STATE OF WISCONSIN

C O U R T O F A P P E A L S

DISTRICT III

Case No. 2022AP623

In the matter of the mental commitment of T.J.M.:

MARATHON COUNTY,

Petitioner-Respondent

v.

T.J.M.,

Respondent-Appellant

ON APPEAL FROM AN ORDER OF COMMITMENT AND AN ORDER FOR INVOLUNTARY ADMINISTRATION OF MEDICATION AND TREATMENT, ENTERED IN MARATHON COUNTY CIRCUIT COURT, THE HONORABLE SUZANNE O'NEILL, PRESIDING

PETITIONER-RESPONDENT'S BRIEF

OFFICE OF CORPORATION COUNSEL
FOR MARATHON COUNTY

BY:

MICHAEL PUERNER
CORPORATION COUNSEL
STATE BAR NO. 1070406
Marathon County Corporation
Counsel Office
Marathon County Courthouse
500 Forest Street, Room B134B
Wausau, WI 54403
Telephone: 715-261-1140
michael.puerner@co.marathon.wi.us

Attorney for Petitioner-Respondent

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ISSUES PRESENTED

DID THE CIRCUIT COURT FAIL TO "MAKE SPECIFIC FACTUAL FINDINGS WITH REFERENCE TO THE SUBDIVISION PARAGRAPH OF WIS. STAT. § 51.20(1)(a)2 ON WHICH THE RECOMMITMENT IS BASED" AS REQUIRED BY *LANGLADE COUNTY V. D.J.W.*, 2020 WI 41, 391 WIS. 2D 231, 942 N.W.2D 277?

The circuit court found that clear and convincing evidence existed to support a recommitment, citing the appropriate statutory language and identifying the statutory basis for its decision within its written order.

DID THE COUNTY PROVE BY CLEAR AND CONVINCING EVIDENCE THAT T.J.M. WAS DANGEROUS.

The circuit court found that T.J.M. was dangerous based upon the testimony of two court-appointed experts, both of whom indicated that, if treatment were withdrawn, T.J.M. would meet the statutory dangerousness standards under Wis. Stat. § 51.20(1)(a)(2)a and c.

POSITION ON ORAL ARGUMENT AND PUBLICATION

Neither is requested.

STATEMENT OF THE CASE

T.J.M. was involuntarily committed in Marathon County on March 23, 2018 (R. 15.) This commitment was subsequently extended on September 26, 2018 (R. 33), July 23, 2019 (R. 42), September 20, 2019 (R. 50), September 28, 2020 (R. 71), and October 27, 2021 (R. 101).

The October 27, 2021, hearing regarding T.J.M. was preceded by a petition for recommitment filed on July 26, 2021 (R. 77.) This petition for recommitment triggered the circuit court to appoint two independent examiners, Doctor John Coates and Doctor Nicholas Starr (R. 82.) Both Doctor Coates and Doctor Starr provided reports to the circuit court in advance of the recommitment hearing (R. 88, 89.) Both doctors also provided testimony in support of extension of T.J.M.'s commitment (R. 107.)

The circuit court found that T.J.M. remained a proper subject for commitment (R. 107: 26.) The court noted that T.J.M. suffered from schizophrenia, a mental illness with symptoms that can be controlled and managed through treatment (*id.*) The court also specifically found that, based upon a review of the treatment records, if T.J.M.'s treatment was withdrawn, T.J.M. would present a substantial probability of physical harm to himself and that T.J.M. suffered from such impaired judgment that if treatment were withdrawn he would present as a substantial probability of physical impairment or injury to himself or to others (*id.*) The court noted that T.J.M. was not compliant with medications, that he had a history of substance abuse, and that he lacked insight into his mental health condition (R. 107:26-27.) The court noted that T.J.M. displayed aggressive behaviors towards others and

that he has had suicidal ideations in the past (R. 107:27.) The court noted the impaired judgment, the psychosis, and the risk of those behaviors returning if treatment were withdrawn all supported a finding that T.J.M. was an appropriate subject for extension of the commitment (*id.*)

The circuit court ordered extension of the commitment for 12 months with an accompanying order for involuntary administration of medications based upon T.J.M.'s incapability to apply an understanding of the advantages, disadvantages, and alternatives to his condition in order to make an informed choice as to whether to accept or refuse medications (R. 107:27-28.)

