



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

September 16, 2020

To:

Susan Lutz
Register in Probate
Sue.Lutz@WICOURTS.GOV

Elizabeth G. Rich
erich@rich-law.com

Joseph P. Guidote Jr.
joseph.guidote@outagamie.org

Kyle J. Sargent
kyle.sargent@outagamie.org

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

2019AP2134

In the matter of the mental commitment of R.G.K.:
Outagamie County v. R.G.K. (L.C. # 2011ME127A)

Before Stark, P.J.

R.G.K. is appealing a one-year extension of his ch. 51 commitment. In lieu of filing its brief, Outagamie County filed a motion to dismiss this appeal. Citing *Portage Cty. v. J.W.K.*, 2019 WI 54, 386 Wis. 2d 672, 927 N.W.2d 509, and *Winnebago Cty. v. Christopher S.*, 2016 WI 1, 366 Wis. 2d 1, 878 N.W.2d 109, the County argues the matter is moot because the recommitment order that is the subject of this appeal has expired.

R.G.K. opposes the motion, noting that the cases cited by the County are distinguishable from the instant matter. Specifically, R.G.K. emphasizes that the order on appeal has collateral consequences, including a firearms ban that did not expire at the end of the twelve-month recommitment; the stigma associated with an involuntary civil commitment; and the monetary liability for an individual's costs of care. R.G.K. notes that the collateral consequences of commitment were not raised in either of the cases the County relies on. As our supreme court recognized in *Marathon Cty. v. D.K.*, 2020 WI 8, 390 Wis. 2d 50, 937 N.W.2d 901:

We have previously concluded that an expired initial commitment order is moot. *Christopher S.*, 366 Wis. 2d 1, ¶30. However, the issue of collateral consequences' effect on an otherwise moot commitment was not raised in that case. Then in *J.W.K.*, we specifically left open the question whether collateral consequences render an expired commitment not moot. We said, "Our holding that J.W.K.'s [challenge to his commitment] is moot is limited to situations where, as here, no collateral implications of the commitment order are raised." *J.W.K.*, 386 Wis. 2d 672, ¶28 n.11. We said these collateral consequences may include a firearms ban, civil claims, and costs of care. *Id.* And now, in this case, D.K. has raised the issue of collateral consequences.

Marathon Cty., 390 Wis. 2d 50, ¶22. Our supreme court ultimately held that D.K.'s mental commitment, though expired, was not a moot issue because it still subjected him to the collateral consequence of a firearms ban. *Id.*, ¶25. Although D.K. also claimed collateral consequences in the form of stigma and financial concerns, the D.K. court determined that it need not address those issues because "the firearms ban is itself sufficient to render D.K.'s commitment not moot." *Id.*, ¶25 n.7.

Because the firearms ban in the instant matter is sufficient to render R.G.K.'s challenge to his recommitment not moot, we will deny the County's motion to dismiss this appeal. The County relatedly moved to supplement the record on appeal with the newest recommitment and involuntary medication orders, entered March 6, 2020. A notice of appeal brings before this court only matters that preceded the order that is the subject of the appeal. Any subsequent proceedings are outside the scope of the present appeal. Therefore, we will deny the motion to supplement the record in this appeal with the March 6, 2020 orders.

Upon the foregoing,

IT IS ORDERED that the motion to dismiss this appeal is denied.

IT IS FURTHER ORDERED that the motion to supplement the record is denied.

IT IS FURTHER ORDERED that the respondent's brief is due thirty days from the date of this order.

Sheila T. Reiff
Clerk of Court of Appeals