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**DISTRICT IV**

May 8, 2017

To:

Hon. Daniel T. Dillon  
Circuit Court Judge  
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H. V.  
7 E. Canal St.  
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You are hereby notified that the Court has entered the following opinion and order:

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2016AP967-NM

In the matter of the mental commitment of H.V.:  
Rock County v. H.V. (L.C. # 2014ME98)

Before Higginbotham, J.<sup>1</sup>

H.V. appeals from orders extending for one year his commitment for mental health treatment under WIS. STAT. § 51.20 and authorizing the involuntary administration of medication and treatment. Attorney Tristan Breedlove, appointed counsel for H. V., has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967).

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

H.V. received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and after independent review of the record, the order is summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. RULE 809.21.

H.V. is diagnosed with paranoia schizophrenia. On April 30, 2014, H.V. was first involuntarily committed for a six-month period by an order including a firearm prohibition and permitting the involuntary administration of medication and treatment. A one-year extension order was entered November 12, 2014. On October 21, 2015, the petition to extend the commitment was heard.<sup>2</sup> The circuit court heard H.V.'s request to represent himself and initially allowed H.V. to do so. However, at the time for cross-examination of the County's expert witness, the circuit court determined that H.V. was not competent to conduct that cross-examination. The matter was set over so appointed counsel for H.V. could prepare. The extension hearing started anew on November 4, 2015.<sup>3</sup> At the conclusion of the extension hearing, the court extended H.V.'s commitment for one year and authorized the involuntary administration of medication and treatment. H.V. appeals.<sup>4</sup>

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<sup>2</sup> Rock County Judge Daniel T. Dillon presided over the October 21, 2015 hearing.

<sup>3</sup> Rock County Judge Michael R. Fitzpatrick presided over the November 4, 2015 extension hearing.

<sup>4</sup> It could be argued that the appeal is moot because the extension order expired November 4, 2016. The no-merit notice of appeal was filed May 9, 2016. The no-merit report was not filed until August 26, 2016. H.V. was then afforded thirty days after service of the no-merit report to file a response. WIS. STAT. RULE 809.32(1)(e). Although the no-merit report was filed within the 180-day statutory period for filing, RULE 809.32(2)(a), the filing at the very end of that period, when combined with the thirty-day response time, left this court with just a little over a month to issue a decision before expiration of the extension order. Completing a review in that time period was not possible with the

(continued)

The no-merit report first addresses whether the evidence was sufficient to extend H.V.'s mental health commitment and require involuntary medication and treatment. The report notes the appropriate standard for each intervention and the burden of proof. *See* WIS. STAT. §§ 51.20(1)(am), (13)(e), 51.61(1)(g)3., 4. Whether the County has put forth sufficient evidence to meet its burden to prove the statutory elements by clear and convincing evidence is a question of law. *See Outagamie Cty. v. Melanie L.*, 2013 WI 67, ¶¶37, 39, 349 Wis. 2d 148, 833 N.W.2d 607. We conclude that the County met its burden to prove all required facts by clear and convincing evidence and that there is no arguable merit to challenging the sufficiency of the evidence on appeal.

The no-merit report also discusses whether the circuit court properly denied H.V.'s request for self-representation. The determination of whether H.V. made an intelligent waiver of counsel and had the ability to proceed pro se is a question of law. *S.Y. v. Eau Claire Cty.*, 162 Wis. 2d 320, 337, 469 N.W.2d 836 (1991). The no-merit report recites the factors the court may consider and recites the evidence elicited by the circuit court's inquiry of H.V. in determining that H.V. lacked the competence to cross-examine the expert witness. This court agrees that the potential issue lacks merit.

Review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the order of the circuit court, and discharges appellate counsel of the obligation to represent H.V. further in this appeal.

Upon the foregoing reasons,

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number of other no-merit appeals awaiting review. Because the order had not yet expired when the no-merit report was filed, the appeal is not dismissed as moot.

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

IT IS FURTHER ORDERED that Attorney Tristan S. Breedlove is relieved from further representing H.V. in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published and may not be cited under WIS. STAT. RULE 809.23(3)(b).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*