STATEMENT OF FACTS

In addition to the facts cited by T.J.M., Marathon County provides these additional facts in support of the trial court's finding that the County met its burden of proof and presented clear and convincing evidence that T.J.M. was dangerous pursuant to Wis. Stat. § 51.20(1)(a)2.a and c.

T.J.M. failed to appear for his court-ordered appointment with Dr. Coates; however, Dr. Coates did review T.J.M.'s treatment record as a basis for forming his opinions (R. 107:4, 5.) Dr. Coates noted that T.J.M.'s records revealed that he had an established history of mental illness (R.

107:5.) Dr. Coates noted that T.J.M. suffered from mood instability and has experienced auditory hallucinations (*id.*)

Dr. Coates informed the court that T.J.M. had "required hospitalization on account of life-threatening hyponatremia," which Dr. Coates further described as T.J.M. drinking too much water (R. 107:5.) Dr. Coates stated that T.J.M. did this "as a way to create a life-threatening medical problem." (R. 107:10.) Dr. Coates noted that T.J.M. had a history of treatment non-compliance as well as prior suicide attempts (*id.*) Indeed, Dr. Coates referenced that T.J.M. had previously admitted to attempting suicide in the past (R. 107:10.) Dr. Coates also stated that as recently as October 20, 2021, T.J.M. was making suicidal statements (R. 107:5-6.) Dr. Coates shared with the court that T.J.M. was refusing to take medications around the time of October 20, 2021 (R. 107:6) and that he was transferred to the Tomah V.A. hospital for suicidal ideation (R. 107:12.)

Dr. Coates developed a diagnosis of schizophrenia for T.J.M., which Dr. Coates identified as a mental illness treatable with psychotropic medication (R. 107:7.) Dr. Coates noted that this diagnoses "carries with it an increased risk of death from an unnatural cause . . . [t]hat could be suicide." (*id.*) Dr. Coates also stated that T.J.M.'s

diagnosed mental illness carried with it an increased risk of becoming hyponatremic (*id.*)

Dr. Coates opined that there would be a substantial likelihood that T.J.M. would become dangerous if treatment were withdrawn (*id.*) Dr. Coates noted that T.J.M.'s judgment was so impaired that he would present a substantial probability of physical impairment to himself due to that impaired judgment (R. 107:7-8.) Dr. Coates based his opinion as to dangerousness on the voluntary water intoxication and psychosis that he had described (R. 107:8.) Dr. Coates found that it was substantially likely that T.J.M. would harm himself if treatment were withdrawn, focusing on T.J.M.'s lack of insight into his mental illness and his poor judgment (*id.*) Importantly, Dr. Coates opined that without treatment, T.J.M. "is not going to properly take care of himself" because he did not believe he was mentally ill (*id.*)

Dr. Nicholas Starr, a licensed psychologist, provided the circuit court testimony based upon his review of T.J.M's treatment record (R. 107: 14.) Again, T.J.M. failed to appear for his court-ordered evaluation, but Dr. Starr was able to review records that he typically relies upon to form relevant opinions (*id.*)

Dr. Starr informed the court that T.J.M. continued to be treatment non-compliant - this non-compliance included the

use of controlled substances, failing to take medication consistently, and requiring additional psychiatric hospitalizations (R. 107:15.) Dr. Starr shared Dr. Coates' diagnosis of schizophrenia, a mental illness treatable with antipsychotic medications (*id.*)

Dr. Starr opined that if treatment were withdrawn, T.J.M. would present with a substantial probability of danger to himself and to others (R. 107:15-16.) Dr. Starr shared with the court his opinion that if treatment were withdrawn, it was likely that he would attempt suicide or threaten others (R. 107:16.) Dr. Starr noted that T.J.M. had a history of suicide attempts as well as threats to harm or kill others (*id.*) Dr. Starr opined that those behaviors would increase if treatment were withdrawn (*id.*) Dr. Starr shared that it was likely that T.J.M. would act to harm himself or others if treatment were withdrawn (*id.*) Nothing in T.J.M.'s treatment record suggested to Dr. Starr that that T.J.M.'s schizophrenia was not responsive to treatment (R. 107:18.)

