

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

AUGUST 6, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-1047

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**IN THE MATTER OF THE
MENTAL COMMITMENT OF
JOANNE C.:**

MARINETTE COUNTY,

Petitioner-Respondent,

v.

JOANNE C.,

Respondent-Appellant.

APPEAL from orders of the circuit court for Marinette County:
CHARLES D. HEATH, Judge. *Reversed.*

CANE, P.J. Joanne C. appeals a six-month commitment order dated September 14, 1995, and an order denying her postcommitment motion. She has been subsequently recommitted for a period of one year, and that commitment is not subject to this appeal. On appeal, she contends: (1) the trial court lost competency to proceed when it failed to hold a final commitment hearing within fourteen days of her jury demand in Brown County; (2) her waiver of counsel was not knowingly and voluntarily made on the morning of trial; and (3) the form of the jury verdict which presented in a single question

separate and independent grounds for commitment denied her a right to a jury verdict by five-sixths of the jury.

Joanne has filed a brief supporting her contentions. The County, however, has filed a letter with this court indicating that it agrees with the factual circumstances recited in Joanne's brief and declines to file a brief. The County does not dispute any of Joanne's arguments or contend the appeal is moot. Nor does it make any argument in support of the trial court's order for Joanne's commitment. In *State ex rel. Blank v. Gramling*, 219 Wis. 196, 199, 262 N.W. 614, 615 (1935), and *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis.2d 97, 108-09, 279 N.W.2d 493, 499 (Ct. App. 1979), the supreme court and court of appeals concluded that when respondents on appeal do not undertake to refute the appellant's propositions, those propositions are taken as confessed. Consequently, because the respondent in this case, the County, has declined to refute Joanne's contentions, the orders for commitment are reversed.

By the Court. – Orders reversed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.