

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**December 28, 2011**

A. John Voelker  
Acting Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2011AP2040**

**Cir. Ct. No. 2006ME45**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**IN THE MATTER OF THE MENTAL COMMITMENT OF ANNE R.:**

**SHAWANO COUNTY,**

**PETITIONER-RESPONDENT,**

**V.**

**ANNE R.,**

**RESPONDENT-APPELLANT.**

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APPEAL from orders of the circuit court for Shawano County:  
THOMAS G. GROVER, Judge. *Affirmed.*

¶1 PETERSON, J.<sup>1</sup> Anne R. appeals an order extending her WIS. STAT. ch. 51 mental health commitment and an order for involuntary medication and treatment. She asserts the evidence supporting these orders was insufficient. We affirm.

### BACKGROUND

¶2 Anne has been under a mental health commitment and an involuntary medication order since 2006. Each year Shawano County has petitioned for an extension of the commitment and an order for involuntary medication and treatment. The most recent petition, and subject of this appeal, occurred in January 2011.

¶3 Prior to the extension hearing, the court appointed Dr. John Coates to examine Anne. At the extension hearing, Coates testified that Anne failed to appear for her scheduled appointment, and he was unable to personally examine her this year. Coates explained, however, that he has personally examined Anne in the past and was able to review her medical records from the past year. Coates testified Anne suffers from schizophrenia—paranoid type, which has been treated with psychotropic medications. Throughout the past year, Anne has continued to display paranoia and delusions. Coates opined that if treatment were withdrawn, Anne would be a proper subject for commitment because her behavior would deteriorate. In his written report, which was admitted into evidence, Coates elaborated that this deterioration would be “to a point where she could no longer take care of herself or properly socialize.”

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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 2009-10 version unless otherwise noted.

¶4 Although Coates was unable to review the advantages and disadvantages of medication or treatment with Anne because of her nonappearance, he opined that an involuntary medication order was necessary because Anne lacks insight into her illness and has shown very little insight in the past. He conceded Anne probably has the intellectual capacity to understand the advantages and disadvantages of medication and treatment; however, he explained the medication order remained necessary because of her lack of insight. Finally, while there have been no instances of Anne not taking medication in the past year, Coates explained there has “been ongoing monitoring making sure that [she] takes her medications.” The court entered an extension of commitment order and an involuntary medication and treatment order.

## DISCUSSION

¶5 On appeal, Anne asserts the evidence was insufficient to support the court’s orders. Specifically, she argues the County failed to sufficiently prove: (1) that she would be a proper subject for commitment if treatment were withdrawn, and (2) that she is incompetent to refuse medications. When reviewing an allegation of insufficient evidence, we will not reverse unless, considering the evidence in the light most favorable to the County, there is no credible evidence to support the circuit court’s conclusion. *See* WIS. STAT. § 805.14(1).

### I. Extension Order

¶6 To extend a mental health commitment, the County must prove by clear and convincing evidence that an individual has a mental illness, is a proper subject for treatment, and is dangerous. *See* WIS. STAT. § 51.20(1)(a), 51.20(13)(e). For an extension hearing, the dangerousness element may be

satisfied by “a showing that there is a substantial likelihood, based on the subject individual’s treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn.” WIS. STAT. § 51.20(1)(am).

¶7 Anne concedes she has a mental illness and is a proper subject for treatment. *See* WIS. STAT. § 51.20(1)(a)1. On appeal, she asserts the County failed to prove she would be a proper subject for commitment if treatment were withdrawn. Specifically, Anne argues Coates’ opinion that she would be a proper subject for commitment if treatment were withdrawn lacked “factual underpinnings.” She also contends the County failed to present any evidence with respect to dangerousness.

¶8 Anne’s assertion that Coates’ opinion lacked factual underpinnings appears to suggest there was an insufficient foundation for the opinion. Anne, however, failed to object to the opinion at trial; consequently, she has not preserved this issue for appeal. *See State v. Corey J.G.*, 215 Wis. 2d 395, 405, 572 N.W.2d 845 (1998).

¶9 To the extent Anne argues the opinion itself was insufficient to meet the County’s burden, we disagree. The court was entitled to rely on Coates’ opinion in its determination to extend the mental commitment. *See* WIS. STAT. § 805.17(2) (factual and credibility determinations are for the fact finder). Anne offers no legal authority that the circuit court’s reliance on this opinion was insufficient. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (We need not consider arguments unsupported by reference to legal authority.). Nevertheless, we observe that, in addition to his opinion, Coates testified that Anne continues to experience delusions and paranoia. He explained that if treatment were withdrawn Anne’s behavior would deteriorate. In his

written report he said that the deterioration would be “to a point where she could no longer take care of herself or properly socialize.” We conclude the evidence sufficiently supports the court’s determination that if treatment were withdrawn, Anne would be a proper subject for commitment.

## II. Involuntary Medication Order

¶10 Anne next contends the County failed to prove she was incompetent to refuse medication or treatment. WISCONSIN STAT. § 51.61(1)(g)4. provides:

[A]n individual is not competent to refuse medication or treatment if, because of mental illness, ... and after the advantages and disadvantages of and alternatives to accepting the particular medication or treatment have been explained to the individual, one of the following is true:

- a. The individual is incapable of expressing an understanding of the advantages and disadvantages of accepting medication or treatment and the alternatives.
- b. The individual is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her mental illness ... in order to make an informed choice as to whether to accept or refuse medication or treatment.

¶11 Anne’s argument focuses on whether the County sufficiently proved she was incompetent to refuse medication under WIS. STAT. § 51.61(1)(g)4.b. Anne argues the County failed to meet its burden of proof because it only introduced evidence showing she lacks insight into her mental illness. Specifically, she asserts the County failed to establish that the “lack of insight interfered with her ability to make an informed choice regarding medications.”

¶12 We disagree. Coates did not merely testify that Anne lacked insight into her mental illness. He explained in his written report that he recommended an involuntary medication order because he found Anne not “competent to make an

informed consent<sup>2</sup> regarding the advantages and disadvantages of accepting treatment by psychotropic medications.” He then testified that it was Anne’s lack of insight into her mental illness that formed the basis of his involuntary medication recommendation. This evidence sufficiently supports the court’s determination that Anne is incompetent to refuse medication.

*By the Court.*—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

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<sup>2</sup> We assume Coates meant to say “choice.”