While T.J.M. did not believe he was dangerous and expressed a willingness to take medications (R. 107:20), T.J.M. was inpatient at the Tomah VA hospital due to threats towards others that he made (*id.*)

The court found that T.J.M. suffered from schizophrenia and found that T.J.M.'s condition was treatable in that his

symptoms could be controlled and managed through treatment (R. 107:26.) The court also found that if treatment were withdrawn, T.J.M. would present with a substantial probability of physical harm to himself, echoing the statutory language of Wis. Stat. § 51.20(1)(a)2.a., and that T.J.M.'s judgment would be so impaired that he would present with a substantial probability of physical impairment or injury to himself or others, echoing the statutory language of Wis. Stat. § 51.20(1)(a)2.c (*id.*) The court further entered an order that reflected these findings (R. 101.)

The circuit court based its findings on the testimony of both doctors, which the court clearly relied upon as credible[1] (R. 107:26-27.) The court noted that T.J.M. was currently treatment non-compliant with a history of substance abuse and medication non-compliance (R. 107:27.) The court found that T.J.M. lacked insight into his mental illness, that he displayed aggressive behaviors towards others, and that he

[1] *See Sauk County v. S.A.M.*, 2022 WI 46, ¶ 33, 402 Wis. 2d 379, 400, 975 N.W.2d 162, 172, citing *Metro. Assocs. v. City of Milwaukee*, 2018 WI 4, ¶61, 379 Wis. 2d 141, 905 N.W.2d 784 ("When the trial court acts as the finder of fact, it is the ultimate arbiter of the credibility of the witnesses and of the weight to be given to each witness's testimony." (quoting Lessor v. Wangelin, 221 Wis. 2d 659, 665, 586 N.W.2d 1 (Ct. App. 1998)).

has had suicidal ideations in the past (*id.*) The court found T.J.M. appropriate for a recommitment under the recommitment standard, as the court found that if treatment were withdrawn, T.J.M. would be an appropriate subject for commitment (*id.*)

ARGUMENT

I. The Circuit Court Properly Identified the Standards of Danger it Relied Upon

A. Legal Authority

In a recommitment proceeding, Wis. Stat. § 51.20(1)(am) requires a circuit court to "ground [its] conclusions [as to danger] in the subdivision paragraphs" of Wis. Stat. § 51.20(1)(a)2. *Langlade County v. D.J.W.*, 2020 WI 41, ¶ 41, 391 Wis. 2d 231, 942 N.W.2d 277. To ensure that circuit courts meet this requirement, the Wisconsin Supreme Court has required that "circuit courts in recommitment proceedings are to make specific factual findings with reference to the subdivision paragraph of § 51.20(1)(a)2 on which the recommitment is based. *Id* ¶ 40. The Court noted that this requirement "provides clarity and extra protection to patients regarding the underlying basis for a recommitment" and that "issues raised on appeal of recommitment orders" would be clear. *Id* ¶¶ 42, 44.

Wisconsin courts have continuously rejected a requirement that certain "magic words" be used by a court or

an expert to satisfy a particular legal standard in numerous contexts. *See State v. Lepsch,* 2017 WI 27, ¶36, 374 Wis. 2d 98 (circuit court inquiring about juror bias); *State v. Wantland,* 2014 WI 58, ¶ 33, 355 Wis. 2d 135 (withdrawal of consent under Fourth Amendment); *Elections Bd. v. Wisconsin Mfrs. & Commerce,* 227 Wis. 2d 650, 654 (1999)(express advocacy). The United States Supreme Court has echoed this rejection of a requirement that specific words be uttered to satisfy a legal standard. *See Patchak v. Zinke*, 138 S. Ct. 897, 905 (2018).

