



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

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DISTRICT II

January 30, 2019

To:

Hon. Lloyd Carter
Circuit Court Judge
Waukesha County Circuit Court
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Waukesha, WI 53188

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Colleen Ball
State Public Defender's Office
Appellate Division
735 N. Water St., #912
Milwaukee, WI 53202

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

2018AP168 .

In the matter of the temporary guardianship and protective
placement of J.J.H.: Waukesha County v. J.J.H.
(L.C. #2017ME589)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or
authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

FILED

FEB 01 2019

CIRCUIT COURT
WAUKESHA COUNTY, WI2019 FEB -1 AM 11:14
JUVENILE COURT

RECEIVED

J.J.H. appeals from an Order of Conversion to Temporary Guardianship and/or Temporary Protective Placement or Services pursuant to Wis. STAT. § 51.67 (2015-16).¹ Upon reviewing the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* Wis. STAT. RULE 809.21. We dismiss the appeal as moot.

Now twenty-years-old, J.J.H. has been cognitively delayed since age two, has developmental disabilities, and is deaf. She also has been diagnosed with a mood disorder and anxiety. On September 11, 2017, she agreed to be voluntarily admitted to a psychiatric hospital. On arrival with her mother, she threatened self-harm and refused to proceed. On the way home, J.J.H. became violent against Mom. J.J.H. was charged with domestic disorderly conduct.

On September 12, a no-contact order was put in place and Waukesha County filed a three-party petition for a Wis. STAT. § 51.20 examination.² The petition alleged that: J.J.H. was displaying increased agitation; Mom felt unsafe, as J.J.H. has pulled knives on her and made threats to kill her and the dog; Mom, her permanent guardian, had been trying to get her into a structured residential treatment facility for some time as J.J.H. is unable to care for herself and needs 24/7 care, which Mom cannot provide due to J.J.H.'s disabilities, agitation, and threats; and J.J.H.'s communication skills are limited as she did not want to learn how to use sign language, instead learning her own way to sign or communicating in writing.

When the petition proceeded to a probable cause hearing on September 15, 2017, J.J.H. was under detention at Winnebago Mental Health Institute (WMHI). The County noted that

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

² The three petitioners were J.J.H.'s mother, grandfather, and a citizen advocate for J.J.H.

J.J.H. was unable to return home that day due to the no-contact order. The court's extensive efforts to secure a certified sign language interpreter or a real-time court reporter for the hearing were futile. The County moved to adjourn the proceeding for good cause. *See* WIS. STAT. § 885.38(7).

Advocacy counsel objected both to adjourning the hearing, *see* WIS. STAT. § 51.20(7)(a), as J.J.H. did not want to return to WMHI, and to proceeding without an interpreter. Because J.J.H.'s detention status implicated her liberty interests and her counsel objected to an adjournment, the court determined it best to proceed with the hearing without an interpreter.

J.J.H.'s WMHI psychiatrist testified that J.J.H. currently needed locked inpatient psychiatric care in either a hospital or a group home and that she was not competent to refuse psychotropic medication. The County informed the court that the adult protective services unit of the Department of Health and Human Services so far had been unsuccessful in locating an alternative to WMHI for J.J.H. and, if the WIS. STAT. § 51.20 petition was dismissed, DHHS would detain her on an emergency protective placement basis under WIS. STAT. ch. 55. It thus asked the court to convert the petition to one under WIS. STAT. § 51.67 and order that J.J.H. be temporarily protectively placed and returned to WMHI for not more than thirty days. J.J.H.'s counsel objected, reiterating J.J.H.'s desire to not return to WMHI, and asked the court to allow the ch. 55 proposal to proceed.

After briefly taking the matter under advisement, the court found that commitment under WIS. STAT. ch. 51 was not warranted but that J.J.H. was a fit subject for guardianship and protective placement and that a permanent guardianship already was in effect. It then ordered temporary protective placement at WMHI for not more than thirty days "from the date of this

hearing” and involuntary administration, if necessary, of psychotropic medication. It expressly stated that the order would expire of its own accord in thirty days, on October 15, 2017.

J.J.H. appeals. The County argues the case is moot. A case is moot when its resolution will have no practical effect on an existing controversy. *City of Racine v. J-T Enters. of Am., Inc.*, 64 Wis. 2d 691, 700, 221 N.W.2d 869 (1974). Whether a legal claim is moot is a question of law. *PRN Assocs. LLC v. DOA*, 2009 WI 53, ¶25, 317 Wis. 2d 656, 766 N.W.2d 559.

The appeal arises out of an order entered pursuant to Wis. STAT. § 51.67 on September 15, 2017. The statute plainly provides that the order may not exceed thirty days’ duration and makes no provision for extensions of such orders. The order thus expired on October 15, 2017.

J.J.H. concedes that the order has expired. She contends we nonetheless should consider her appeal as it is of great public importance; occurs frequently, such that a definitive decision is necessary to guide defense counsel and circuit courts; is likely to arise again, especially in her case, given her diagnosis, disabilities, the shortage of qualified sign language interpreters, and the possibility of future commitment or review hearings; and evades appellate review because the underlying circuit court orders are of such short duration that the appellate process cannot be completed or undertaken in time to have a practical effect on the parties. See *State v. Morford*, 2004 WI 5, ¶7, 268 Wis. 2d 300, 674 N.W.2d 349. Analogizing to the criminal context, see *Sibron v. New York*, 392 U.S. 40, 57-58 (1968), she also contends that, unless dealt with on the merits, she may suffer collateral legal disadvantages later, as the County and DHHS could use records documenting her mental illness and incompetency in future commitment proceedings.

The facts here are unique. Despite J.J.H.'s well-stated arguments, we are not persuaded that "the precise situation under consideration arises so frequently that a definitive decision is essential to guide trial courts in similar instances." *City of Racine*, 64 Wis. 2d at 701.

Further, in "any proceeding before a court of record," "[t]he delay resulting from the need to locate and appoint a qualified interpreter may constitute good cause for the court to toll the time limitations in the court proceeding," WIS. STAT. § 885.38(1)(a), (7). Advocacy counsel also could have agreed to postpone the probable cause hearing for up to seven days. WIS. STAT. § 51.20(7)(a). Counsel agreed to neither. We do not think such a singular fact pattern is prone to frequent repetition.

