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DISTRICT IV

December 17, 2020

To:

Hon. Anna L. Becker
Circuit Court Judge
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D. J.

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

2020AP535-NM

In the matter of the mental commitment of D.J.: Jackson County v.
D.J. (L.C. # 2019ME8)

Before Kloppenburg, 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 Thomas Aquino, appointed counsel for appellant D.J., 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). The no-merit report addresses the sufficiency of the evidence to support the orders for involuntary commitment and treatment. D.J. was sent a copy

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.

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. I affirm.

On February 26, 2019, the warden at Racine Correctional Institution filed a statement of emergency detention under WIS. STAT. § 51.37(5)(b). On February 27, 2019, the circuit court held a timely probable cause hearing and found probable cause to believe that D.J. was mentally ill, a proper subject for treatment, and dangerous to himself or others. *See* WIS. STAT. § 51.20(7). The court appointed two examiners, a psychologist and a psychiatrist, and both submitted their reports more than forty-eight hours before the final hearing. *See* § 51.20(9) and (10)(b). On March 8, 2019, the court held a timely final hearing under § 51.20(7)(c). The court-appointed psychiatrist testified as to the mental health condition examination she recently conducted as to D.J. Following the hearing, the court entered orders for involuntary commitment and treatment. Any challenge to D.J.'s commitment based on a failure to comply with mandatory statutory deadlines or procedures would lack arguable merit.

The no-merit report addresses the sufficiency of the evidence to support the orders for involuntary commitment and treatment. The no-merit report thoroughly discusses these issues and I adopt that analysis here. I agree with no-merit counsel that these issues do not have arguable merit for appeal. The testimony of the court-appointed psychiatrist at the final hearing satisfied the county's burden to prove all required facts by clear and convincing evidence. *See* WIS. STAT. § 51.20(13)(e). The evidence was sufficient to establish that D.J. was mentally ill, a proper subject for treatment, and a danger to himself or others pursuant to § 51.20(1)(a). The evidence was likewise sufficient to support the order for involuntary medication and treatment.

See WIS. STAT. § 51.61(1)(g)4.b. Accordingly, I agree that a challenge to the sufficiency of the evidence would be wholly frivolous.

Upon my independent review of the record, I have found no other arguable basis for reversing the circuit court's orders. 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 orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Thomas Aquino is relieved of any further representation of D.J. 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