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**DISTRICT III**

April 16, 2013

To:

Hon. James J. Duvall  
Circuit Court Judge  
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Alma, WI 54610

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

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2012AP2126-NM

In the matter of the mental commitment of Karen B.: Buffalo  
County Department of Health Services v. Karen B.  
(L. C. #2011ME9)

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

Counsel for Karen B. has filed a no-merit report concluding there is no arguable basis for Karen to challenge orders extending her commitment and authorizing involuntary administration of medication or treatment. Karen was advised of her right to respond to the report and has not responded. Upon this court's independent review of the record, no issue of arguable merit appears.

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

The petition alleged that Karen is mentally ill and a proper subject for treatment, and that without treatment there is a substantial risk of danger to herself through acts or omissions. The petition further alleged that Karen is incapable of understanding the advantages and disadvantages of medication and is unable to make an informed decision whether to accept or refuse psychotropic medication. The petition alleges a substantial likelihood that Karen would be a proper subject for commitment if treatment were withdrawn and her illness would worsen if not treated with medication.

Two witnesses testified in support of the petition. A psychologist, Dr. Paul Spencer, testified he has known Karen for four or five years and examined her pursuant to a court order. He opined that her behavior has stabilized, but that she is mentally ill, suffering from schizophrenia, paranoid type, and possibly schizoaffective disorder. If treatment were withheld, he believed Karen “would definitely be a proper subject for recommitment.” Spencer recommended an order for involuntary medication. He testified Karen likely would not take her prescribed medication and was then living in the least restrictive environment consistent with her treatment needs. While Karen was no longer physically aggressive and her medication compliance improved, Spencer attributed the improvements to Karen’s structured living environment and the twenty-four-hour staff.

A psychiatrist, Dr. Madan Uprety, testified that she examined Karen and concluded Karen suffered from paranoid type schizophrenia. Uprety concluded Karen is dangerous to herself or others and is a proper subject for treatment. She also concluded Karen’s present living arrangement was the least restrictive environment for her particular needs and Karen should have an involuntary medication order in place.

Karen testified on her own behalf, claiming she is not mentally ill and her problems are physical rather than mental. She did not believe she needed psychotropic medication, but would take medication and “behave” if she were allowed to live with her husband. She also claimed the drugs made her do “funny things.” She was not sure if the medications she was taking were helpful, and denied having schizophrenia.

The circuit court found Karen suffered from a mental illness and would be dangerous if the commitment was not continued. Her present living arrangement with twenty-four-hour care and assistance with medication is the least restrictive alternative. The court also found grounds for involuntary medication based on Karen’s history of resisting medication and the attitudes about drugs she expressed in her testimony.

The Department presented sufficient evidence to support the extension of the commitment order. Under WIS. STAT. § 51.20(1)(a) and (am), an involuntary commitment may be extended for a person who is mentally ill and a proper subject for treatment, and there is a substantial likelihood based on the treatment record that the person would be a proper subject for commitment if treatment were withdrawn. The court had the right to accept the testimony of the expert witnesses and find them more credible than Karen regarding her diagnosis. *See State v. Curiel*, 227 Wis. 2d 389, 421, 597 N.W.2d 697 (1999).

The Department also presented sufficient evidence to support the order for involuntary medication and treatment. The court may order involuntary medication and treatment if the subject’s mental illness renders the subject substantially incapable of understanding the advantages and disadvantages of medication in the treatment of the subject’s mental illness. *See* WIS. STAT. § 51.61(1)(g)4.b. The court could reasonably accept Spencer’s testimony that Karen

likely would not take her prescribed psychotropic medication outside of the structured setting in which she lives. As the arbiter of the witnesses' credibility, the court was not required to accept Karen's assurance that she would take her medications if she were released.

This court's independent review of the record discloses no other potential issue for appeal. Therefore,

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

IT IS FURTHER ORDERED that attorney Martha Askins is relieved of her obligation to further represent Karen B. in this matter. *See* WIS. STAT. RULE 809.32(3).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*