IT IS ORDERED that the appeal is dismissed.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals

STATE OF WISCONSIN, CIRCUIT COURT, WAUKESHA COUNTY

For Official Use

IN THE MATTER OF THE CONDITION OF

☐ Amended

J H
Name of Subject Individual

**Order of Conversion to
Temporary Guardianship
and/or
Temporary Protective
Placement or Services**

FILED
SEP 15 2017

[REDACTED]
Date of Birth

Case No. 17MB0589

REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A

A hearing was held on (Date) September 15, 2017.

THE COURT FINDS:

1. The subject individual is a resident of Waukesha County, Wisconsin.
2. Commitment under Chapter 51, Wis. Stats., is not warranted, and the subject individual is a fit subject for guardianship and protective placement or services.
- ☒ 3. The subject individual is not competent to refuse psychotropic medication under §§51.67 or 55.14, Wis. Stats.

THE COURT ORDERS:

1. This matter shall be converted to an action for temporary guardianship and/or temporary protective placement or services under Chapters 54 and 55, Wis. Stats.
2. The subject individual is temporarily protectively placed at Winnebago Mental Health Institute or other appropriate treatment or placement facility for not more than 30 days from the date of this hearing.
- ☒ 3. The guardian may consent to the involuntary administration of psychotropic medication as a temporary protective service.
4. To prepare the permanent guardianship and protective placement or services petition, the department responsible for guardianship or protective placement or services in (County) Waukesha County and the county corporation counsel or privately retained attorney by temporary guardian shall have access to all court records and to all treatment and service records.
5. ☐ The temporary guardian of the subject individual shall be _____
☒ The current guardian of the subject individual is _____
 (Name) [REDACTED]
 (Address) [REDACTED]
 (Phone) [REDACTED]
6. This order is valid until (Date) October 15, 2017 (not more than 30 days from the date of the hearing).

DISTRIBUTION:

1. Court: Original
2. Corporation Counsel
3. Subject Individual [REDACTED]
4. Subject Individual's Attorney Laura Sette
5. Facility Winnebago MHI
6. Human or Social Services
7. Temporary Guardian
8. Other Interested persons: [REDACTED]
Rhonda Kilger HHSD APS

BY THE COURT:

[Signature]
☒ Circuit Court Judge ☒ Circuit Court Commissioner
Laura Law [Signature]
Name Printed or Typed

September 15, 2017

Date

CONFIDENTIAL COURT RECORD

ME-944, 02/18 Order of Conversion to Guardianship and Protective Placement or Services §51.20(7)(d), 51.67 and 906.04(4)(a) and (am), Wisconsin Statutes
This form shall not be modified. It may be supplemented with additional material.

APPENDIX B

RECEIVED
MAR 02 2020

2020 WI 22

NOTICE

Office of State Public Defender
Milwaukee Appellate Office
Milwaukee, WI

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2018AP168
(L.C. No. 2017ME589)

STATE OF WISCONSIN

:

IN SUPREME COURT

In the matter of the temporary guardianship and protective placement of J.J.H.:

Waukesha County,

Petitioner-Respondent,

v.

J.J.H.,

Respondent-Appellant-Petitioner.

FILED

FEB 27, 2020

Sheila T. Reiff
Clerk of Supreme Court

REVIEW of a decision of the Court of Appeals. *Dismissed as improvidently granted.*

¶1 PER CURIAM. J.J.H. petitioned for review of the decision of the court of appeals, Waukesha Cty. v. J.J.H., No. 2018AP168, unpublished order (Wis. Ct. App. Jan. 30, 2019), dismissing her appeal as moot. After reviewing the record and the briefs of both parties, and after hearing oral arguments, we conclude this matter should be dismissed as improvidently granted.

APPENDIX C

¶2 *By the Court.*—The review of the decision of the court of appeals is dismissed as improvidently granted.

¶3 ANN WALSH BRADLEY, J., withdrew from participation.

¶4 BRIAN HAGEDORN, J., did not participate.

¶5 REBECCA FRANK DALLET, J., dissents.



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Supreme Court of Wisconsin

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FILED
 SEP 05 2019
 CIRCUIT COURT
 WAUKESHA COUNTY, WI

September 3, 2019

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*Address list continues on Page 3

WAUKESHA COUNTY
 JUVENILE COURT

2019 SEP -5 AM 11:05

RECEIVED

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

Nos. 2019AP511-W J.J.H. v. Palm L.C.#2017ME589
 2018AP168 Waukesha County v. J.J.H. L.C.#2017ME589

A petition for writ of habeas corpus having been filed on behalf of petitioner, State of Wisconsin ex rel. J.J.H., and considered by this court, together with the petition for review filed March 4, 2019;

IT IS ORDERED that the petition for writ of habeas corpus is granted; and

IT IS FURTHER ORDERED that the relief requested in the habeas petition, that the petition for review filed in Waukesha County v. J.J.H., No. 2018AP168, be reinstated and deemed timely-filed, is granted. See State ex rel. Nichols v. Litscher, 2001 WI 119, 247 Wis.2d 1013, 635 N.W.2d 292; State ex rel. Schmelzer v. Murphy, 201 Wis.2d 246, 548 N.W.2d 45 (1996); and

Page 2

September 3, 2019

Nos. 2019AP511-W J.J.H. v. Palm L.C.#2017ME589
2018AP168 Waukesha County v. J.J.H. L.C.#2017ME589

IT IS FURTHER ORDERED that the petition for review is granted, and that pursuant to Wis. Stat. § (Rule) 809.62(6), the respondent-appellant-petitioner, J.J.H., may not raise or argue issues not set forth in the petition for review unless otherwise ordered by the court; and

IT IS FURTHER ORDERED that pursuant to Wis. Stat. §§ (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the respondent-appellant-petitioner must file a brief in this court; that within 20 days of filing the petitioner-respondent, Waukesha County, must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the petitioner-respondent, within 10 days of filing the respondent-appellant-petitioner must file either a reply brief or a statement that no reply brief will be filed; and

IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and

IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and

IT IS FURTHER ORDERED that, if a party has not previously filed an electronic copy of the briefs filed on behalf of that party in the court of appeals, the party, within 30 days after the date of this order, must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; but if the party has already filed an electronic copy of such briefs, then there is no obligation to provide additional copies of those briefs to the clerk of this court; and

IT IS FURTHER ORDERED that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review; and

IT IS FURTHER ORDERED that the clerk of the circuit court shall transmit the record of Waukesha County Circuit Court Case No. 2017ME589 to this court under appeal number 2018AP168 within ten days of the date of this order.

BRIAN K. HAGEDORN, J., did not participate.

