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DISTRICT III

June 20, 2017

To:

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

2016AP329-NM

Shawano County Department of Community Programs
v. B.P.L. (L. C. No. 2013ME18)

Before Hruz, J.¹

Counsel for B.P.L. has filed a no-merit report concluding no grounds exist to challenge an order of extension of commitment. B.P.L. was advised of his right to respond and has not responded. Upon our independent review of the record, as mandated by *Anders v. California*,

¹ 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.

386 U.S. 738 (1967), we conclude no issue of arguable merit appears, and the order is summarily affirmed. WIS. STAT. RULE 809.21.

There is no arguable basis for challenging the sufficiency of the evidence. A commitment under WIS. STAT. ch. 51 is subject to extension under WIS. STAT. § 51.20(13)(g)3. The County needed to prove by clear and convincing evidence that B.P.L. was mentally ill. *See* WIS. STAT. §§ 51.20(1)(a)1., (13)e. The County also needed to prove by the same standard that B.P.L. was dangerous. *See* WIS. STAT. § 51.20(1)(a)2. The element of dangerousness is established by showing there is a substantial likelihood based on the treatment record that the individual would be a proper subject for commitment if treatment were withdrawn. WIS. STAT. § 51.20(1)(am).

The record demonstrates B.P.L. was under a prior order of extension of commitment. The Shawano County Department of Human Services petitioned the circuit court for another one-year extension of the mental health commitment and medication order. Doctor J.R. Musunuru testified at the re-commitment hearing that B.P.L. is mentally ill with schizophrenia and, if treatment were withdrawn, B.P.L. would become a danger to himself and others. Musunuru opined B.P.L. needs an extension of commitment. He also testified B.P.L. has been hospitalized many times in the past for schizophrenia and that B.P.L. has no understanding of his condition, or the advantages or disadvantages of treatment and medication. Musunuru testified it is possible “in a few more years” B.P.L. could reach the point where extensions of commitment would not be recommended, “especially ... if he’s willing to take the medication, that’s possible.”

Musunuru's testimony established a substantial likelihood that without a commitment order, B.P.L. would again be a proper subject for treatment, as he would not fully avail himself of the resources in the community in a manner recommended by psychiatrists to keep his illness in abeyance. B.P.L. himself testified that if he were no longer on commitment, he would not continue his medication. Although a lay witness testified at the hearing that she never saw B.P.L. act in a way she thought likely to cause harm to anyone, she conceded on cross-examination that she was unaware of B.P.L.'s actions for nearly a year prior to the hearing. As the arbiter of witness credibility, and the weight to be accorded their testimony, the circuit court could reasonably reject the lay testimony in favor of expert testimony regarding B.P.L.'s diagnosis and prognosis. *See Walworth Cty. v. Therese B.*, 2003 WI App 223, ¶26, 267 Wis. 2d 310, 671 N.W.2d 377. The circuit court properly ordered the extension of commitment with an order for involuntary medication.

Our independent review of the record discloses no other potential issues for appeal. Therefore,

IT IS ORDERED that the order of extension of commitment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Dianne Lowe is relieved of further representing B.P.L. in this matter.

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

Diane M. Fremgen
Clerk of Court of Appeals