In the context of mental commitments, a majority of the Wisconsin Supreme Court has emphasized that it does not "require witnesses or circuit courts to recite magic words" in the context of the dangerousness requirement under Chapter 51. *Marathon County v. D.K.*, 2020 WI 8, ¶ 54, 390 Wis. 2d 50; *see also D.K.*, 390 Wis. 2d 50, ¶ 66 (Bradley, J. concurring). An appellate court must review the entirety of the record to analyze whether sufficient evidence has been presented in support of dangerousness. *Id* ¶ 48. A reviewing court should look at the "testimony as a whole" to see if it supports the conclusion made. *Id* ¶51.

B. The Circuit Court Cited Applicable Standards

The trial court found that if treatment were withdrawn, T.J.M. would present with a substantial probability of

physical harm to himself, echoing the statutory language of Wis. Stat. § 51.20(1)(a)2.a. The circuit court also found that if treatment were withdrawn, T.J.M.'s judgment would be so impaired that he would present with a substantial probability of physical impairment or injury to himself or others, echoing the statutory language of Wis. Stat. § 51.20(1)(a)2.c (*id.*)

The Wisconsin Supreme Court has required circuit courts to "ground their conclusions [as to danger] in the subdivision paragraphs" of Wis. Stat. § 51.20(1)(a)2, *D.J.W.*, 391 Wis. 2d 231, ¶ 41, in order to "provide[] clarity and extra protection to patients regarding the underlying basis for a recommitment" and to ensure that "issues raised on appeal of recommitment orders" are clear. *Id* ¶¶ 42, 44. A reasonable interpretation of the Supreme Court's requirement that a trial court "make specific factual findings with reference to the subdivision paragraph of § 51.20(1)(a)2 on which the recommitment is based" is that the Court sought to ensure that appellate records were clear as to the basis of a lower court's findings.

The Wisconsin Supreme Court does not specify that numbers be utilized instead of a restatement of the language in each subdivision paragraph of Wis. Stat. § 51.20(1)(a)2 utilized by the circuit court. Indeed, such a requirement

would be contrary to the consistent rejection of a requirement of magic words to satisfy particular legal requirements.

In this case, the circuit court clearly defined the standards of danger relied upon with direct quotations from the applicable subparagraphs of Wis. Stat. § 51.20(1)(a)2. The record for appeal was properly preserved and T.J.M. was put on notice as to what subsections the court relied upon. In this way, the circuit court met the requirements in the *D.J.W.* case and complied with the Supreme Court's mandates.

C. The Circuit Court Referenced Dangerousness in its Order

In addition to oral findings, the circuit court also entered a written order that codified the court's findings and legal conclusions (R. 101.) The written order specifically identified that T.J.M. was dangerous because he "evidences one or more of the standards under §51.20(1)(a)2., or under §51.20(1)(a)2. in combination with §51.20(1)(am)," and the order further identifies the particular subsections of Wis. Stat. § 51.20(1)(a)2 that the court relied upon: "a substantial probability of physical harm to himself or herself" and "a substantial probability of physical impairment or injury to himself or herself or other individuals due to impaired judgment." (*id.*) The order further noted that these legal standards were met by showing

"a substantial likelihood, based upon the subject individual's treatment record, that the individual would be a proper subject for commitment if treatment were withdrawn," identifying the recommitment standard of Wis. Stat. § 51.20(1)(am).

The court's written order further served the requirements set forth by the Wisconsin Supreme Court in *D.J.M.*, specifying which subsections were relied upon by the court and providing T.J.M. with notice and a clear record for appeal. The written order further specifically cited Wis. Stat. § 51.20(1)(a)2 and again mirrored the language of the individual subsections relied upon by the court.

