



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

January 30, 2015

To:

Hon. Dale T. Pasell
Circuit Court Judge
La Crosse County Courthouse
333 Vine Street
La Crosse, WI 54601

Jillian M. Just
Register in Probate
La Crosse County Courthouse
333 Vine Street
La Crosse, WI 54601

Amy M. Flottmeyer
Assistant Corporation Counsel
400 N. 4th Street
La Crosse, WI 54601-3227

Katie R. York
Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

John A. W.
3020 22nd Street S, Apt. 24
La Crosse, WI 54601-7311

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

2014AP1799-NM

In the matter of the mental commitment of John A. W.: La Crosse County v. John A. W. (L.C. #2011ME133)

Before Blanchard, P.J.¹

John A. W. appeals related orders that extended his mental health commitment under Chapter 51 of the Wisconsin Statutes and authorized continued involuntary medication on an outpatient basis. Attorney Katie York has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2011-12); *see also Anders v. California*, 386 U.S. 738, 744 (1967); *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429 (1988). The no-merit report addresses the

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

sufficiency of the evidence to support the extension and the court's exercise of discretion regarding the disposition. John was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues.

At the hearing to extend the mental commitment order, the county bore the burden of proving that John was in need of continued commitment by clear and convincing evidence. WIS. STAT. § 51.20(13)(e), (g)3. Based on the alleged grounds for the commitment extension under § 51.20(1)(am), the county needed to show that there was "a substantial likelihood, based on the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn."

A person is a proper subject for commitment when he or she is mentally ill and dangerous because he or she shows "a substantial probability of physical harm to other individuals as manifested by evidence of recent homicidal or other violent behavior, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do serious physical harm." WIS. STAT. § 51.20(1)(a)1., 2.b. 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, but does not include alcoholism." WIS. STAT. § 51.01(13)(b). To be a proper subject for commitment, the individual must also be a proper candidate for treatment—meaning that he or she is amenable to rehabilitation or treatment techniques that could control, improve, or cure the underlying disorder. *See* §§ 51.20(1)(a)1., 51.01(17); *C.J. v. State*, 120 Wis. 2d 355, 358-62, 354 N.W.2d 219 (Ct. App. 1984); WIS JI—CIVIL 7050.

Court-appointed psychiatrist Dr. Vance Baker testified that John suffered from chronic schizophrenia; that he became paranoid and violent when not on medication; that he benefited from outpatient treatment and antipsychotic medication that were very effective in treating his symptoms; and that he would become a proper subject for commitment if treatment were withdrawn. Baker explained that, given John's history and diagnosis, his mental illness would tend to follow the same pattern, repeating similar delusions and ways of thinking during relapses, and that John would be at high risk for a relapse because he disliked the side effects of the medication, lacked insight into how dangerous he became when off medication, and had a history of discontinuing his medication when he felt he was stable.

The circuit court could properly rely on Baker's testimony to conclude both that the criteria for extending the commitment had been satisfied and that John was not competent to refuse medication. *See* WIS. STAT. §§ 51.61(1)(g)3., 51.20(13)(a)3., 51.20(13)(c)2. and 51.20(13)(g)1. Upon our independent review of the record, we have found no other arguable basis for reversing the commitment order. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the commitment and involuntary medication orders are summarily affirmed under WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that Attorney Katie York is relieved of any further representation of John A. W. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals