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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

October 22, 2013

To:

Hon. James A. Morrison
Circuit Court Judge
Marinette County Courthouse
1926 Hall Avenue
Marinette, WI 54143

Kirsten Schoen
Register in Probate
Marinette County Courthouse
1926 Hall Avenue
Marinette, WI 54143

Martha K. Askins
Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

Gale R. Mattison
Corporation Counsel
1926 Hall Avenue
Marinette, WI 54143

Carla H.
W8839 Lundgren Lake Road
Pembine, WI 54156

You are hereby notified that the Court has entered the following opinion and order:

2013AP1517-NM

In the matter of the mental commitment of Carla H.: Marinette
County Health and Human Services Department v. Carla H.
(L.C. # 2012ME54)

Before Mangerson, J.¹

Counsel for Carla H. has filed a no-merit report concluding there is no arguable basis for Carla to challenge orders committing her to an inpatient facility and ordering involuntary medication and treatment. Carla filed a response contending she is not mentally ill, witnesses testified falsely and she gave documents to her attorney but he failed to enter them into evidence. She attached hundreds of pages of articles critical of modern psychiatry, psychiatrists and

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

psychotropic medications. Upon this court's independent review of the record, no issue of arguable merit can be identified.

The application for emergency detention by deputy Jesse Parker stated Carla went to an elderly couple's home and refused to leave. She displayed behavior evincing mental illness and scared the couple by her behavior. Other officers dealt with Carla on two previous occasions on the same day. When Parker arrived at the scene, he first spoke with Carla and told her he was going to detain her for investigation into possible disorderly conduct. She responded she was "thankful that [he] was going to arrest her and keep her away from her kidnappers." She identified the kidnappers as her parents who were also present at the scene. Parker learned from the homeowners that Carla had gone to their home, rang the doorbell, and they invited her in. After a brief conversation they asked her to leave. She left, but also left some property behind. She came back and picked up her property and then, instead of leaving, she went near a horse barn. Parker determined Carla might be in need of a mental health assessment and transmitted her to the Bay Area Medical Center. On the way, Carla spoke "pretty much nonstop" about leaving an apartment where she was living in Indiana because someone was "keeping dead bodies in the walls of that apartment." She alleged an unknown person with three needles injected her with something in her knee while she was sleeping, and she sang the Star Spangled Banner.

At the medical center, she was seen by a doctor and a social worker, both of whom opined that Carla was mentally unstable. Carla was then transferred to Nicolet Mental Health. At Nicolet, Carla was examined by Doctor Yogesh Pareek, who diagnosed her with a bipolar disorder. She was also examined by Doctors Koti Mannem and Kevin Miller, both of whom testified at the trial. Doctor Mannem opined that Carla was mentally ill, suffering from a "mood

disorder, Bipolar One Disorder, of most recent episode being here with psychotic symptoms.” He testified Carla is a proper subject for treatment and he attempted to discuss medications with her, but she strongly expressed the opinion that she did not need medication and had no interest in knowing about medication. He believed Carla, because of her paranoid beliefs, would have a tendency to put herself in dangerous situations and, if treatment were not given, her condition would deteriorate. He testified there was no reasonable probability that Carla would avail herself of the services in the community for care or treatment necessary to prevent her from suffering severe mental, emotional or physical harm.

Doctor Miller testified Carla told him she did not need medication for two reasons. First, she expressed her belief that diseases can be cured through herbal and natural remedies. Second, she believed she did not have a mental illness, but was being treated this way due to her Christian beliefs. She believed her father kidnapped her repeatedly because he did not agree with her religious beliefs, and indicated she had been in contact with the FBI regarding her father’s attempts to kidnap her. Regarding the incident with the elderly couple, Miller testified Carla did not seem to understand the problem with her not leaving their property when asked. Carla also expressed a false belief that there were recording devices at the psychiatric center, displaying paranoid beliefs. Miller testified Carla had no insight into her mental illness, which he described as a bipolar disorder type one with psychosis or manic episode. Regarding dangerousness, Dr. Miller testified he believed Carla met the “Fifth Standard” for dangerousness, meaning she is unwilling to accept treatment for her conditions, raising the concern that she would return to a state where she would be substantially impaired and unable to function and would not avail herself of treatment.

Carla's father also testified. He described Carla's previous mental health problems and hospitalizations. He described an incident in which Carla became convinced there was a bomb in the house and made everyone leave the house.

Carla testified on her own behalf. She explained that the elderly couple were her friend's grandparents and therefore were not strangers. She did not know their last name. She denied having any mental illness or need for medication and said she believed in natural medicine.

The Department presented sufficient evidence to support the jury's verdict. The Department has the burden of proving by clear and convincing evidence that Carla was mentally ill, a proper subject for treatment, and dangerous. *See M.J. v. Milwaukee Cnty. Combined Cmty. Servs. Bd.*, 122 Wis. 2d 525, 528, 362 N.W.2d 190 (Ct. App. 1984). A mental illness is defined as a substantial disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. WIS. STAT. § 51.01(13)(b). Evidence of Carla's mood disorder, bipolar disorder and grossly impaired judgment satisfy that definition. Both Doctors Mannem and Miller testified Carla is a proper subject for treatment, satisfying the second element. Mannem's testimony that Carla would put herself in dangerous situations such as entering the home of an elderly couple, coupled with Carla's father's testimony that she believed there was a bomb in the house, that she seemed to live for extended periods of time in her car, and that she could not adequately care for herself satisfy the element of dangerousness to herself.

In her response to the no-merit report, Carla denies living in her car and being unable to care for herself, and accuses her parents of starting "[t]his lie of mental illness." The credibility

of witnesses and the weight to be given their testimony are matters for the jury, not this court, to decide. *Fehring v. Republic Ins. Co.*, 118 Wis. 2d 299, 305-06, 347 N.W.2d 595 (1984).

Sufficient evidence also supports the court's order for involuntary medication and treatment. An individual is not competent to refuse medication or treatment if, because of mental illness, and after the advantages and disadvantages and alternatives to accepting the particular medication or treatment have been explained to the individual, the individual is incapable of expressing an understanding of the advantages and disadvantages or is substantially incapable of applying that understanding to the mental illness in order to make an informed choice as to whether to accept or refuse medication or treatment. *See* WIS. STAT. § 51.61(1)(g)4. Doctor Mannem testified Carla strongly believed she had no mental illness and did not need medication and was not interested in knowing about it. He believed she only took medication when it was forced upon her. When he tried to explain the need for her to take medications, she cut him off and would not allow the discussion to go further. He further testified that, because Carla lacks insight into her disease, she would not be in a position to understand the advantages of medication or appreciate that she has a condition that needs treatment. Doctor Miller confirmed that Carla's "insight is nonexistent." Based on this testimony, the court could fairly conclude that Carla was substantially incapable of applying an understanding of the advantages, disadvantages and alternatives in order to make an informed choice regarding medication and treatment.

This court's independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the orders are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Martha Askins is relieved of her obligation to further represent Carla in this matter. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals