COURT: Anything else you want to add?

16 MR. TAYLOR: Did the Court mention the
17 medication order?

18 THE COURT: It was stipulated to.

19 MR. TAYLOR: Okay.

20 THE COURT: Anything you want to add,
21 Mr. Mevis?

22 MR. MEVIS: I don't think there's anything
23 at this time I need to add, your Honor.

24 THE COURT: Okay. All right. I
25 appreciate the arguments from both sides. Good luck to

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you, George . We're adjourned.

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STATE OF WISCONSIN)

COUNTY OF OUTAGAMIE) SS:

I, Laura L. Rogers, Official Court Reporter of Outagamie County, Circuit Court Branch VI, do hereby certify that the foregoing transcript, numbered to and including 51 pages, constitutes a true and accurate transcription to the best of my skill and ability of said proceedings held on the 6th day of December, 2018.

Dated this 19th day of December, 2018.

Laura L. Rogers

Laura L. Rogers, RPR
Official Court Reporter
Outagamie County - Appleton, Wisconsin

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Case 2018ME000407

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DEC - 6 2018

OUTAGAMIE COUNTY PROBATE COURT

BY THE COURT

Date Signed:

12/6/2018

Handwritten signature of Vincent R. Bilby

Circuit Court Judge/Circuit Court Commissioner/Probate Registrar

STATE OF WISCONSIN, CIRCUIT COURT, OUTAGAMIE

COUNTY

IN THE MATTER OF THE CONDITION OF

George

Name of Subject

Date of Birth

Amended

Order of

Commitment

Extension of Commitment

Dismissal

Case No. 18 ME 407

A hearing was held on [Date] December 6, 2018.

THE COURT FINDS:

- 1. Grounds for commitment extension of commitment have not been established.
2. Grounds for commitment extension of commitment have been established.
A. mentally ill.
B. dangerous because the subject evidences behavior within one or more of the standards under §§51.20(1) or (1m), Wis. Stats.
C. a proper subject for treatment.
D. a resident of Outagamie County, Wisconsin.

- 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 Outagamie County Department established under §§51.42 or 51.437, Wisconsin Statutes.

ME-911, 02/11 Order of Commitment/Extension of Commitment/Dismissal

§51.20(13), Wisconsin Statutes

This form shall not be modified. It may be supplemented with additional material.

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 _____

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 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: Gary Thiele

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: The Court has been notified and the Court record will reflect that the subject does not possess or have access to any firearms.

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)

Case 2018ME000407

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DEC - 6 2018

OUTAGAMIE COUNTY
PROBATE COURT

BY THE COURT

Date Signed: 12/6/18

Wesley R. Bering
Circuit Court Judge/Circuit Court Commissioner/Probate Registrar

STATE OF WISCONSIN, CIRCUIT COURT, OUTAGAMIE COUNTY

IN THE MATTER OF THE CONDITION OF

Order for Involuntary Medication and Treatment

George
Name of Subject

Case No. 18 MB 407

Date of Birth

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