COURT OF APPEALS
DECISION
DATED AND FILED

September 9, 1997

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. 97-1477-FT

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

IN THE MATTER OF THE MENTAL COMMITMENT OF PAUL S.K.:

BROWN COUNTY,

PETITIONER-RESPONDENT,

V.

PAUL S.K.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Brown County: RICHARD G. GREENWOOD, Judge. *Affirmed.*

MYSE, J. Paul S.K. appeals an order of commitment entered on March 27, 1997.[1] Paul argues that the evidence was insufficient to establish by

[1] This is an expedited appeal under RULE 809.17, STATS.

clear and convincing evidence that he was a danger to himself or others. Because this court concludes that sufficient evidence existed to meet this standard, the order is affirmed.

The material facts are not disputed. Paul was stopped by lieutenant Gordon Heraly on March 13, 1997, after Heraly observed Paul riding his bike down the street in the middle of a heavy snowstorm and shouting, "you son of a bitch get out of me." Although Heraly was proceeding to another call, Paul's conduct prompted Heraly to follow him. Apparently concerned that the John Hinckley, Jr., family was trying to internally take him over, Paul threw down his bike, causing one car to swerve around it, cut between two cars on glare ice, and ran directly to a phone without paying attention to traffic. When Heraly caught up with him, Paul was acting in a manner that Heraly categorized as threatening violence toward him, prompting him to call for back-up.

Officer Robert Matheny responded to the call for back-up. Earlier in the afternoon, while heading to another call, Matheny had also observed Paul riding his bike in the snowstorm, and had then advised him over the car's PA system to get out of the roadway. Paul refused.

When the officers began to interview Paul, his inappropriate and nonsensical comments led them to place him in custody and take him to a crisis center. During a pat-down search, the officers found a balled up piece of ground beef that appeared to be rotting. When asked what the meat was for, Paul replied, "stupid, it's for eat'n."

At the trial, the court heard testimony from John Ahern, a social worker who visited Paul in early March 1997. Ahern testified he saw dog de-wormer tablets in Paul's apartment but no dog, and that Paul said he took the

tablets after people went up his rear and put infections there. Ahern testified that, based on his nursing experience, human consumption of such pills was poisonous. Ahern also testified that Paul refused to take medication that had been shown to work in the past.

Doctor Koti Mannem, a psychiatrist, also testified at the trial. Dr. Mannem opined that to a reasonable degree of medical certainty Paul was mentally ill. Among other things, Mannem stated as the basis for his opinion Paul's belief that there are people inside his body and Paul's belief that the John Hinckley, Jr., family was following him. Paul believed the Hinckley family pursued him because of his purported relations to the John F. Kennedy family. Mannem noted that Paul's thinking was affecting his behavior, and concluded that Paul was a danger to himself and others to a reasonable degree of medical certainty.

On appeal Paul contends that although his actions may reflect mental illness, they do not prove dangerousness. Involuntary committal is only permitted where the County proves by clear and convincing evidence the subject is dangerous. Sections 51.20(1)(a)2, 51.20(13)(e), STATS. Paul does not contest the facts on appeal; therefore, this court determines whether they satisfy this statutory requirement de novo. *See* ***Green Scapular Crusade v. Town of Palmyra***, 118 Wis.2d 135, 138-39, 345 N.W.2d 523, 526 (Ct. App. 1984).

Section 51.20(1)(a)2, STATS., defines different conduct constituting dangerousness. Among other things, Paul will be considered dangerous if he evidences such impaired judgment that there is a substantial probability of physical injury to himself. This court concludes that the facts demonstrate such impaired judgment. First, Paul had taken dog de-wormer tablets, a substance that

according to Ahern's unrebutted testimony is poisonous to humans. Second, Paul carried around rotting meat for possible consumption. Third, Paul would not take prescribed medication that Ahern testified had worked in the past.

Paul's conduct during the March 13 snowstorm also demonstrates such impaired judgment. His bicycle riding appeared dangerous enough to attract the attention of two police officers, and even made one of them interrupt a call in progress. Despite having had several cars come close to him, and despite being warned by an officer, Paul ignored these risks of substantial harm. When Paul eventually stopped riding, he also evidenced impaired judgment by dropping his bike in the roadway, and running directly toward a phone without paying any attention to other vehicle traffic or anybody else in the way despite the glare ice conditions. Such behavior evidences the risk of a substantial probability of injury.

These facts demonstrate that Paul's conduct, beyond being what his attorney called simply "weird," evidenced such impaired judgment as to create a substantial probability of physical injury to himself. Paul's conduct demonstrates his continuing willingness to act on his delusions. Although Paul has fortunately escaped serious injury so far, this court holds that involuntary confinement is proper because of the continuing high risk evidenced by his actions. Therefore, the order is affirmed.

By the Court.—Order affirmed.

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