Sheila T. Reiff
Clerk of Supreme Court

Page 3

September 3, 2019

Nos. 2019AP511-W

2018AP168

J.J.H. v. Palm L.C.#2017ME589Waukesha County v. J.J.H. L.C.#2017ME589*Address list continued:

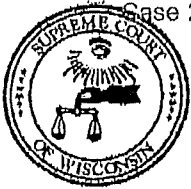
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WISCONSIN SUPREME COURT

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Waukesha, WI 53188-3636

Hon. Lloyd Carter
Circuit Court Judge
Waukesha County Circuit Court
515 W. Moreland Blvd.
Waukesha, WI 53188

FILED

MAR 14 2019

CIRCUIT COURT
WAUKESHA COUNTY, WI

WAUKESHA COUNTY
JUVENILE COURT

2019 MAR 14

RECEIVED

The court has entered the following order:

District: 2

Appeal No. 2018AP000168

Date: March 4, 2019

Waukesha County v. J.J.H.

Circuit Court Case No. 2017ME000589

A **Petition for Review** has been filed for review of the court of appeals' decision filed on January 30, 2019. It appears that the petition for review was not received in this court until March 4, 2019, and is untimely under Wis. Stats. § 808.10 and (Rule) 809.62(1) therefore, the petition for review must be dismissed, *First Wisconsin National Bank of Madison v. Nicholaou*, 87 Wis. 2d 360, 274 N.W.2d 704 (1979);

IT IS ORDERED the petition for review is dismissed.

Sheila T. Reiff
Clerk of Supreme Court



This document is a true and correct copy of the document on file in my office.

Melissa Stettin, Deputy
Clerk of Supreme Court/Court of Appeals, State of Wisconsin

3/4/19
Date

2018AP000168

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

IN THE MATTER OF:

J. [REDACTED] J. H. [REDACTED]

FILED

DEC 11 2017

CASE NO. 17-ME-589

PROBABLE CAUSE HEARING
DIGITAL RECORDING

CLERK OF JUVENILE COURT
WAUKESHA COUNTY

RECEIVED
DEC 14 2017

Office of State Public Defender
Milwaukee Appellate Office
Milwaukee, WI

Proceedings held in the above-entitled matter
on the 15th day of September, 2017, before the Honorable
LLOYD V. CARTER, Circuit Court Judge presiding in Circuit
Court Branch 4, Waukesha County Courthouse, Waukesha,
Wisconsin.

APPEARANCES: WAUKESHA COUNTY CORPORATION COUNSELS OFFICE
1320 Pewaukee Road, Room 330, Waukesha, Wisconsin 53188 by
Kimberly Haines, appearing on behalf of the Public.

STATE PUBLIC DEFENDERS OFFICE,
407 Pilot Court, Suite 500, Waukesha, Wisconsin 53188-2470,
by Assistant State Public Defenders Laura P. Sette and Amber
Rumpf, appearing on behalf of the respondent.

Also Present: DHHS by Jeff Stuberg, Attorney Robert Pledhl,
attorney for guardian, grandparents G. [REDACTED] and S. [REDACTED]
M. [REDACTED], J. [REDACTED] H. [REDACTED] AFRCH, T. [REDACTED] L. [REDACTED], Mom.

Transcript of Proceedings

Cindy K. Baumeister
Official Court Reporter

APPENDIX F

INDEX OF WITNESSES

CALLED BY THE PUBLIC:

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
William Pinkonsly	16	26	27	

INDEX OF EXHIBITS

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>IDTF'D</u>	<u>OFFR'D</u>	<u>RECV'D</u>
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(No Exhibits Marked)

1 (The proceedings at this point in front of
2 Commissioner Scullen.)

3 THE COURT: The Court is going to call in
4 the matter of J [REDACTED] J. H [REDACTED], Case No. 17-ME-589.
5 Appearances, please, starting with the public.

6 MS. HAINES: Good afternoon, your Honor.
7 The public appears by Attorney Kimberly Haines.
8 Jeffrey Stuberg appears from the department of health
9 and human services.

10 MS. SETTE: Attorney Laura Sette and
11 Attorney Amber Rumpf appear with J [REDACTED] H [REDACTED], who
12 appears in person and in custody.

13 MR. PLEDHL: And, your Honor, I'm Attorney
14 Robert Pledhl, and I've represented the guardian in
15 some of the other proceedings, and I'm just here today.

16 THE COURT: Okay. Thank you, Attorney
17 Pledhl, and in the back starting with you, sir?

18 THE WITNESS: I'm J [REDACTED]'s grandfather.

19 THE COURT: Okay. And what's your name,
20 sir?

21 THE WITNESS: G [REDACTED] M [REDACTED], M- [REDACTED].

22 THE WITNESS: S [REDACTED] M [REDACTED], J [REDACTED]'s
23 grandmother.

24 THE WITNESS: J [REDACTED] H [REDACTED], H- [REDACTED],
25 from the Association For the Rights of Citizens With

1 Handicaps.

2 THE WITNESS: T [REDACTED] L [REDACTED], L- [REDACTED],

3 Mom.

4 THE COURT: Okay. Good afternoon. We are
5 here for a probable cause hearing. Is there a proposed
6 resolution or are we going forward with the hearing?

7 MS. HAINES: Your Honor, I guess we have a
8 housekeeping issue to address first. We do not have a
9 court certified interpreter here today.

10 THE COURT: That's my understanding. It's
11 my understanding that multiple services were called,
12 including every possible interpreter service that is
13 available to us including out of state, out of county
14 including Madison, Chicago, Minnesota, and there are no
15 available interpreters today. I understand Miss Rumpf
16 is versed in American sign language and has been
17 providing assistance. Obviously you're not a certified
18 sign interpreter; correct?

19 MS. RUMPF: No, I am not an interpreter.
20 I've been providing assistance so that we can
21 communicate with our client. I have not been
22 interpreting anything that has been said in court nor
23 do I -- nor would that be sufficient for today.

24 THE COURT: I appreciate your -- I
25 appreciate your efforts. How would the parties suggest

1 we proceed? Obviously it's important for J [REDACTED] to
2 understand what it is that we are here for today and
3 what the public is asking of the Court. Attorney Sette
4 would you ask -- Are you asking for an adjournment?

5 MS. SETTE: I am not asking for an
6 adjournment. My client does not want to stay at
7 Winnebago. She wants to go home. It's my
8 understanding that the county is asking for an
9 adjournment. Is that -- I'll let the county make their
10 motion and then --

11 MS. HAINES: Your Honor, the county is
12 ready to proceed, however in looking at Section
13 885.38(7) it's my understanding that the Court may find
14 good cause to toll the time limits in this court
15 proceeding.

16 THE COURT: All right. I'm going to pull
17 up that.

18 MS. HAINES: I have it available if you
19 wish to --

20 THE COURT: That's okay. I can pull it up
21 right here. Thank you.

22 MS. HAINES: It's also the public's
23 understanding that J [REDACTED] is unable to return home
24 today because there is a no-contact order between her
25 mother, who also is her guardian, and herself.

1 THE COURT: Attorney Sette, any position
2 with respect to the applicability of 885.38(7)?

3 MS. SETTE: Yes. I am objecting. I don't
4 believe that the ability to find good cause for this
5 adjournment exists within the 51.20 statute. The 51.20
6 statute is very definitive. It says 72 hours from the
7 time of detention, so when the police takes someone
8 into custody, and it can only be adjourned if the
9 defense counsel requests it, and we're not requesting
10 it.

11 There isn't a part of this statute
12 that allows for an adjournment due to good cause as
13 there is in other statutes as you're familiar. Chapter
14 48 CHIPS cases, TPR cases, 938 cases all have time
15 limits, but they all have the ability for a court
16 official to find good cause to waive those time limits.
17 That doesn't exist in 51.20, and the appellate courts
18 are very specific that that is an absolute 72 hours.
19 If a hearing is held without 7 -- with -- not within
20 the 72 hours the Court loses competence to hear the
21 motion.

22 THE COURT: Okay. Obviously the Court's
23 in a difficult position because I want J [REDACTED] to be
24 able to understand everything we're here for about her.
25 I want her to be able to understand, but I also

1 understand that she's being -- or her liberties are
2 being restricted and I err on the side of caution then
3 and go forward with the proceeding today knowing that
4 she does not have someone here to sign on her behalf
5 and knowing that the -- with the caveat that the matter
6 can be reheard if -- when we're able to obtain a signer
7 or a certified interpreter.

8 The Court docket reflects without me
9 reiterating the efforts made by the court to obtain a
10 certified interpreter prior to this hearing, and given
11 the lack of availability as well as the short notice no
12 one was available. So based upon that I'm going to ask
13 if the public is ready to call your first witness.

14 MS. SETTE: Commissioner, just before we
15 call the first witness if I can just enter an objection
16 for the record because I'm objecting to going forward
17 without a certified sign interpreter. This is a due
18 process right that my client has. She has a due
19 process as her liberty, and if she doesn't understand
20 what's going on she can't communicate with us, she
21 doesn't know what's going on, she can't refute the
22 things that are coming up against her.

23 She has an absolute due process
24 right to know what's happening in court. That's been
25 recognized in criminal courts the right to have a sign

1 language interpreter in court their due process has
2 found to be similar in Chapter 51 hearings because a
3 liberty interest is at stake. So I'm objecting to
4 going forward today on an evidentiary basis without a
5 sign language interpreter.

6 THE COURT: Is there anyone available? Is
7 there any sign interpreters available for this
8 afternoon? Well, Attorney Sette, I'm in quite a
9 predicament in that you have objected to the
10 adjournment that the public has made and yet objecting
11 to going forward without the sign interpreter. I am
12 concerned because as I stated before Miss H[REDACTED] s
13 liberties are at interest here, and to adjourn this
14 matter over your objection would -- would potentially
15 violate that.

16 So I am -- I know that the Court has
17 made Herculean efforts to try to obtain a interpreter.
18 I think for lack of a better word to continue holding
19 her for any period of time there needs to be
20 sufficient -- I have had to demonstrate that. So I
21 appreciate that Miss H[REDACTED] is not able to hear what is
22 being said about her today or to participate in a
23 meaningful way, but I think it's important if we're
24 gonna continue to hold her that -- that there's a
25 sufficient basis to do so. So based upon that I'm

1. going to ask that the public call their first witness.

2. MS. HAINES: Your Honor, as an alternative
3. I've just conferred briefly with the department
4. representative and if the Court felt that -- that
5. Miss H[REDACTED]'s due process rights would be violated with
6. proceeding here today and if the Court would choose to
7. release her that there -- because she is unable to
8. return to her home there would be enough grounds to
9. take her into custody under a Chapter 55 mental
10. protective placement.

11. THE COURT: Attorney Sette?

12. MS. SETTE: And that's something that we
13. talked to her about and I didn't know if there was an
14. availability. I know she doesn't want to go to
15. Winnebago.

16. UNIDENTIFIED VOICE: Your Honor, I think
17. that that might be a good legal remedy, but I don't
18. know if it's the best treatment for her. She would end
19. up on the fifth floor, the medical floor. If she's
20. sitting on the floor, I don't know if she would get the
21. attention and the medication or the assessment that she
22. would get at Winnebago. So it may be a good legal
23. remedy, I just don't know if it's the best treatment
24. option for her at this time.

25. MS. SETTE: And she may be willing to go

1 to Waukesha Memorial and maybe even agree to One
2 Southeast. We did talk to her about that. One
3 Southeast is the mental health treatment floor at
4 Waukesha Memorial Hospital. I just don't know if
5 they're available to take her. She wasn't sure if she
6 would agree because she hasn't been there before. Um,
7 I also talked to her about the mental health center and
8 she recommended -- she also talked about Rogers.

9 THE COURT: So is Judge Carter available
10 this afternoon? What I'm suggesting, I heard a lot of
11 good suggestions, but we also need some answers to some
12 of the questions that attorney -- We'll see if Judge
13 Carter is available this afternoon, meaning starting at
14 1:00 or 1:30 to hear this matter. I am not, but that
15 would give you all some opportunities to come up with
16 maybe a proposed resolution and to give -- best meet
17 Miss H[REDACTED]'s needs. If not Judge Carter Judge
18 Bugenhagen or Commission Lau.

19 (Discussion held off the record.)

20 THE COURT: Here's what I'm going to
21 suggest. We take the testimony of the doctor and then
22 take a break, give the parties the opportunity to come
23 up with another potential resolution and then we'll
24 take it from there because we're gonna lose the doctor;
25 correct?

1 MS. HAINES: Correct.

2 THE COURT: And we'll just have to take it
3 from there.

4 MS. HAINES: Thank you.

5 THE COURT: Okay.

6 (Discussion held off the record.)

