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

September 1, 2020

To:

Hon. James C. Babler
Circuit Court Judge
Barron County Justice Center
1420 State Hwy 25 N., Rm. 2601
Barron, WI 54812-3006

Deanne E. Alsbury
Register in Probate
Barron County Justice Center
1420 State Hwy 25 N., Room 2700
Barron, WI 54812-3005

Frederick A. Bechtold
Attorney at Law, LLC
490 Colby St.
Taylors Falls, MN 55084

Samantha Mohns
Deputy Corporation Counsel
335 E. Monroe Ave., Rm 2130
Barron, WI 54812-1482

K. L.

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

2018AP2224-NM Barron County v. K. L. (L. C. No. 2013ME26)

Before Seidl, 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).

Attorney Frederick Bechtold, appointed counsel for K.L., has filed a no-merit report pursuant to WIS. STAT. RULE 809.32. Counsel provided K.L. with a copy of the report, and K.L. responded to it. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, as mandated by ***Anders v.***

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

California, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal.

Barron County petitioned to recommit K.L. for mental health reasons under WIS. STAT. ch. 51. A jury found that the County had proved the grounds for recommitment. The circuit court ordered K.L. recommitted as an outpatient with treatment conditions and it ordered involuntary administration of K.L.'s medication.

The no-merit report first addresses whether the evidence to recommit K.L. was sufficient. As to the finding that K.L. is mentally ill, the County's psychologist witness testified that K.L. is diagnosed with schizophrenia, and he described the symptoms. It would be frivolous to argue that this diagnosis and these symptoms do not meet the definition of "mental illness" provided in WIS. STAT. § 51.01(13)(b).

As to the finding that K.L. is dangerous, the jury was instructed regarding the dangerousness standards under WIS. STAT. § 51.20(1)(a)2.e. The jury was also instructed on recommitment under § 51.20(1)(am). Under that statute, instead of the petitioner being required to show the types of recent acts or omissions by the respondent that are usually used to show dangerousness, a finding of dangerousness may be made if the petitioner shows there is a substantial likelihood, based on the respondent's treatment record, that the respondent would be a proper subject for commitment if treatment were withdrawn.

A physician witness testified that if treatment were withdrawn, K.L. would not be able to provide for K.L.'s basic needs and might have trouble shopping or paying bills, and that K.L. would be a proper subject for commitment under the standard provided in WIS. STAT.

§ 51.20(1)(a)2.e. It would be frivolous to argue that the evidence was not sufficient to establish dangerousness.

Finally, as to whether K.L. is a proper subject for treatment, the physician described the improvement that medication can produce in people with schizophrenia. It would be frivolous to argue that K.L. is not a proper subject for treatment.

The no-merit report addresses whether the circuit court erred in denying K.L.'s motion to dismiss. Before trial, K.L.'s attorney moved to dismiss on the ground that K.L. had not received sufficient notice of which of the five grounds of dangerousness the petitioner would be attempting to prove, and that this failure made it more difficult to prepare for trial. The court denied the motion.

The no-merit report concludes that an appeal of this issue would be frivolous because the petition included an attachment written by the Barron County Health and Human Services Department that described the reasons for seeking K.L.'s recommitment. We agree that this attachment gave K.L. sufficient notice of the facts that would be at issue at the hearing. And, as to the lack of notice as to which legal standard for dangerousness would be used, K.L.'s motion to dismiss did not explain how K.L.'s preparation or defense was impaired by not knowing the standard in advance of trial. There is no arguable merit to this issue.

The no-merit report further discusses whether any error occurred during voir dire, in evidentiary rulings during trial, and in the jury instructions. The record does not show any basis for an argument on these issues.

The no-merit report discusses whether the evidence was sufficient to support the involuntary medication order. The County's physician witness testified that K.L. does not believe K.L. is mentally ill, and K.L. is unable to apply an understanding of the advantages and disadvantages of medication. There is no arguable merit to this issue.

The no-merit report addresses whether K.L.'s trial counsel was ineffective by not requesting an independent examination of K.L. This court has not been provided with any reason to believe that an independent examination would have resulted in a different conclusion. Therefore, the record does not show arguable merit to this issue.

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

Therefore,

IT IS ORDERED that the order for extension of commitment and the order for involuntary medication are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Frederick Bechtold is relieved of further representation of K.L. in this matter. *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