In this case, the circuit court met the Wisconsin Supreme Court's requirements in *D.J.M.* by specifying, in both written and oral rulings, which sections of Wis. Stat. § 51.20(1)(a)2 were relied upon in the court's findings and conclusions. The lack of linking numbers directly with statutory quotations does not violate the guidance of *D.J.M.*, and a holding that certain numbers must be stated aloud is contrary to volumes of precedent relative to magic words being required for particular legal standards to be satisfied.

D. Any Failure to Specify a Statutory Subsection is Harmless

If this Court finds that circuit courts are required to utilize "magic words" by numerically identifying which statutory subsection is relied upon even after specifically reciting the statutory language of each applicable subsection, this Court must also find that the failure to do so in this case is, at most, a harmless error. While there are "a very limited number of structural errors that require automatic reversal," a failure to reference by number a specific subdivision paragraph of Wis. Stat. § 51.20(1)(a)2 does not rise to the level of a "structural defect[] in the constitution of the trial mechanism." *State v. Pinno*, 2014 WI 74, ¶ 49, 356 Wis. 2d 106, 850 N.W.2d 207. The failure to cite a statute verbally, while also clearly citing the applicable statutory language and providing a written order that mirrors that language and references the applicable statutes, is not a structural error similar to a biased judge, a denial of the right to self-representation, or a denial of the right to a public trial. *Id.*

A harmless error analysis has the same standard in both civil and criminal cases, which is "whether there is a reasonable possibility that the error contributed to the outcome of the action or proceeding at issue." *See Schwigel*

v. Kohlmann, 2005 WI App 44, ¶ 11, 280 Wis. 2d 193, 694 N.W.2d 467. In this case, any error in failing to cite the numerical statutory section associated with the circuit court's findings had no effect on this proceeding's outcome. Unlike the concern expressed in *D.J.W.*, there is no concern here that it is at all unclear which standards of danger were relied upon. The circuit court clearly recited the applicable statutory language in two subsections: Wis. Stat. §§ 51.20(1)(a)2.a. and c. The court also issued a written order that further identified which standards were found and relied upon. The court recited these standards and identified the facts relied upon in analyzing the case under the standards. The addition of several numbers would not have affected the outcome of the case or enhanced this Court's ability to review the record on appeal.

II. The Circuit Court Properly Found that the County Met its Burden as to Dangerousness

A. Legal Authority

a. Standard of review

On appellate review, a circuit court's findings of fact should be upheld by this Court unless they are clearly erroneous. *K.N.K. v. Buhler*, 139 Wis. 2d 190, 198, 407 N.W.2d 281 (Ct. App. 1987). Whether the facts in the record satisfy the statutory standard of dangerousness is a question of law

that this Court reviews de novo. *Id.* Although an appellate court's review of questions of law is independent from the circuit court, this Court can benefit from the circuit court's analysis and application of facts to the applicable law. *State v. Steffes*, 2013 WI 53, ¶15, 347 Wis. 2d 683, 832 N.W.2d 101.

b. Danger in general

In order for a court to impose a civil commitment, the County must prove by clear and convincing evidence that a subject is dangerous to themselves or others. Wis. Stat. § 51.20(1)(a)2. An individual is dangerous pursuant to statute if he or she:

> Evidences such impaired judgment, manifested by evidence of a pattern of recent acts or omissions, that there is a substantial probability of physical impairment or injury to himself or herself or other individuals.

Wis. Stat. § 51.20(1)(a)2.c.

In a recommitment proceeding, counties are not required to identify recent acts or omissions demonstrating danger, but rather may satisfy the dangerousness requirement by showing a substantial likelihood, based upon 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). The recommitment standard "recognizes that an individual receiving treatment may not have exhibited any recent overt acts or omissions

demonstrating dangerousness because the treatment ameliorated such behavior, but if treatment were withdrawn, there may be a substantial likelihood such behavior would occur." *Portage County v. J.W.K.*, 2019 WI 54, ¶ 19, 386 Wis. 2d 672, 927 N.W.2d 509.