7 THE COURT: Any update on the doctor?

8 MS. HAINES: No, your Honor.

9 THE COURT: Here's what I'm going to
10 propose. Do you think Judge Carter is gonna be able to
11 take this? What I'm going to propose is that we
12 adjourn this matter for Judge Carter to hear this this
13 afternoon. I know that everyone has additional places
14 to be, but I think it's important that we take the
15 time.

16 MS. HAINES: I just received a -- Excuse
17 me for interrupting. I just received a text from the
18 doctor. He's given me a personal number that he can be
19 reached at.

20 THE COURT: Why don't we call him and see
21 what his availability would be in the event you need
22 his testimony in approximately an hour. Hi,
23 Dr. Pinkonsly. This is Commissioner Scullen. Sorry
24 for the delay in calling you. We have had quite a
25 calendar this morning, and instead of dragging you

1 through all of the legal wrangling we have had I'm
2 going to ask you a brief question. We may need your
3 testimony in approximately one hour. I hate to further
4 inconvenience you as I know this is your off day, but
5 there are some legal issues that we are trying to
6 resolve prior to taking this matter to hearing.

7 THE WITNESS: I -- Oh, my gosh. I have
8 made plans. I won't be available in an hour.

9 THE COURT: Is Judge Carter available
10 right now? All right, doctor. If you could stay on
11 the line I'll be right back.

12 (Recess.)

13 (Proceedings now in front of Judge
14 Carter.)

15 THE COURT: Do we have Dr. Pinkonsly?

16 THE WITNESS: Yes.

17 THE COURT: I apologize if that's a bad
18 pronunciation. Is that an approximation?

19 THE WITNESS: It's pretty close.

20 THE COURT: Okay. Good afternoon, doctor.
21 This is Judge Carter, and I'm the judge in the juvenile
22 court of Waukesha County, Circuit Court Branch 4. I
23 apologize for the confusion here. We had a court
24 commissioner Miss Scullen hearing the matter, and due
25 to some scheduling issues I'm filling in to facilitate

1 your testimony in this matter, and I apologize if I'm a
2 little bit broken up here but I understand that we need
3 to have the doctor sworn and you're prepared to provide
4 testimony in the matter of J [REDACTED] H [REDACTED] in Case No.
5 17-ME-589 which we're on the record on right now.

6 THE WITNESS: Yes.

7 THE COURT: All right. So if you could,
8 doctor, where you're presently located stand and raise
9 your right hand so my clerk can read you the oath.

10 THE WITNESS: All right.

11 WILLIAM PINKONSLY,

12 having first been duly
13 sworn to tell the truth, the whole truth, and nothing
14 but the truth, testified as follows:

15 THE COURT: All right. Have a seat. Get
16 comfortable, doctor. The county's prepared to engage
17 in direct testimony with the doctor?

18 MS. HAINES: Yes, your Honor.

19 THE COURT: All right.

20 MS. SETTE: And, your Honor, just before
21 we go forward, I just want to make sure that you're
22 aware of the due process objection I made. My client
23 is hard of hearing, requires a sign language
24 interpreter. One hasn't been able to be found, and I
25 made the objection that going forward with testimony

1 today without a sign language interpreter in court was
2 a violation of her due process rights. She has -- And
3 this is a right to liberty so it's an important due
4 process right. She has a right to participate. She
5 doesn't know -- She won't know what's happening during
6 testimony and she won't be able to understand since we
7 don't have a sign language interpreter.

8 THE COURT: And I was advised previously
9 that your client is hearing impaired, and I don't know
10 if Commissioner Scullen made a record of this. I was
11 informed by an individual from the clerk's office who
12 is Darcy who handles the -- these types of matters that
13 she investigated as of yesterday the entire State of
14 Wisconsin for a sign language interpreter, extended
15 that search out into Illinois and I believe to the
16 State of Minnesota, was unable to locate any certified
17 sign language interpreter to assist the Court today.
18 So those are the efforts that I'm aware of that have
19 been extended.

20 Court thought about trying to have a
21 realtime court reporter that could transcribe in
22 realtime so your client could read, and I don't know if
23 that is any kind of an impediment as well, but haven't
24 been able to obtain that realtime reporter that's
25 competent and certified to transcribe as it relates to

1 medical or forensic type testimony. So that option
2 hasn't been on the table. I know that statutorily I
3 know it's under Section 885 regarding interpreters that
4 lack of ability to locate and make available a
5 certified interpreter may constitute good cause for an
6 adjournment. My understanding is that -- I don't know,
7 Miss Sette, I don't know if an adjournment was offered
8 to you or if that's been objected to. I understand the
9 nature of the proceeding that we're here on today, but
10 that is another at least possibility.

11 MS. SETTE: The adjournment was requested
12 by the county and we did object to it based on the
13 72-hour time period under the 51.20 statute. I mean,
14 if they're willing to release my client from the
15 hospital we would agree to adjourn these hearings. She
16 is not opposed to the temporary guardianship and
17 protective placement. She's opposed to being held at
18 Winnebago.

19 THE COURT: My understanding as well is
20 that there was at least a plan on the part of the
21 county to try to look into other placement options but
22 that's something that needs to occur here and we need
23 some time to do that, however the doctor who's
24 available to testify now is not available to testify
25 later today and so just from the standpoint of

1 scheduling we're in a dilemma. Fair to say from the
2 county's perspective?

3 MS. HAINES: Yes, your Honor, and although
4 Miss H [REDACTED] would like to return home she is not able to
5 return home because there is a no-contact order between
6 her mother, who also is her guardian, and herself.

7 THE COURT: All right. Well, Miss Sette,
8 I'll note your objection for the record. I don't see
9 any other viable option for the Court here at this
10 moment in time other than to proceed with the doctor's
11 testimony and make record of that and then continue to
12 try to address this as best we can. Go ahead,
13 Miss Haines.

