

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**August 17, 2017**

Diane M. Fremgen  
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. 2017AP302**

**Cir. Ct. No. 2016ME13**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**IN THE MATTER OF THE MENTAL COMMITMENT OF L. A. S.:**

**DODGE COUNTY,**

**PETITIONER-RESPONDENT,**

**v.**

**L. A. S.,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for Dodge County:  
STEVEN G. BAUER, Judge. *Affirmed.*

¶1 KLOPPENBURG, J.<sup>1</sup> L.A.S. appeals the circuit court's order that extended his involuntary commitment. L.A.S. argues that the County failed to

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

meet its burden of proof at trial because: (1) hearings to extend involuntary commitment under WIS. STAT. § 51.20(13)(g)3. are subject to the procedural requirements detailed in WIS. STAT. § 51.20(9), and (2) the County's sole reliance on the testimony of a nurse-practitioner to prove that L.A.S. was mentally ill, a proper subject for treatment, and dangerous, did not satisfy the requirements of WIS. STAT. § 51.20(9). For the reasons below, I reject L.A.S.'s argument and affirm.

### **BACKGROUND**

¶2 L.A.S.'s current involuntary commitment stems from an altercation with his wife on February 3, 2016. During an argument, L.A.S. scratched his wife, pushed her down, and chased her down the street in the snow after she fled their home. L.A.S.'s wife called the police, who went to their home and eventually took L.A.S. into custody.

¶3 L.A.S. was diagnosed as suffering from paranoid schizophrenia, determined to be a proper subject for treatment, and subject to involuntary medication and commitment for six months. On August 1, 2016, the County filed a petition to extend L.A.S.'s involuntary commitment.

¶4 At the extension hearing held on August 15, 2016, the County called the nurse practitioner who attended to L.A.S., Rebecca Trewyn, as its sole witness. Trewyn testified that she is a board certified advanced practice psychiatric and adult nurse practitioner and that L.A.S. was her patient. Trewyn testified as to her training, certifications, licensure, and experience. Counsel for L.A.S. objected to Trewyn's testimony, arguing that Trewyn was not statutorily qualified to testify in support of the extension, because she was neither a licensed physician nor a licensed psychologist. The circuit court treated the objection "as an issue [that]

relates to foundation for expert testimony” and allowed the county to proceed. Trewyn testified that as an advanced practice nurse practitioner, she engages in the diagnosis of mental health conditions and makes treatment decisions concerning mental health patients. She estimated that she has worked with hundreds of psychiatric patients.

¶5 Trewyn stated that in her opinion L.A.S. suffered from schizophrenia and, as a result, was a proper subject for treatment because schizophrenia is a treatable condition. Trewyn testified that she did not personally observe any symptoms from L.A.S. evincing schizophrenia, but based her opinion on L.A.S.’s medical history which reflected a cyclical pattern of schizophrenic symptoms followed by a reduction in symptoms when L.A.S. would take prescribed antipsychotic medication, and then a resurfacing of the symptoms of schizophrenia when L.A.S. would go off the medications. Trewyn attributed the lack of symptoms during her visits with L.A.S. to L.A.S.’s resumed treatment of antipsychotic medication following the initial involuntary commitment order. Trewyn also testified that in her opinion L.A.S. was likely to “act out” in dangerous ways if treatment were withdrawn.

¶6 Based on Trewyn’s testimony, the circuit court found that L.A.S. suffered from schizophrenia and that there was a substantial likelihood that L.A.S. would become a proper subject for commitment if treatment were withdrawn. The circuit court extended L.A.S.’s involuntary commitment by twelve months.

## **DISCUSSION**

¶7 As stated, on appeal L.A.S. argues that the County failed to meet its burden of proof at trial because: (1) hearings to extend involuntary commitment under WIS. STAT. § 51.20(13)(g)3. are subject to the procedural requirements

detailed in WIS. STAT. § 51.20(9), and (2) the County's sole reliance on the testimony of a nurse-practitioner to prove that L.A.S. was mentally ill, a proper subject for treatment, and dangerous, did not satisfy the requirements of WIS. STAT. § 51.20(9). Because I conclude that the procedures in WIS. STAT. § 51.20(9) do not apply to L.A.S.'s involuntary commitment extension proceeding under WIS. STAT. § 51.20(13)(g)3., I reject L.A.S.'s argument and affirm.

¶8 L.A.S.'s argument calls for the interpretation of specific provisions of WIS. STAT. ch. 51, which is a question of law that the appellate court reviews *de novo*. *Fond du Lac Cty. v. Helen E.F.*, 2012 WI 50, ¶10, 340 Wis. 2d 500, 814 N.W.2d 179. When we interpret a statute, we begin with the statute's plain language, because we assume that the legislature's intent is expressed in the words it used. *State ex rel. Kalal v. Circuit Court for Dane Cty.*, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110. "Statutory language is given its common, ordinary, and accepted meaning, except that technical or specially-defined words or phrases are given their technical or special definitional meaning." *Id.* We interpret statutory language in the context in which it is used, in relation to the language of surrounding or closely related statutes, and in a reasonable manner, to avoid absurd or unreasonable results. *Id.*, ¶46. If this process of interpretation yields a plain meaning, the statute is unambiguous and we apply its plain meaning. *Id.*

¶9 At an initial involuntary commitment hearing, the County must establish the following by clear and convincing evidence: (1) the individual is mentally ill, (2) the individual is a proper subject for treatment, and (3) the individual is dangerous, as defined by WIS. STAT. § 51.20(1)(a)2.a-e. To extend the involuntary commitment, the "county must establish the same elements with the same quantum of proof, [h]owever, it may satisfy the 'dangerousness' prong by showing 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.” *Waukesha Cty. v. J.W.J.*, 2017 WI 57, ¶20, 375 Wis. 2d 542, 895 N.W.2d 783 (quoting WIS. STAT. § 51.20(1)(am) (citation omitted)).

¶10 Initial involuntary commitment determinations must comply with the requirements of WIS. STAT. § 51.20(9)(a)1.-5., which provides that the circuit court shall appoint two licensed physicians or psychologists with specialized knowledge to examine the individual and file reports of their examination with the court. Upon applications for extensions of involuntary commitment, “the court shall proceed under subs. (10) to (13).” WIS. STAT. § 51.20(13)(g)3. Subsections (10) through (13) do not contain any provision requiring examination, reporting, or testimony by a licensed physician or psychologist. WIS. STAT. § 51.20(10)-(13). Accordingly, by the plain meaning of the language in WIS. STAT. §§ 51.20(13)(g)3. and 51.20(10)-(13), the County was not required to present testimony of a licensed physician or psychologist in support of its petition to extend L.A.S.’s involuntary commitment.

¶11 In his reply brief, L.A.S. concedes that the requirement in WIS. STAT. § 51.20(9) of examination and reporting by two licensed physicians or psychologists does not apply to involuntary commitment extension proceedings. Rather, L.A.S. argues that WIS. STAT. § 51.20(9) “provides guidance on the kind of medical professional who is qualified to opine on the existence of the conditions necessary to extend an involuntary commitment.” However, L.A.S.’s argument has no foundation in the statutory language.

¶12 L.A.S. offers three rationales in support of its argument. First, L.A.S. asserts that because initial involuntary commitment determinations and extensions of commitment both require nearly identical elements of proof, it

logically follows that both determinations should be made according to the procedures specified in WIS. STAT. § 51.20(9). L.A.S. reasons that interpreting the statute to require examination and testimony by licensed physicians or psychologists in involuntary commitment extension proceedings properly takes into consideration the context of the statute. However, while this court must read WIS. STAT. § 51.20(13)(g)3. within the context of the entire statute and related sections, in doing so, “the court is not at liberty to disregard the plain, clear words of the statute.” *Kalal*, 271 Wis. 2d 633, ¶46 (quoted source omitted). I will not read into the statute a requirement that involuntary commitment extension proceedings follow WIS. STAT. § 51.20(9) when the legislature has itself not included such a requirement. *See State v. Briggs*, 214 Wis. 2d 281, 288, 571 N.W.2d 881 (Ct. App. 1997) (declining to expand the meaning of a statute “to the point that we engage in rewriting the statute, not merely interpreting it,” and noting that “[t]he role of the legislature is to write the law”).

¶13 Second, L.A.S. asserts that interpreting the statute to require examination and testimony by licensed physicians or psychologists in involuntary commitment extension proceedings is necessary to avoid the absurd result that “anyone could provide an opinion as to the existence of the conditions necessary to extend an involuntary commitment.” However, as the circuit court acknowledged, the evidentiary rules govern the “foundation for expert testimony,” and, therefore, only qualified witnesses will be able to offer opinions as to a person’s mental health and whether the person would be a proper subject for commitment if treatment were withdrawn.

¶14 Third, L.A.S. asserts that just as WIS. STAT. § 51.20(5) applies to all hearings, including extension hearings, even though it is not specifically referenced by WIS. STAT. § 51.20(10)-(13), so, too, WIS. STAT. § 51.20(9) should

apply to all hearings, including extension hearings, even though it is not specifically referenced by WIS. STAT. § 51.20(10)-(13). However, subsection (5), which provides due process safeguards, expressly states that the subsection applies to all “hearings which are required to be heard under this chapter.” WIS. STAT. § 51.20(5). In contrast, WIS. STAT. § 51.20(9) contains no such language of applicability to hearings beyond the initial commitment determination.

### CONCLUSION

¶15 For the foregoing reasons, I affirm the order of the circuit court extending L.A.S.’s involuntary commitment for one year.

*By the Court* –Order affirmed.

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