B. The Circuit Court's Factual Findings and Written Order Contained no Clear Error

T.J.M. does not challenge the existence of a mental illness or that he was the proper subject for treatment (Petitioner's Brief.) Instead, T.J.M. claims that the County failed to prove dangerousness, emphasizing the lack of any recent suicidal thoughts or behavior merely one paragraph after quoting the applicable recommitment standard that does not require the County to show recent acts (*id* page 13.)

When the sufficiency of evidence in support of dangerousness is challenged, an appellate court reviews the "testimony and the circuit court's findings as a whole" instead of relying on particular statements in isolation. *D.K.*, 390 Wis. 2d 50, ¶51. The entire record must be analyzed in this type of challenge, and a circuit court's findings should only be overturned if clearly erroneous. *Buhler*, 139 Wis. 2d at 198.

T.J.M. admits that the circuit court ruled that there was sufficient evidence with which T.J.M. could be

involuntarily committed (Pet. Brief.) However, T.J.M. asks this Court to ignore the circuit court's judgment and conclusion and to instead focus on isolated pieces of the record. As the Supreme Court made clear in *D.K.*, parts of the record should not be relied upon in isolation from the record as a whole.

a. Sufficient evidence was provided to support the circuit court's findings that T.J.M. would be a proper subject for commitment under Wis. Stat. §§ 51.20(1)(a)2. a. and c. if treatment were withdrawn

While T.J.M. attempts to substitute his judgment for the circuit court's and draw his own conclusions without any supporting evidence in the record (Pet. Brief, page 14), T.J.M. focuses solely on a perceived lack of current danger while disregarding the recommitment standard, which "recognizes that an individual receiving treatment may not have exhibited any recent overt acts or omissions demonstrating dangerousness because the treatment ameliorated such behavior, but if treatment were withdrawn, there may be a substantial likelihood such behavior would occur." *J.W.K.*, 386 Wis. 2d 672, ¶ 19.

The court found that if treatment were withdrawn, T.J.M. would present with a substantial probability of physical harm to himself and that T.J.M.'s judgment would be so impaired that he would present with a substantial probability of

physical impairment or injury to himself or others. The circuit court based its findings on the testimony of both doctors, which the court clearly relied upon as credible

The court relied upon testimony from Dr. Coates, who opined based upon a review of T.J.M's treatment record that if treatment were withdrawn, T.J.M.'s judgment would be so impaired that he would present a substantial probability of physical impairment to himself due to that impaired judgment. Dr. Coates based his opinion as to dangerousness on a history of voluntary water intoxication and psychosis and found that it was substantially likely that T.J.M. would harm himself if treatment were withdrawn, focusing on T.J.M.'s treatment record as allowed by Wis. Stat. § 51.20(1)(am). This treatment record revealed T.J.M.'s lack of insight into his mental illness and a history of poor and impaired judgment. This treatment record led Dr. Coates to opine, based upon T.J.M.'s treatment record, that without treatment, T.J.M. would not properly take care of himself because he did not believe he was mentally ill.

Dr. Coates' review of T.J.M.'s treatment record also revealed that T.J.M. suffered from mood instability and had experienced auditory hallucinations. T.J.M.'s history of treatment non-compliance as well as prior suicide attempts contributed to Dr. Coates' opinion, as the doctor noted T.J.M.

had admitted to attempting suicide in the past. Dr. Coates also revealed that as recently as October 20, 2021, T.J.M. was making suicidal statements, was refusing to take medications, and was transferred to the Tomah V.A. hospital for suicidal ideation, all facts observable from T.J.M.'s treatment record, which Wis. Stat. § 51.20(1)(am) makes relevant and a basis for reliance in recommitment proceedings.[2]

The circuit court also relied upon the testimony of Dr. Starr, who also emphasized his review of the treatment record and T.J.M.'s continued treatment non-compliance, including the use of controlled substances, the failure to take medication consistently, and the need for additional psychiatric hospitalizations. Dr. Starr opined that if treatment were withdrawn, T.J.M. would present with a substantial probability of danger to himself and to others because it was likely, based upon T.J.M.'s treatment record, that T.J.M. would attempt suicide or threaten others. Dr. Starr noted that T.J.M. had a history of suicide attempts as

[2] Wis. Stat. § 51.20(10)(c) indicates that "[e]xcept as otherwise provided in this chapter, the rules of evidence in civil actions and s. 801.01(2) apply to any judicial proceeding or hearing under this chapter." Wis. Stat. § 51.20(1)(am) specifically allows dangerousness in a recommitment to be linked to a showing that is based upon a review of individual's treatment record. Accordingly, Wis. Stat. § 51.20(10)(c) must allow references to that treatment record to be admissible.

well as threats to harm or kill others and opined that those behaviors would increase if treatment were withdrawn.