14 MS. HAINES: Thank you.

15 DIRECT EXAMINATION BY MS. HAINES:

16 Q. Dr. Pinkonsly, could you please state your name, spell
17 your last name for the record?

18 A. Yes. It's William Pinkonsly, P-I-N-K-O-N-S-L-Y.

19 Q. And, doctor, are you a licensed physician?

20 A. Yes.

21 Q. How long have you been licensed?

22 A. Since 2000.

23 Q. And are you board certified?

24 A. Yes.

25 Q. And how long have you been board certified?

- 1 A. Since 2011.
- 2 Q. Doctor, where are you currently employed?
- 3 A. At Winnebago Mental Health Institute.
- 4 Q. And how long have you been employed there?
- 5 A. Two years.
- 6 Q. Doctor, are you familiar with J [REDACTED] H [REDACTED]?
- 7 A. Yes.
- 8 Q. How are you familiar with her?
- 9 A. She is a patient of mine at the Winnebago Mental Health
10 Institute.
- 11 Q. Have you had an occasion to evaluate Miss H [REDACTED]?
- 12 A. Yes.
- 13 Q. As part of your evaluation have you had the opportunity
14 to consult secondary sources?
- 15 A. Yes, collateral, police report. I briefly spoke with
16 her mother, but it was pretty much focused on
17 medications.
- 18 Q. Are these the types of -- Excuse me. I didn't mean
19 to --
- 20 A. Any other collateral that we already had at Winnebago
21 from previous admissions.
- 22 Q. Doctor, are these the types of sources you typically
23 consult when conducting patient evaluations?
- 24 A. I'm sorry. I didn't understand you.
- 25 Q. Pardon?

1 THE COURT: He couldn't understand the
2 question.

3 MS. HAINES: Oh.

4 Q. Are the sources that you mentioned that you referred as
5 part of your evaluation of Miss H [REDACTED] the types of
6 sources you typically consult when conducting patient
7 evaluations?

8 A. Yes.

9 Q. Doctor, as a result of your evaluation did you find
10 Miss H [REDACTED] mentally ill?

11 A. Yes.

12 Q. And what type of mental illness does she suffer from?

13 A. She has -- My working diagnosis is intellectual
14 disability, an unspecified mood disorder, and
15 congenital hearing loss.

16 Q. And is this a substantial disorder of her thought,
17 mood, perception, orientation, or memory?

18 A. Yes.

19 Q. And does this mental illness grossly interfere with her
20 judgment?

21 A. Yes.

22 Q. Does it interfere with her behavior and her ability to
23 participate in the ordinary affairs of life?

24 A. Yes.

25 Q. Is Miss H [REDACTED] incompetent?

1 A. I don't think she can care for herself, no.

2 Q. Does Miss H[REDACTED]'s disability cause her to be
3 incompetent?

4 A. Yes.

5 Q. Are you aware that Miss H[REDACTED] is under a permanent
6 guardianship of her person?

7 A. Yes.

8 Q. On that basis are you aware that a court previously
9 found her to be incompetent?

10 A. No, I didn't know that.

11 Q. Doctor, does Miss H[REDACTED] have the ability to receive and
12 evaluate information or make or communicate decisions
13 that are necessary to meet her daily needs?

14 A. No.

15 Q. Does her disability impair her judgment to the extent
16 that her abilities to attend to the activities of daily
17 health and safety are negatively affected?

18 A. Yes.

19 Q. Does her impairment render her incapable of providing
20 for her own care and safety?

21 A. Yes.

22 Q. Does Miss H[REDACTED] need assistance -- Excuse me. Strike
23 that. Is Miss H[REDACTED]'s need for assistance able to be
24 met less restrictively by her voluntarily receiving
25 services in the community at this time?

1 A. I'm sorry. I missed part of that.

2 Q. Does Miss H[REDACTED] need for assistance -- is she able to
3 get that -- is it -- Is her need for assistance able to
4 be met less restrictively by her voluntarily receiving
5 services in the community at this time?

6 A. I believe so, yes.

7 Q. You believe that if left to her own devices she
8 could --

9 A. Oh, no. I'm sorry. I did misunderstand the question.
10 No.

11 Q. Okay. So you believe that she does not have the
12 ability to avail herself of voluntary services in the
13 community at this time?

14 A. No, she can't do that.

15 Q. Does she have a primary need for residential care and
16 custody?

17 A. Yes.

18 Q. Does Miss H[REDACTED] require continued care in a hospital
19 setting at this time?

20 A. I'm sorry. Does she require a locked hospital setting?

21 Q. I asked your Honor does she require continued care in a
22 hospital setting at this time?

23 A. Yes, or similar like a group home.

24 Q. But at this time your recommendation is that she
25 returns to Winnebago; is that correct?

1 A. Yes, it is.

2 Q. Does Miss H[REDACTED] have an impairment of functioning?

3 A. Yes.

4 Q. Does her impairment render her incapable for providing
5 for her own care and custody to such an extent that it
6 creates a substantial risk of serious harm to her or
7 others?

8 A. Yes.

9 Q. Doctor, what facts either by acts or omission evidence
10 this substantial risk of serious harm?

11 A. The police report.

12 MS. SETTE: Objection. Hearsay.

13 THE COURT: Hold on, doctor. Miss Haines,
14 your response to that.

15 MS. HAINES: Um, the doctor previously
16 testified that as a collateral resource he did consult
17 the police report. That's what he consults when he
18 regularly conducts patient evaluations.

19 THE COURT: Doctor -- Go ahead,
20 Miss Sette. You made the objection. Anything further
21 on that?

22 MS. SETTE: Yes. The doctors can consult
23 them and they can use hearsay as a basis for their
24 opinions, but they cannot recite hearsay and that
25 cannot be used for the truth of the matter asserted.

1 So they can use it -- They can testify to hearsay as
2 this is the basis of their opinion but not -- they
3 can't testify to hearsay so what's in the police
4 reports for the truth of the matter asserted to answer
5 the question of dangerousness.

6 THE COURT: I think perhaps there's
7 been -- Maybe some more foundational questions need to
8 be asked as to whether the doctor relied on the
9 contents of the report and to what extent that impacted
10 his evaluation and diagnosis.

11 MS. HAINES: Your Honor -- I mean excuse
12 me.

13 Q. Doctor, aside from the police report initially do
14 you -- are you aware of any facts either by acts or
15 omission that occurred at the hospital that evidence
16 Miss H[REDACTED]'s substantial risk of serious harm?

17 A. No.

18 Q. Doctor, have you relied on the police report when
19 forming an opinion about whether or not Miss H[REDACTED] is
20 at substantial risk of serious harm?

21 A. Yes.

22 Q. And how have you done that and what steps have you
23 taken?

24 A. By using the police report I'm able to get an idea of
25 what the person did in order to get themselves admitted

1 to Winnebago. In doing that I always have to take that
2 into concern that that actually happened as the police
3 documented it.

4 Q. On that basis what facts evidence her substantial risk
5 of serious harm to herself or others?

6 A. That she was trying to harm her mother by throwing
7 objects at her which (inaudible) struck her mother in
8 the face.

