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DISTRICT II

January 29, 2020

To:

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

2019AP1670-NM

In the matter of the mental commitment of D.P.E.:
Fond du Lac County v. D.P.E. (L.C. #2018ME197)

Before Gundrum, 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.P.E. appeals from orders extending his mental commitment and for involuntary administration of medication and/or treatment. Appointed appellate counsel has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

D.P.E. was furnished a copy of the report but has submitted no response. Upon consideration of the report and an independent review of the record as mandated by *Anders*, we conclude that any argument challenging D.P.E.'s involuntary commitment or the order for involuntary administration of medication and/or treatment pursuant to WIS. STAT. ch. 51 lacks arguable merit. We summarily affirm the orders. *See* WIS. STAT. RULE 809.21.

D.P.E. has a long history of mental illness, primarily schizoaffective disorder, with treatment in inpatient and outpatient settings. Elliot Lee, M.D., was D.P.E.'s treating psychiatrist at the Mendota Mental Health Institute, where D.P.E. resided prior to his current inpatient placement at Trempealeau Health Care Center. Dr. Lee filed an application for an extension of D.P.E.'s most recent involuntary commitment.

D.P.E., Dr. Lee, and Robert Rawski, M.D., the court-appointed psychiatrist who evaluated D.P.E. regarding his suitability for extending his current civil commitment, testified at the extension hearing. The testimony revealed that D.P.E.'s illness manifests in agitation, aggression, paranoia, delusional thinking, and auditory hallucinations. He believed nurses were trying to poison him, and he threatened harm to staff members. The testimony also indicated that D.P.E. holds distorted perspectives about his illness and the applicability of specific medications to his treatment regimen and that, while recent medication changes at Mendota resulted in diminished irritable mania, hostility, and agitation, and reduced the likelihood of him impulsively responding to his delusions, the delusions themselves persist.

Based on the testimony and evidence in the record, the circuit court found that: (1) D.P.E. suffers from a mental illness as defined in WIS. STAT. § 51.01(13)(b), namely schizoaffective disorder; (2) he is a proper subject for treatment and has responded well to recent

medication changes; (3) he poses a risk of harm to himself or others, as shown by his aggression, paranoid thinking, and his lack of insight into his proper diagnosis; (4) there is a substantial likelihood that he would become a proper subject for commitment if treatment were withdrawn; (5) the least restrictive setting is to continue his inpatient status at Trempealeau; (6) medications are necessary to treat his conditions and the symptoms of his disorder; and (7) while he has some understanding of the medications' advantages and disadvantages, he is not capable of rationally applying that understanding, such that he is not able to make appropriate decisions and choices about how it applies to his particular condition, as he still disputes his diagnosis, and seems paranoid about the benefits of medication. *See* § 51.20(1)(a)1., 2.a., (13)(a)3., (c).

The no-merit report considers whether the evidence was sufficient to support the orders extending D.P.E.'s commitment and authorizing the involuntary administration of medication and/or treatment to D.P.E. and whether there are any arguably meritorious issues that would support a motion for a new trial.

Based upon our independent review of the record, we conclude that counsel's analysis of those issues is correct and that a challenge to any of them would lack arguable merit. Our independent review of the record discloses no other potential basis for a challenge to the commitment or the order for the involuntary administration of medication and/or treatment. Any further appellate proceedings would be without arguable merit within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

IT IS ORDERED that the orders for mental commitment and for involuntary administration of medication and/or treatment are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Frederick A. Bechtold is relieved from further representing D.P.E. in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals