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DISTRICT III

October 21, 2016

To:

Hon. Michael Moran
Circuit Court Judge
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Wausau, WI 54403

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

2016AP162-NM

Marathon County v. C. B. (L. C. No. 2015ME102)

Before Seidl, J.¹

Counsel for C. B. has filed a no-merit report concluding there is no arguable basis for challenging orders committing C. B. for mental health treatment pursuant to WIS. STAT. ch. 51 and authorizing involuntary medication and treatment. This court's notices and the no-merit report sent to C. B.'s last known address were returned as undeliverable. It is unclear whether C. B. is refusing mail or if she has failed to keep her attorney apprised of her current address.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Under either scenario, C. B. has effectively forfeited her right to respond to the no-merit report. *See generally State v. Ndina*, 2009 WI 21, ¶¶28-30, 315 Wis. 2d 653, 761 N.W.2d 612 (“forfeiture” is the failure to make the timely assertion of a right). Upon an independent review of the record as mandated by WIS. STAT. RULE 809.32, this court concludes there is no arguable merit to any issue that could be raised on appeal.

A petition for emergency detention was filed with the circuit court, indicating law enforcement had cause to believe C. B. was mentally ill; that she was evincing behavior constituting a substantial probability of physical harm to herself or others; and that taking C. B. into custody was the least-restrictive alternative necessary to meet C. B.’s needs. The petition alleged that C. B. reportedly “yells and screams all hours of the day and night,” threatened to have her roommate killed, and repeatedly made statements that she wished she could die.

Counsel was appointed and a probable cause hearing was timely held pursuant to WIS. STAT. § 51.20(7). After hearing testimony from an examining physician and C. B., the circuit court found there was probable cause to believe C. B. was mentally ill, a proper subject for treatment, and dangerous to herself or others. The court appointed two examiners pursuant to § 51.20(9), and both submitted their reports more than forty-eight hours before the final hearing. *See* WIS. STAT. § 51.20(9) and (10)(b). A final hearing was timely held pursuant to § 51.20(7)(c), and the court ultimately entered an order committing C. B. to a locked inpatient facility for six months. The court also ordered involuntary medication and treatment during the period of C. B.’s commitment. Any challenge to C. B.’s commitment based on a failure to comply with mandatory statutory deadlines or procedures would lack arguable merit.

There is likewise no arguable merit to challenge the sufficiency of the evidence to support either the commitment order or the order for involuntary medication and treatment. Chandra Bommakanti, M.D., submitted an examination report opining that C. B. suffers from bipolar disorder, that she is a proper subject for treatment, and that she posed a substantial danger to herself and to others in her delusional state. Doctor Bommakanti recommended involuntary commitment and an involuntary medication order, noting that C. B.'s present delusional state of mind rendered her incapable of expressing an understanding of the advantages and disadvantages of accepting treatment or medications.

In turn, licensed psychologist Nicholas Starr submitted an examination report opining that C. B. suffers from bipolar disorder and that continued medications and therapeutic services were necessary to promote "safety, stability and functionality." Doctor Starr opined that C. B. presented a risk of dangerousness to herself and others, noting she has a history of "suicidality" that necessitated previous psychiatric hospitalizations. Doctor Starr recommended commitment in an institution and involuntary medication, opining that C. B. was incompetent to refuse medication or treatment because of her mental illness.

At the final hearing, Doctor Bommakanti testified consistent with the observations and recommendations made in her examination report, emphasizing that C. B. posed a substantial danger to others because "she is very paranoid." Doctor Bommakanti further testified that C. B. had no insight into her mental illness and was, therefore, incapable of understanding the advantages and disadvantages of her medications after they were explained to her. Doctor Starr likewise testified consistent with his report, noting C. B. had made suicidal comments and exhibited aggressive actions toward others. The evidence was sufficient to establish that C. B. was mentally ill, a proper subject for treatment, and a danger to herself or others pursuant to Wis.

STAT. § 51.20(1)(a). The evidence was likewise sufficient to support the order for involuntary medication and treatment. *See* WIS. STAT. § 51.20(1)(a)2.e.

The court's independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Ruth Westmont is relieved of further representing C. B. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals