COURT OF APPEALS
DECISION
DATED AND FILED

May 8, 2018

Sheila T. Reiff
Clerk of Court of Appeals

Appeal No. 2017AP1425 **Cir. Ct. No. 2016ME1356**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

IN RE THE COMMITMENT OF I.K.:

MILWAUKEE COUNTY,

PETITIONER-RESPONDENT,

V.

I.K.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County: MARSHALL B. MURRAY, Judge. *Affirmed.*

¶1 BRASH, J.[1] I.K. appeals an order for his involuntary commitment, pursuant to WIS. STAT. § 51.20(1)(a). I.K. argues that Milwaukee County failed to meet its burden of proof as required under the statute, specifically, that I.K. was dangerous due to a substantial probability of suffering physical impairment or causing injury to himself or others. We affirm.

BACKGROUND

¶2 This matter stems from an incident that occurred on September 22, 2016. At around 4:00 a.m., Milwaukee police officers responded to a report of a naked man walking down Water Street. When the officers located him they made contact, and I.K. identified himself and gave them his date of birth. They asked him where he lived and he pointed to the sky; he did not seem to know where he was. The officers noted that I.K. "seemed disoriented" and looked "a little bit tired." I.K. eventually told the officers that he lived at the rescue mission on Wells Street.

¶3 The officers believed that I.K. was not able to care for himself at that time in his current state. He had no clothes or belongings with him, and was a distance from the rescue mission. Furthermore, it was a cold night, and he was in an area that was not well lit where robberies frequently occur. As a result, the officers took I.K. into custody for his own safety, transporting him to the Milwaukee County Mental Health Complex.

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

¶4 I.K. was evaluated by a psychiatrist, who diagnosed him as having schizoaffective disorder. At the medication hearing on September 30, 2016, the circuit court temporarily suspended the case upon the agreement of I.K. to cooperate with treatment and consistently take his prescribed medication; the court explained to I.K. that the case would be dismissed on January 5, 2017, if I.K. complied and consistently took his medications. However, I.K. refused to take his medications several times in December 2016. As a result, I.K. was taken back into custody, and a final hearing on the matter was set for December 30, 2016.

¶5 At the final hearing, one of the police officers who had responded to the initial incident in September testified regarding the state in which they had found I.K., as described above. Additionally, a court-appointed psychiatrist, Dr. Sonya Trueblood, and I.K.'s treating psychiatrist, Dr. Suraj Singh, testified. Dr. Trueblood stated that I.K. was delusional, and had told her that "he was God, 100 percent the holy trinity." Dr. Trueblood also testified that I.K. had "grossly disoriented behavior moments" during his interview with her, and described his condition as causing "a substantial disorder of thought, mood, perception, orientation and memory" that can "grossly impair his judgment, behavior, capacity to recognize reality or the ability to meet the ordinary demands of life."

¶6 Dr. Singh then testified that I.K. presented "psychotic symptoms," and noted his refusal to take his medications for his mental illness as well as his refusal of insulin needed for his diabetes. Dr. Singh opined that because I.K. refused to take his medications while he was in "the most restricted environment" of the Milwaukee County Mental Health Complex, she highly doubted that I.K. would avail himself of the services he needs if he was in the community as opposed to in an inpatient facility.

¶7 Based on this evidence, the circuit court committed I.K. for six months. His commitment was then extended for an additional nine months.[2]

DISCUSSION

¶8 I.K. challenges whether Milwaukee County met its burden of proof for his commitment. As such, our review requires us to interpret the provisions of WIS. STAT. ch. 51, specifically § 51.20(1)(a). This is a question of law that we review independently, but benefitting from the circuit court's analysis. ***Waukesha Cty. v. J.W.J.***, 2017 WI 57, ¶14, 375 Wis.2d 542, 895 N.W.2d 783. We will uphold the court's findings of fact unless they are clearly erroneous. ***Id.*** We then review *de novo* whether those factual findings "satisfy the statutory standard." ***Id.***

¶9 Pursuant to WIS. STAT. § 51.20(1)(a), the grounds for commitment that must be established by the County are that the individual is mentally ill, is a "proper subject for treatment," and is dangerous, either to himself (or herself) or others. ***Id.*** The "danger" component of the requirements is demonstrated by showing a "substantial probability" of physical harm resulting from the inability to satisfy basic needs such as food, shelter, medical care, and safety, due to mental illness. Sec. 51.20(1)(a)2.d. The danger prong can also be satisfied if the mentally ill individual, after being advised of the advantages and disadvantages of accepting medication or alternative treatment, demonstrates an inability to understand and make an informed choice regarding treatment, and further, that there is a substantial probability that a lack of treatment will result in "further disability or

[2] According to the record before us, the extension for I.K.'s commitment expired on March 30, 2018. Nevertheless, we review the issue raised by I.K. due to the continuing ramifications of the commitment, such as the prohibition of possessing a firearm.

deterioration." Sec. 51.20(1)(a)2.e. This "substantial probability" standard is not reached, however, if treatment and protection for the individual is available in the community, and there is "a reasonable probability that the individual will avail himself or herself" of the necessary services. ***Id.***

¶10 I.K. argues that the County did not satisfy its burden of proving that I.K. posed a substantial probability of suffering physical harm due to his mental illness. We disagree. First, the state in which the police officers found I.K.—completely naked and disoriented late at night in a high-crime area—is clearly sufficient to demonstrate that I.K.'s safety was at issue. *See* WIS. STAT. § 51.20(1)(a)2.d. Furthermore, at the medication hearing in September 2016, the circuit court explained to I.K. that his prescribed medications have a therapeutic value to him, and that when he does not take them he becomes impaired and unable to make decisions. The court then stayed the proceedings to give I.K. the opportunity to demonstrate that he would "avail himself" of the necessary treatment and services in the community. *See* Sec. 51.20(1)(a)2.e.

¶11 Ultimately, he did not. I.K. stopped taking his medications and was taken back to the Milwaukee County Mental Health Complex in December 2016. He continued to refuse his medications even after being taken back into custody and placed in an inpatient environment. Moreover, at the final hearing on December 30, 2016, I.K. demonstrated the deterioration of his condition without medication: he told the circuit court that he was brought back into custody not for his failure to take his medications, but because the police officer had bought him a Big Mac. *See* WIS. STAT. § 51.20(1)(a)2.e.

¶12 In sum, the circuit court found that I.K. had the ability to make good decisions when he takes his medications as prescribed, but is not competent when

he does not take them. The court therefore ordered that I.K. be committed for six months, which was then extended for an additional nine months at the expiration of the initial six-month period.

¶13 We find that the circuit court's findings of facts are not clearly erroneous, as they are based on the testimony of the police officers who made contact with I.K. and the psychiatrists who treated him. We further find that the circuit court properly applied those factual findings to the statutory standard in determining that I.K. presented a danger to himself: the evidence and testimony clearly shows that when I.K. does not take his medications, his safety is at risk, and further, that his condition deteriorates without the medications. *See* WIS. STAT. § 51.20(1)(a)2.d-e. Moreover, the evidence demonstrated that I.K. did not avail himself of the necessary treatment when he was in the community, as he did not comply with the September 2016 order which would have ultimately dismissed this matter as long as I.K. consistently took his medications. *See* Sec. 51.20(1)(a)2.e. In fact, not only did he stop taking his medications when he was in the community, he also refused to take them while in the inpatient facility where he was taken after his noncompliance with the September 2016 order.

¶14 Therefore, we find that Milwaukee County has met its burden of proof as set forth in WIS. STAT. § 51.20(1)(a). Accordingly, we affirm.

By the Court.—Order affirmed.

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