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**DISTRICT II**

May 1, 2024

To:

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Brian Patrick Mullins  
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L. M. R.

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

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2023AP184-NM

Walworth County v. L.M.R. (L.C. # 2022ME7)

**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).**

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

Counsel for L.M.R. has filed a no-merit report concluding that there is no arguable basis for challenging orders committing L.M.R. for mental health treatment pursuant to WIS. STAT. ch. 51 and authorizing involuntary medication and treatment. The no-merit report addresses the sufficiency of the evidence to support the order for involuntary commitment, as well as the

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

sufficiency of the evidence to support the circuit court's determination that L.M.R. is not competent to refuse psychotropic medication or treatment. L.M.R. was sent a copy of the report and was advised of her right to file a response. She has not done so. Upon an independent review of the record as mandated by WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967), this court summarily affirms the orders because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

Before addressing the issues discussed by counsel in the no-merit report, it is first necessary for this court to examine whether the appeal has been rendered moot. The six-month orders for commitment and involuntary medication and treatment being appealed in this case were entered on February 22, 2022. The orders were extended from August 19, 2022 to October 22, 2022 and again were extended for twelve months beginning on October 21, 2022. The commitment order entered on February 22, 2022 provides that L.M.R. is prohibited from possessing any firearm. The extension orders contain the same provision. In *Marathon County v. D.K.*, 2020 WI 8, ¶¶3 & 25, 390 Wis. 2d 50, 973 N.W.2d 901, the supreme court held that an appeal from an expired six-month original commitment was not moot because of the collateral consequence of the firearms ban, which extended beyond the term of the commitment. The commitment order in this case, just like the order in *D.K.*, specifies, "Expiration of the mental commitment proceeding does not terminate this restriction." *Id.*, ¶24. Consistent with the holding in *D.K.*, this court concludes that the appeal is not moot as to the commitment order. Likewise, because a county may seek to recoup payments from the subject individual that it made to supply the cost of care and medication, the six-month order for involuntary medication and treatment entered on February 22, 2022, is not moot. *Id.* ¶24, 27.

Turning to the issues discussed in the no-merit report, this court agrees with counsel that there would be no arguable merit to challenging the sufficiency of the evidence to support the commitment order. To obtain an order for L.M.R.'s commitment, the County had the burden of proving by clear and convincing evidence that (1) L.M.R. is mentally ill, (2) she is a proper subject for treatment, and (3) she is dangerous to herself or others. *See* WIS. STAT. §§ 51.20(13)(e), 51.20(1)(a). At the final hearing, the County elicited testimony from a psychiatrist, Dr. Marshall Bales, who had reviewed L.M.R.'s medical records and spoken with staff at the inpatient treatment facility to which L.M.R. was committed. Dr. Bales did not interview L.M.R. directly because she declined to meet with him. Dr. Bales also filed a report with the court. Dr. Bales testified that L.M.R. was mentally ill with a diagnosis of bipolar disorder with psychotic features, that L.M.R. was a proper subject for and would benefit from treatment, and that she had responded to treatment in the past. Dr. Bales also opined that L.M.R. had become increasingly dangerous, such that there was a substantial probability of physical impairment or injury to herself or others. The circuit court concluded that there was clear and convincing evidence to satisfy each of the factors under WIS. STAT. §§ 51.20(1)(a), and found that there was a basis for commitment. As the no-merit report discusses, the record supports the circuit court's conclusion. There would be no arguable merit to challenging the sufficiency of the evidence to support the commitment order.

The no-merit report also discusses whether there would be any arguable merit to challenging the sufficiency of the evidence to support the circuit court's determination that L.M.R. is not competent to refuse psychotropic medication or treatment. The County had the burden of proving, by clear and convincing evidence, that L.M.R. was incompetent to refuse medication. *Outagamie County v. Melanie L.*, 2013 WI 67, ¶37, 349 Wis. 2d 148, 833 N.W.2d

607; *see also* WIS. STAT. § 51.20(13)(e). To meet that burden, the County was required to show that the advantages and disadvantages of and alternatives to accepting the particular medication or treatment had been explained to L.M.R. and that she was either (1) incapable of expressing an understanding of the advantages and disadvantages of, and the alternatives to, the medication or (2) substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to her mental illness in order to make an informed choice. WIS. STAT. § 51.61(1)(g)4.; *see also* **Melanie L.**, 349 Wis. 2d 148, ¶¶53, 67. The circuit court made findings that all of these requirements had been met by clear and convincing evidence, and the record supports the circuit court’s findings. There is no arguable merit to this issue.

In addition to the issues discussed above, this court has independently reviewed the record and concluded that there are no arguably meritorious issues for appeal.

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Brian Patrick Mullins is relieved of further representing L.M.R. 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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*Samuel A. Christensen*  
*Clerk of Court of Appeals*