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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 II

February 3, 2021

To:

Hon. Paul Bugenhagen Jr.
Circuit Court Judge
515 W. Moreland Blvd.
Waukesha, WI 53188

Christopher Morgan
Waukesha County Corporation Counsel
515 W. Moreland Blvd., Room AC-330
Waukesha, WI 53188-2428

Kelly K. Haag
Juvenile Clerk
521 W. Riverview, Room JC 103
Waukesha, WI 53188-3636

K.R.H.
415 W. Park Ave., Apt. 1
Waukesha, WI 53186

Gregory Bates
Bates Law Offices
P.O. Box 70
Kenosha, WI 53141-0070

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

2019AP152-NM

In the matter of the mental commitment of Waukesha County v.
K.R.H. (L.C. #2004ME461)

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).

K.R.H. appeals an order extending her mental health commitment by twelve months, on an outpatient basis, and authorizing her involuntary medication and treatment. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v.*

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.

California, 386 U.S. 738 (1967). K.R.H. was provided a copy of the report and submitted a response. Upon consideration of the report, response, and an independent review of the record, we are satisfied that the order may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

K.R.H. has a four-decade history of mental illness and has been subject to a commitment order since 2004. For the most part, she has remained in the community with only a handful of hospitalizations. In June 2018, the County, by social worker Kelly M. Brockway (K.R.H.'s case manager), filed a recommitment petition observing that K.R.H. had "remained compliant with court ordered treatment" but that she "frequently presents at the ER to request that her psychotropic medications be discontinued, as she believes that they are the source of her always 'feeling sick.'" The circuit court appointed Dr. Cary Kohlenberg (a psychiatrist) and Dr. Terrill Bruett (a psychologist) to evaluate K.R.H., and each filed a report concluding that she was a proper subject for recommitment and incompetent to refuse medications or treatment due to her mental illness. Dr. Kohlenberg and Ms. Brockway testified at the recommitment hearing. Ultimately, the circuit court ordered a twelve-month extension of K.R.H.'s commitment on an outpatient basis and authorized her involuntary medication and treatment.

The no-merit report addresses whether the evidence offered was sufficient to extend K.R.H.'s mental health commitment and to require her involuntary medication and treatment. The no-merit report states the appropriate standard for each intervention. *See* WIS. STAT. § 51.20(1)(a)2. and (am) (recommitment); WIS. STAT. § 51.61(1)(g)4. (involuntary medication and treatment). Through the testimony of Kohlenberg and Brockway, along with their reports, the County met its burden to prove all required facts by clear and convincing evidence. *See* § 51.20(13)(e). Additionally, the evidence satisfies the applicable standards for recommitment

and involuntary medication. *See K.N.K. v. Buhler*, 139 Wis. 2d 190, 198, 407 N.W.2d 281 (Ct. App. 1987) (the application of the facts to statutory recommitment requirements presents a question of law we review de novo). *See also Outagamie County v. Melanie L.*, 2013 WI 67, ¶39, 349 Wis. 2d 148, 833 N.W.2d 607 (whether the County has put forth sufficient evidence to meet its burden to prove the statutory elements for an involuntary medication order by clear and convincing evidence is a question of law). There is no arguable merit to challenging the sufficiency of the evidence on appeal.

The no-merit report also addresses whether the procedures in K.R.H.'s 2018 recommitment complied with the requirements set forth in WIS. STAT. ch. 51. We agree with appellate counsel's analysis and conclusion that the circuit court followed the applicable statutory procedures and time limits. *See generally* WIS. STAT. §§ 51.15 and 51.20.

In her response, K.R.H. states that she disagrees with her diagnosis of schizophrenia and disputes whether she was dangerous at the time of her 2004 commitment. She asks to be "free from the recommitment and drugs." The undisputed trial testimony is that K.R.H. suffers from schizophrenia, that she is likely to stop taking her medications absent a court order, that she is not competent to refuse medications, and that without psychotropic medications she will become a proper subject for a mental health commitment. As stated previously, the evidence at trial supports the circuit court's order recommitting K.R.H. and authorizing her involuntary medication.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the order of the circuit court, and discharges appellate counsel from having to further represent K.R.H. in this appeal. Therefore,

IT IS ORDERED that the order for commitment and involuntary medication is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved from further representing K.R.H. 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