9 Q. Doctor, is Miss H[REDACTED]'s impairment permanent or likely
10 to be permanent?

11 A. (Inaudible.)

12 Q. Doctor, does Miss H[REDACTED] need to remain in the locked
13 psychiatric inpatient setting as no setting that is
14 less restrictive is appropriate or available at this
15 time?

16 A. Yes.

17 Q. Does Miss H[REDACTED] need temporary protective placement?

18 A. Yes, I believe so.

19 Q. Is Miss H[REDACTED]'s mental illness treatable with
20 psychotropic medications?

21 A. Yes, I think so.

22 Q. Is Miss H[REDACTED] a proper subject for treatment?

23 A. Yes.

24 Q. Have you discussed the advantages, disadvantages, and
25 alternatives of medication with Miss H[REDACTED]?

1 A. Yes.

2 Q. Is she capable of expressing an understanding of the
3 disadvantages, advantages, and alternatives?

4 A. She is not.

5 Q. Is Miss H [REDACTED] capable of applying an understanding of
6 those advantages, disadvantages, and alternatives to
7 treatment to her own situation such that she could make
8 an informed choice regarding medication?

9 A. It doesn't appear so.

10 Q. Is Miss H [REDACTED] competent to refuse medications?

11 A. No.

12 Q. Is her incompetence due to her mental illness?

13 A. Yes.

14 Q. Will psychotropic medication be therapeutic to
15 Miss H [REDACTED]?

16 A. She is currently on Risperidone.

17 Q. And is that -- I'm sorry. Could you continue?

18 A. I -- I -- Yes, it's therapeutic.

19 Q. Will psychotropic --

20 A. She --

21 Q. Oh --

22 A. I'm sorry.

23 Q. Please finish.

24 A. She's also -- She's also on Lamictal, which is an
25 antiseizure medication that we use as a mood

1 stabilizer.

2 Q. So do the -- the medications that you have currently
3 prescribed to her are they being -- are they
4 therapeutic to her?

5 A. Yes.

6 Q. And will psychotropic medication unreasonably impair
7 her ability to prepare for or participate in future
8 court?

9 A. No.

10 Q. Doctor, would Miss H [REDACTED] seek treatment and take
11 medications without a court order?

12 A. I'm sorry. I missed what you said.

13 Q. Is it your -- In your opinion, would J [REDACTED] H [REDACTED]
14 seek treatment and take medications without a court
15 order?

16 A. She has so far.

17 Q. In spite of her compliance with medication so far, do
18 you believe that J [REDACTED] H [REDACTED] is in need of an
19 involuntary medications order?

20 A. I have no basis since she has been taking her
21 medications.

22 Q. Doctor, are the opinions you've expressed here today
23 expressed to a reasonable degree of psychiatric and
24 professional certainty?

25 A. Yes.

1 MS. HAINES: I have no further questions,
2 your Honor.

3 THE COURT: Thank you. Miss Sette, your
4 questions on cross-examination for this witness.

5 MS. SETTE: Yes.

6 CROSS-EXAMINATION BY MS. SETTE:

7 Q. Doctor, you said that Miss H [REDACTED] currently takes her
8 medication, is that correct?

9 A. Yes.

10 Q. She's been taking it at the hospital?

11 A. Yes.

12 Q. Have there been any medications -- medication changes
13 while she's been at the hospital?

14 A. Yes.

15 Q. And what medication changes are those?

16 A. Um, the report was given to me that she was on Abilify.
17 I consulted her mother. She was not on Abilify. I
18 also for continuity of care discussed with J [REDACTED]'s
19 regular psychiatrist. She's not on Abilify. That was
20 discontinued. I started her on the medication she
21 was -- she's currently been on, which is Risperidone.

22 Q. So you prescribed Risperidone at the hospital?

23 A. Yes.

24 Q. Was she -- And she was previously on Risperidone while
25 she was home or you changed that?

1 A. She was on it at home.

2 Q. So the Risperidone, do you know how long she's been on
3 the Risperidone?

4 A. I don't know.

5 Q. Is her Risperidone currently at a therapeutic level?

6 A. Yes.

7 Q. And we talked about her needing a treatment facility.
8 You talked about either the hospital or group home; is
9 that correct?

10 A. Yes.

11 Q. And are those the levels of care you think she needs?

12 A. Yes.

13 MS. SETTE: I have no further questions.

14 THE COURT: Any redirect, Miss Haines?

15 MS. HAINES: Thank you.

16 REDIRECT EXAMINATION BY MS. HAINES:

17 Q. Doctor, do you recall preparing a physician's report
18 and request for hearing on September 13th of this year?

19 A. I'm sorry (inaudible.)

20 Q. Doctor, do you recall preparing a document entitled
21 physician's report and request for hearing?

22 A. Yes.

23 Q. On -- Did you complete that report on September 13th?

24 A. Yes.

25 Q. And in that report did you state that J [REDACTED] H [REDACTED]

1 requires locked inpatient psychiatric care at this
2 time?

3 A. At that time, yes.

4 Q. And has your opinion changed today?

5 A. No, it hasn't.

6 Q. Therefore your opinion is still that J [REDACTED] H [REDACTED]
7 requires locked inpatient psychiatric care at this
8 time?

9 A. Yes.

10 MS. HAINES: Thank you. I have no further
11 questions, your Honor.

12 THE COURT: Any further cross based on
13 that redirect?

14 MS. SETTE: No.

15 THE COURT: Doctor, this is Judge Carter.
16 Just one follow-up clarification on the issue of
17 whether or not J [REDACTED] is currently competent to refuse
18 psychotropic medications. I just want to clarify your
19 opinion in that regard. Is it in fact your opinion
20 that she is competent to refuse psychotropic
21 medications at this point? My recollection of your
22 testimony was you said she has been taking them, but
23 I'm not sure if I got to the essence of your opinion.

24 THE WITNESS: I don't believe she's
25 competent to refuse.

1 THE COURT: All right. Any follow-up
2 questions either from the county, Miss Haines, or from
3 you, Miss Sette, on the Court's questions?

4 MS. HAINES: I have no further questions,
5 your Honor.

6 MS. SETTE: No, your Honor.

7 THE COURT: Those were the additional
8 questions of the Court, doctor. Then thank you for
9 your testimony here this afternoon. Anything else for
10 the doctor before we terminate the connection and
11 release the doctor from testimony?

12 MS. HAINES: No, your Honor.

13 MS. SETTE: No, your Honor.

14 THE COURT: All right, doctor. Thank you
15 for your testimony today, and we are going to terminate
16 the phone connection at this time.

