



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
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III/II

January 10, 2018

To:

Hon. Tammy Jo Hock
Circuit Court Judge
Brown County Courthouse
P.O. Box 23600
Green Bay, WI 54305-3600

Cheryl A. Beekman
Register in Probate
Brown County Courthouse
P.O. Box 23600
Green Bay, WI 54305-3600

Leonard D. Kachinsky
Kachinsky Law Offices
832 Neff Court
Neenah, WI 54956-0310

Rebecca S. Lindner
Assistant Corporation Counsel
P.O. Box 23600
Green Bay, WI 54305-3600

D. M.
Brown County Community Center
3150 Gershwin Drive
Green Bay, WI 54311

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

2017AP1556-NM In the matter of the guardianship and protective placement of D. M.:
Brown County v. D. M. (L.C. # 2013GN140)

Before Hagedorn, J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

D.M. appeals from a WIS. STAT. § 55.14 (2015-16) order permitting the involuntary administration of psychotropic medication. D.M.'s appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967). D.M.

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

received a copy of the report and was advised of his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the order because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

The no-merit report addresses whether there was sufficient clear and convincing evidence to order involuntary medication, whether the circuit court lost competency in the case, and whether D.M.'s rights were violated in any manner. We agree with appellate counsel that these issues do not have arguable merit for appeal.

The evidence adduced at the hearing satisfied the statutory factors set out in WIS. STAT. § 55.14 for involuntarily administering psychotropic medication. Under § 55.14(3), the circuit court may order the involuntary administration of psychotropic medication upon finding that: (1) “[a] physician has prescribed” the medication; (2) “[t]he individual is not competent to refuse” the medication; (3) “[t]he individual has refused to take the” medication or it is “not feasible” to attempt to administer the medication voluntarily; (4) “[t]he individual’s condition ... is likely to be improved by administration of” the medication and the individual is likely to have a positive response to the medication; and (5) unless the “medication is administered involuntarily, the individual will incur a substantial probability” of harm. An individual is not competent to refuse medication if, after the advantages and disadvantages of the proposed treatment and alternatives have been explained, “[t]he individual is substantially incapable of applying an understanding” of the foregoing “in order to make an informed choice” about the medication. Section 55.14(1)(b).

A social worker and a physician testified to facts and opinions that satisfied the foregoing statutory criteria. The witnesses testified that D.M. has schizophrenia and requires medication as part of his treatment. Medication has worked in the past, but D.M.'s delusions lead him to refuse medication. Without medication, D.M. poses a harm to himself. The circuit court was entitled to rely upon this testimony to make the necessary findings.

Our review of the record confirms that the circuit court did not lose competency to proceed because all statutory time limits were observed. The record does not support any claim that D.M.'s rights were violated by the proceedings.

Our independent review of the record does not disclose any potentially meritorious issues for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the order and relieve Attorney Len Kachinsky of further representation of D.M. in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Len Kachinsky is relieved of further representation of D.M. in this matter.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Acting Clerk of Court of Appeals