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**DISTRICT IV**

September 28, 2018

To:

Hon. Gloria L. Doyle  
Circuit Court Judge  
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You are hereby notified that the Court has entered the following opinion and order:

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2017AP2106-NM      La Crosse County v. J. A. W. (L.C. #2011ME133)

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

**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).**

Attorney Tristan S. Breedlove, appointed counsel for appellant J.A.W., has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). Attorney Colleen Marion subsequently filed a notice of appearance substituting as counsel for J.A.W. The no-merit report addresses the sufficiency of the evidence to support the order extending J.A.W.'s involuntary commitment and the circuit

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<sup>1</sup> 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.

court's exercise of discretion as to disposition.<sup>2</sup> J.A.W. was sent a copy of the report, but has not filed a response. Upon my independent review of the entire record, as well as the no-merit report, I agree with counsel's assessment that there are no arguably meritorious appellate issues.

On December 2, 2016, La Crosse County filed a petition to extend J.A.W.'s involuntary commitment. On December 12, 2016, the court held a recommitment hearing. At the hearing, a psychiatrist testified regarding his recent mental health evaluation of J.A.W. Following the hearing, the circuit court entered orders extending J.A.W.'s involuntary commitment on an outpatient basis for one year and for involuntary treatment.

The first issue addressed in the no-merit report is whether there would be arguable merit to a challenge to the sufficiency of the evidence to support the court's decision to extend J.A.W.'s involuntary commitment. Under WIS. STAT. § 51.20(13)(g)3., the county department that has custody of an individual under an order for commitment may petition to extend the order for commitment, and has the burden to prove that the criteria for commitment are met. The criteria for mental health commitment are that the individual is: (1) mentally ill, (2) a proper subject for treatment, and (3) dangerous. *See* WIS. STAT. § 51.20(1)(a) and (am). Here, the examining psychiatrist testified that J.A.W. has been diagnosed with paranoid schizophrenia, thus meeting the statutory criteria of mental illness. The psychiatrist also testified that J.A.W. responds positively to psychiatric medication, thus establishing that J.A.W. is a proper subject for treatment. Finally, the psychiatrist testified that there is a substantial likelihood that J.A.W. would be a proper subject for commitment if treatment were withdrawn, because J.A.W. has a

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<sup>2</sup> Although the dispositional orders have now expired, I address their validity because issues arising from these orders may affect subsequent orders.

history of withdrawing from his psychiatric medication and lacks insight into the risks involved with withdrawing from his medication, thus meeting the statutory requirement of dangerousness. *See* WIS. STAT. § 51.20(1)(am) (dangerousness element for person under court order for treatment of mental illness immediately prior to current proceeding met “by a showing that there is 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”). Accordingly, I agree with counsel’s assessment that a challenge to the evidence supporting the extension of the involuntary commitment would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to the court’s exercise of discretion at disposition in extending J.A.W.’s commitment on an outpatient basis for one year and ordering involuntary treatment. Under WIS. STAT. § 51.20(13)(a)3. and (g)1., a circuit court must determine whether inpatient care is required or if the commitment may be to outpatient treatment, and may order recommitment for a period of up to one year. Additionally, under WIS. STAT. §§ 51.61(1)(g)(3.) and (g)(4.) (a), a court may order involuntary treatment for a person subject to commitment if the person is not competent to refuse medication or treatment, in that he is “incapable of expressing an understanding of the advantages and disadvantages” of treatment. Here, the testifying psychiatrist gave his opinion that J.A.W. was unable to understand the advantages and disadvantages of treatment as applied to him. Again, I agree with counsel that a challenge to the evidence supporting involuntary treatment would lack arguable merit.

Upon my independent review of the record, I have found no other arguable basis for reversing the circuit court’s order. I conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

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

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

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*