The court noted that T.J.M. was currently treatment non-compliant with a history of substance abuse and medication non-compliance. The court found that T.J.M. lacked insight into his mental illness, that he displayed aggressive behaviors towards others, and that he has had suicidal ideations in the past. The court found T.J.M. appropriate for a recommitment under the recommitment standard, as the court found that if treatment were withdrawn, T.J.M. would be an appropriate subject for commitment.

All of the expert testimony relied upon by the court was a proper part of the circuit court record for consideration in a recommitment hearing. The circuit court was entitled to rely upon the credible evidence presented, along with the inferences the court was able to draw, to find that requisite danger existed.

Behavior prior to or earlier in a commitment is a proper basis for a finding of current dangerousness under the recommitment standard, as "[d]angerousness in an extension proceeding can and often must be based on the individual's precommitment behavior, coupled with an expert's informed opinions and predictions." *Winnebago County v. S.H.*, 2020 WI App 46, ¶ 13, 393 Wis. 2d 511, 947 N.W.2d 761. In this case,

the testifying experts properly relied upon previous behaviors in forming relevant opinions that the court utilized in making its required findings. The evidence presented was sufficient to support a dangerousness finding in this recommitment proceeding.

CONCLUSION

The County respectfully requests that this Court affirm the Order of Commitment granted by the Marathon County Circuit Court, by finding that, based upon the evidence in the record, the County has met its burden of proof. The County further requests this Court affirm that the circuit court made the required findings pursuant to *Langlade County v. D.J.M.* or, if the Court finds the lack of a numerical citation is insufficient, that any error is harmless.

Dated this 17th day of August, 2022.

Respectfully submitted:

MICHAEL J. PUERNER
CORPORATION COUNSEL
STATE BAR NO. 1070406

OFFICE OF CORPORATION COUNSEL
FOR MARATHON COUNTY
500 Forest Street
Wausau, WI 54403
(715) 261-1140

Attorney for Petitioner-Respondent

CERTIFICATION

I hereby certify that the attached Brief of Petitioner-Respondent meets the form and length requirements of Rule 809.19 (8)(b), and (c) in that it is Courier 12, 10 spaces per inch, non-proportional font, double-spaced, 1.5 inch margin on the left and 1 inch margin on the other 3 sides. The brief of Petitioner-Respondent is twenty-one pages in length.

Dated and signed this 17th day of August, 2022.

SIGNED:

OFFICE OF CORPORATION COUNSEL FOR
MARATHON COUNTY

BY:

MICHAEL PUERNER
CORPORATION COUNSEL
STATE BAR NO. 1070406

Marathon County Corporation
Counsel Office

Marathon County Courthouse
500 Forest Street, Room B134
Wausau, WI 54403
Telephone: 715-261-1140
michael.puerner@co.marathon.wi.us

ATTORNEY FOR PETITIONER-RESPONDENT

CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with s. 809.19 (2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23 (3) (a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names and last initials instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 17th day of August, 2022.

SIGNED:

OFFICE OF CORPORATION COUNSEL FOR
MARATHON COUNTY

BY:

MICHAEL PUERNER
CORPORATION COUNSEL
STATE BAR NO. 1070406
Marathon County Corporation
Counsel Office
Marathon County Courthouse
500 Forest Street, Room B134B
Wausau, WI 54403
Telephone: 715-261-1140
michael.puerner@co.marathon.wi.us

Attorney for Petitioner-Respondent