

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 22, 2012

Diane M. Fremgen
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. 2011AP2029

Cir. Ct. No. 1998CI12

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

IN RE THE COMMITMENT OF KENNETH R. PARRISH:

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

KENNETH R. PARRISH,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
JEFFREY A. CONEN, Judge. *Affirmed.*

Before Curley, P.J., Fine and Kessler, JJ.

¶1 FINE, J. Kenneth R. Parrish appeals *pro se* the order denying his petition for discharge from a Chapter 980 commitment. He also appeals the order

denying his request that the circuit court recuse itself. Parrish claims that the circuit court: (1) should have granted his petition because his diagnosis had changed, and (2) should have held an evidentiary hearing on the petition. We affirm.

I.

¶2 In June of 2000, the circuit court found Parrish to be a sexually violent person. We affirmed his direct appeal. *See State v. Parrish*, 2002 WI App 263, 258 Wis. 2d 521, 654 N.W.2d 273. We also rejected his subsequent appeals claiming that the circuit court erred in denying his motions asking for discharge from his Chapter 980 commitment. *See State v. Parrish*, No. 2005AP564, unpublished slip op. (WI App Dec. 28, 2005); *State v. Parrish*, No. 2010AP809, unpublished slip op. (WI App Feb. 15, 2011).

¶3 In April of 2011, Dr. Brian Bradley filed an annual reexamination report for Parrish. Dr. Bradley found that Parrish continued to have antisocial personality disorder, but also found that Parrish had “[p]araphilia, [not otherwise specified].” Dr. Bradley’s report said:

- “Mr. Parrish is diagnosed with Paraphilia, [not otherwise specified], and Antisocial Personality Disorder, each of which is an acquired or congenital mental disorder that affects his emotional or volitional capacity, and predisposes him to commit sexually violent acts as defined by Chapter 980.”
- “It is my opinion, to a reasonable degree of professional certainty, that Mr. Parrish does not meet” the “criteria for potential supervised release under 980.08(4).”

- “It is my opinion, to a reasonable degree of professional certainty that, at this point in time, Mr. Parrish remains more likely than not to commit another sexually violent offense should he be discharged.”

¶4 Parrish filed a petition for discharge based on Dr. Bradley’s report arguing that his condition had changed since his commitment. The circuit court summarily denied the petition, ruling the “petition does not otherwise allege facts from which the trier of fact could conclude that he no longer meets the criteria for commitment as a sexually violent person.” Parrish then filed a motion to disqualify the circuit court claiming the circuit court violated his due process rights for not having “the opinions of the evaluators weighed and examined by a fact-finder.” The circuit court denied the motion.

II.

A. *Petition for Discharge.*

¶5 Parrish claims he is entitled to an evidentiary hearing or discharge based on Dr. Bradley’s report. We disagree.

¶6 WISCONSIN STAT. § 980.09[1] says: “[a] committed person may petition the committing court for discharge at any time. The court shall deny the petition under this section without a hearing unless the petition alleges facts from which the court or jury may conclude the person’s condition has changed since the date of his or her initial commitment order so that the person does not meet the

criteria for commitment as a sexually violent person.”¹ This section “provides for a very limited review ... to weed out meritless and unsupported petitions[.]” *State v. Arends*, 2010 WI 46, ¶28, 325 Wis. 2d 1, 15, 784 N.W.2d 513, 520. It is a “paper review” and does not require an evidentiary hearing unless “the petition alleges facts from which a reasonable trier of fact could conclude the petitioner is no longer a sexually violent person.” *Id.*, 2010 WI 46, ¶30, 325 Wis. 2d 1, 15, 784 N.W.2d 513, 520.

¶7 Parrish’s petition does not allege facts to show he is no longer a sexually violent person. Rather, he contends that Dr. Bradley’s report “meet [*sic*] the requirements of WIS. STAT. s. 980.09(1)” and “Parrish is entitled to a discharge hearing under s. 980.09(2).” We disagree.

¶8 Dr. Bradley’s report does not satisfy the requirements of WIS. STAT. § 980.09(1). As we have seen, Dr. Bradley’s report finds that Parrish has two mental disorders that predispose him to be sexually violent and that is it “more likely than not” that Parrish will re-offend if released. The only “change” is that Parrish now has two mental disorders that predispose him to be sexually violent, instead of just one. That is not the type of “change” that triggers discharge from a ch. 980 commitment or the need for an evidentiary hearing. Dr. Bradley’s report opines that Parrish continues to be a “sexually violent person.” The circuit court did not err in denying Parrish’s petition without a hearing.

¹ “The first block of text in Wis. Stat. § 980.09 is not numbered. However, the second block is labeled ‘(2).’ We thus refer to the first block of text as subsection ‘(1).’” *State v. Arends*, 2010 WI 46, ¶23, 325 Wis. 2d 1, 13, 784 N.W.2d 513, 520. So do we, and our subsequent references will not use brackets to show that we have added something not in the text.

B. *Recusal.*

¶9 Although Parrish claims the circuit court erred when it denied his motion asking the circuit court to recuse itself, Parrish does not argue or support this claim in either his main appellate brief or his reply brief. Accordingly, he has abandoned the issue and we need not address it. *See State v. Johnson*, 184 Wis. 2d 324, 344, 516 N.W.2d 463, 470 (Ct. App. 1994) (“On appeal, issues raised but not briefed or argued are deemed abandoned.”).

By the Court.—Orders affirmed.

Publication in the official reports is not recommended

