

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 7, 2001

Cornelia G. Clark
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.

No. 01-0773

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

**IN THE MATTER OF THE MENTAL COMMITMENT
OF JOANIE M.H.:**

MILWAUKEE COUNTY,

PETITIONER-RESPONDENT,

v.

JOANIE M.H.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
VICTOR MANIAN, Judge. *Dismissed.*

¶1 CURLEY, J.¹ Joanie M.H. appeals from an order entered by the trial court finding her to be mentally ill, dangerous and a proper subject for

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2).

treatment, and involuntarily committing her to six months of treatment in the Milwaukee Mental Health Complex under the care of the Milwaukee County Department of Human Services. On appeal, Joanie M.H. argues that: (1) a commitment was not warranted because the evidence presented at trial was insufficient to support the trial court's finding that she is dangerous within the meaning of WIS. STAT. § 51.20(1),² and (2) even if a commitment was warranted, the trial court failed to order the least intrusive confinement. This court concludes that Joanie M.H.'s appeal is moot. She has already served her six-month-term of confinement. Therefore, the appeal is dismissed.

I. BACKGROUND.

¶2 In June of 2000, Joanie M.H., who was then sixteen weeks pregnant, was taken to the hospital after she ingested twenty-four Benadryl pills and suffered a seizure. After she was admitted to the hospital, Joanie M.H. exhibited "fits of rage" and refused treatment. It was determined that she had a history of schizophrenia, which had been untreated for several years. Milwaukee Police Officer Tony Saffold was dispatched to the hospital and signed a statement of emergency detention under WIS. STAT. § 51.15. Joanie M.H. was transferred to the Milwaukee County Mental Health Complex (MCMHC) once the hospital gave medical clearance.

¶3 Because the hospital was administering medical treatment beyond the twenty-four-hour period available under Officer Saffold's statement of emergency detention, the Treatment Director of MCMHC filed a statement of

² All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise specified.

emergency detention initiating commitment proceedings. After a hearing, the trial court found probable cause to commit Joanie M.H. A final hearing was held on June 30, 2000. The trial court found that Joanie M.H. was mentally ill, dangerous and a proper subject for treatment. On July 12, 2000, the trial court ordered that Joanie M.H. be committed to the MCMHC for six months and the trial court authorized the treatment facility to administer psychotropic drugs.

II. ANALYSIS.

¶4 On appeal, Joanie M.H. raises two arguments. First, she argues that the evidence presented at trial was insufficient to establish grounds for a commitment because the State failed to demonstrate that she was “dangerous” as defined in WIS. STAT. § 51.20.³ Alternatively, she argues that even if a commitment was warranted, the trial court erred by not ordering the least intrusive commitment. This court declines to address the issues raised in this appeal because the issues are moot. Joanie M.H.’s six-month commitment has expired. *See State ex. rel Hawkins v. DHSS*, 92 Wis. 2d 420, 421, 284 N.W.2d 680 (1979) (determining that appeal was moot where convicted individual had served term of incarceration).

¶5 Joanie M.H. has asked this court to address the issues raised because they may arise again. This court notes that while moot issues may be decided in exceptional and compelling circumstances, *see Lenz v. L.E. Phillips Career Dev. Ctr.*, 167 Wis. 2d 53, 66-67, 482 N.W.2d 60 (1992) (issue was likely to arise again and resolution would avoid uncertainty), this appeal is not appropriate for such

³ Joanie M.H. does not dispute the trial court’s findings that she was mentally ill and a proper subject for treatment.

treatment. *See also Pritzlaff v. Archdiocese of Milwaukee*, 194 Wis. 2d 302, 533 N.W. 2d 780 (1995) (although moot, court granted review because issue was of great public importance, conflicting decisions in the lower courts, and additional cases addressing same issue pending in lower courts). Joanie M.H. has asked that the issues be reviewed because they are recurring and of statewide interest. However, moot issues are best heard when the issues have been properly briefed by both parties. *See id.* (court considered moot issue where issue had been fully briefed by the parties). Here, the County's brief fails to address one of the issues raised by Joanie M.H. and misstates the standard of review applicable to the other issue. Thus, this case does not fall within one of the exceptions permitting this court to review moot issues.⁴

¶6 For all of the above stated reasons, this court dismisses this appeal.

By the Court.—Appeal dismissed.

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

⁴ Joanie M.H. also sought publication, but failed to request that this matter be heard by a three-judge panel. WIS. STAT. RULE 809.41; WIS. CT. APP. IOP VI-12 (Sept. 27, 2000). WISCONSIN STAT. RULE 809.23(1)(b)4 prohibits publication of decisions issued by one court of appeals judge pursuant to WIS. STAT. § 752.31(2) & (3). Joanie M.H. also failed to request an expedited appeal. *See* WIS. STAT. RULE 809.17; WIS. CT. APP. IOP IV (Sept. 27, 2000).

