COURT OF APPEALS
DECISION
DATED AND FILED

January 12, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. 98-2274-FT

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

IN THE MATTER OF THE
MENTAL COMMITMENT OF CHARMAINE B.:

MILWAUKEE COUNTY,

PETITIONER-RESPONDENT,

V.

CHARMAINE B.,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County: THOMAS P. DOHERTY, Judge. *Dismissed.*

CURLEY, J.[1] Charmaine B. appeals from both the final order of commitment committing her for a period of six months for treatment of her mental

[1] This appeal is decided by one judge pursuant to § 752.31(2), STATS.

illness, and from an involuntary medication order permitting her treating physician to administer psychotropic drugs. Charmaine claims that the trial court erred in failing to adhere to the legal standard required for involuntary commitments and she argues that since the commitment order is invalid, the involuntary medication order was also entered in error. Because both orders have now lapsed and Charmaine is no longer being held under the commitment order nor subject to the involuntary medication order, these issues are moot.

I. BACKGROUND.

On March 10, 1998, a Chapter 51 petition was filed alleging that Charmaine was (1) mentally ill and (2) dangerous and was thus in need of an involuntary commitment for mental health treatment.[2] It was signed by her daughter, son and son-in-law. A hearing in front of a probate court commissioner resulted in a probable cause finding that the allegations were probably true. A final hearing was scheduled for April 2, 1998.

At the contested hearing, Charmaine was represented by an attorney. Her daughter, Charlotte and son-in-law, Peter, testified that Charmaine had complained that she had been hearing voices and the only way to keep the voices away was to clean her apartment. They also testified that they observed her doing odd and unusual things such as "only walking in the right hand side of the door"

[2] Section 51.20, STATS., reads:

> **Involuntary commitment for treatment. (1)** PETITION FOR EXAMINAITON. (a) … [E]very written petition for examination shall allege that all of the following apply to the subject individual to be examined:
>
> 1. The individual is mentally ill, drug dependent or developmentally disabled and is a proper subject for treatment.
>
> 2. The individual is dangerous ….

and marking the walls to keep the devil away. Both also described two incidents, one at a grocery store and the other at Charmaine's residence, where Charmaine had exhibited violent behavior. In her testimony Charlotte expressed concern about Charmaine's well-being because she usually had little to eat in her apartment and she spent a significant portion of her limited funds on cleaning supplies. Charlotte was also concerned because Charmaine refused to move into a low-income housing project despite the fact that her lease on her current apartment had not been renewed and was about to expire, which left Charmaine with nowhere to live. Also testifying for the petitioners was Kristine Mooney, a psychologist at the Milwaukee County Mental Health Complex, who had examined Charmaine. Mooney testified that Charmaine suffered from a mental illness including a delusional disorder, and that she felt Charmaine's illness could be treated with a period of inpatient care. Mooney also expressed concern over Charmaine's physical health as Charmaine had inexplicably lost weight and had a history of hypertension, but she stated no precise diagnosis could be made as to Charmaine's physical problems because Charmaine refused to be examined. Also admitted into evidence were the reports of two doctors whose diagnoses were the same as Mooney's, who based their reports on a review of Charmaine's medical records and information obtained from ward staff.

Charmaine testified on her own behalf. She denied many of the allegations of her daughter and son-in-law. She also explained that she had refused to be examined both because she was being detained against her will and because she does not believe in traditional medicine. At the conclusion of the hearing; the trial court found that Charmaine had a mental illness within the meaning of the involuntary commitment law. The trial court then discussed at length the second prong, whether there was evidence that Charmaine was

dangerous. The trial court ultimately concluded that "In fact this is a situation where I find she's a danger to herself under the law." The trial court then committed her for six months. Following her commitment her treating psychiatrist petitioned the trial court asking for an order permitting the administration of psychotropic drugs to treat Charmaine's mental illness. The trial court granted this request on April 24, 1998. This appeal was commenced in August 1998 and was expedited.

Mootness

The County contends that the issues raised in this appeal are moot. The county notes that both orders have expired and that Charmaine was released from inpatient care in June 1998. Charmaine admits that the orders have expired. She acknowledges that usually this would require a dismissal. Charmaine argues, however, that because there is a significant issue at stake, which she describes as the standard for commitment, her appeal should not be dismissed. She relies on ***In the Matter of Shirley J.C.***, 172 Wis.2d 371, 493 N.W.2d 382 (Ct. App. 1992), for her position that commitments rarely can be successfully advanced before the expiration of the commitment order. "The usual period of initial commitment under sec 51.20 is six months. Appeals can rarely be completed within this time frame." ***Id.*** at 375, 493 N.W.2d at 384 (citation omitted). She contends that the issue raised in her appeal is important and affects the liberty interests and substantial rights of all people subjected to involuntary commitment. Thus, she believes her appeal should proceed. Further, she argues that the medication order under appeal concerns "important issues that arise frequently and that will otherwise avoid review," and thus, this matter should proceed although the order has expired.

Usually moot issues are dismissed on appeal. "Generally, we will not decide moot issues." ***DeLaMatter v. DeLaMatter***, 151 Wis.2d 576, 591, 445 N.W.2d 676, 683 (1989) (citations omitted). "A matter is moot if a determination is sought which cannot have a practical effect on an existing controversy." ***Id.*** Exceptions have been carved out in extraordinary circumstances. "Moot cases will be decided on the merits only in the most exceptional or compelling circumstances." ***Id.*** (quoting ***City of Racine v. J-T Enter. of Am., Inc.***, 64 Wis.2d 691, 702, 221 N.W.2d 869, 875 (1974) (internal quotation marks omitted).

> We will not dismiss a case for mootness where the issues are of great public importance, … where the issue is likely to arise again and should be resolved by the court to avoid uncertainty, or where a question was capable and likely of repetition and yet evades review because the appellate process usually cannot be completed and frequently cannot be undertaken within the time that would have a practical effect upon the parties.

Matter of Shirley J.C., 172 Wis.2d at 374, 493 N.W.2d at 384 (quoting ***In re L.W.***, 167 Wis.2d 53, 66-67, 482 N.W.2d 60, 64 (1992)) (original quoted source omitted).

Although Charmaine argues that the issues on appeal are of great importance and the issue will arise again, she has presented us with no evidence that this is true. The requirements for involuntary commitment of an individual are contained in Chapter 51, the Mental Health Act. Simply stated, an individual must suffer from a mental illness and the individual must be dangerous. *See* § 51.20(1), STATS. This is not a new statute. Rather, it has been in existence for some time and its meaning and application have been frequently litigated, resulting in published opinions. Charmaine has not presented us with evidence that the disputed issue here is likely to arise again, nor has she presented evidence

that the question raised has evaded review in the past because of the appellate time frame. Rather, the issues raised in this appeal appear to be limited to the particular facts of her case and, as a consequence, "cannot have a practical effect on an existing controversy." *See* ***DeLaMatter***, 151 Wis.2d at 591, 445 N.W.2d at 683. She has provided no persuasive proof for her contentions. Thus, the issues are moot and the appeal is dismissed.

By the Court.—Appeal dismissed.

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