17 THE WITNESS: Okay. Thank you.

18 MS. HAINES: Your Honor, the public rests.

19 THE COURT: All right. Miss Sette, I'm
20 trying to get a handle on exactly where we're at here.
21 My understanding was that there was some sort of
22 request for some time -- I received information from
23 the court commissioner that there was some efforts to
24 look into some other alternatives besides Winnebago at
25 this point, and I'm guessing, fishing for information.

1 I don't -- I'm at a deficit here as to where we're at.
2 So procedurally I need some help.

3 MS. HAINES: I think I can address the
4 Court. It seemed that Commissioner Scullen was
5 weighing the pros and cons to proceeding without a
6 certified interpreter for Miss H[REDACTED]. The county
7 offered that in the event that the Court chose to
8 release Miss H[REDACTED] she would most likely be in a
9 position to be facing an emergency protective placement
10 under Chapter 55. She's unable to go home. There's a
11 no-contact order between herself and her mother, who is
12 her guardian, and where she has resided prior to her
13 hospitalization.

14 Mr. Joe Stuberg from the department
15 of health and human services adult protective services
16 unit has been trying to locate an alternative placement
17 for her but has not been successful at this time. On
18 that basis the public would ask the Court to find that
19 this matter is better suited under Section 51.67 and
20 although she already has a guardianship -- a guardian
21 in place the public would request that Miss H[REDACTED] be
22 temporarily protectively placed and that she be
23 returned to Winnebago for a period not to exceed 30
24 days and that she be required to take medications on an
25 involuntary basis if necessary.

1 THE COURT: I take it from that comment
2 that the public does not believe that there's any
3 likelihood of finding any type of alternative solution
4 here in the at least relatively short-term?

5 MS. HAINES: At this time the department
6 has informed me that if the Court chooses to dismiss
7 this matter that he will detain her under Chapter 55 in
8 an emergency protective placement basis and take her to
9 Waukesha or have her taken to Waukesha Memorial
10 Hospital.

11 MR. PLEDHL: Your Honor, Attorney Robert
12 Pledhl. I actually represent the guardian and I have
13 been representing the guardian several months now as
14 we've been trying to find alternatives and will be
15 continuing to do that, and there's been some new
16 developments today that seem very promising in terms of
17 finding an alternative to Winnebago and I want to
18 reassure Miss Sette and her client that we're gonna be
19 continuing to do that and as soon as some alternative
20 group home or whatever is available the guardian's
21 doing everything she can to pursue that, but it isn't
22 gonna happen on a Friday.

23 THE COURT: Miss Sette, what, if any,
24 record or argument do you wish to make at this time?

25 MS. SETTE: We are objecting to the 51.67

1 conversion, your Honor. My client does not wish to go
2 back to Winnebago. She's willing to go to an
3 alternative placement like a group home or somewhere
4 else, but she does not wish to go back to the hospital.
5 So we are asking that you do not order that today.

6 THE COURT: So what specifically is your
7 proposal to the Court then?

8 MS. SETTE: My proposal would be to go
9 forward with the Chapter 55 mental emergency protection
10 that the county is proposing. My client has said
11 earlier today that she would be willing to go to
12 Waukesha Memorial Hospital, and then we would have
13 another hearing on that petition within 72 hours.

14 THE COURT: Miss Haines, just to go back
15 to your position here. You indicated that the County's
16 asking for a conversion to 51.67. What is -- this is
17 an emergency detention under -- I'm -- I don't have the
18 case documents up in front of me so just give me some
19 background here as far as where we're at with respect
20 to the emergency detention.

21 MS. HAINES: Certainly. This was an
22 emergency detention under a petition for examination.
23 It was a three-party petition so before the Court for a
24 probable cause hearing under 51.20, and the public at
25 the request of the doctor is requesting that this be

1 treated under 51.67 so not finding that probable cause
2 exists to detain her and hold her for a final hearing
3 under Chapter 51 but to treat it as if this were a
4 temporary protective placement where she could be
5 placed by her guardians at a psychiatric hospital for a
6 period not to exceed 30 days.

7 THE COURT: All right. Anything else,
8 Miss Sette, before we proceed?

9 MS. SETTE: No, your Honor.

10 THE COURT: All right. I need to take the
11 matter under advisement briefly here. I'm again at a
12 deficit. I don't have anything here to -- I have no
13 case documents so I'm going to find a way to get at
14 that. Miss Haines, I think you referenced before a
15 no-contact order. Where did that arise out of?

16 MS. HAINES: That is -- That arose out of
17 a criminal case that's pending for Ms. H [REDACTED] that was
18 as a result of the facts outlined in the petition for
19 examination.

20 MS. SETTE: 17-CM-1678.

21 THE COURT: I'm sorry. 1678?

22 MS. SETTE: Yep.

23 THE COURT: When was the no-contact
24 provision put in place?

25 MS. SETTE: Tuesday, September 12th, with

1 Commissioner Lau.

2 THE COURT: Was there a sign language
3 interpreter on that date?

4 MS. SETTE: Patrick Ryan appeared as a
5 favor to the Court. He does sign language for medical
6 interpretation I believe.

7 MS. RUMPF: This is Attorney Amber Rumpf.
8 Patrick Ryan is not a certified ASL interpreter. I
9 know he works at the Wisconsin School for the Deaf,
10 which is why he knows sign language. He happened to be
11 there for another case in which he was providing
12 Spanish interpreting services which he is certified to
13 do. So he did appear at that hearing with our
14 colleague Attorney Cameron Weitzner and provided some
15 sign interpreting but it was not -- he's not a
16 certified ASL interpreter.

17 THE COURT: Did I understand as well that
18 there were some efforts by the court commissioner to
19 communicate with Miss H [REDACTED] somehow by writing? I
20 don't know if you were there or not.

21 MS. RUMPF: I was not present.

22 MS. SETTE: I was not present either. I
23 did not hear that from Attorney Weitzner.

24 MS. RUMPF: He did not communicate that to
25 me either.

1 THE COURT: All right. Miss Rumpf, I note
2 that you've been providing some signing for Miss H[REDACTED].
3 What's your background?

4 MS. RUMPF: I know sign language because
5 both of my parents are deaf. I am not a certified
6 interpreter. I've been interpreting. I guess I don't
7 know if interpreting is the right word. I've been
8 trying to relay communications between Attorney Sette
9 to Miss H[REDACTED] just based on confidential
10 attorney/client communication. I am not -- I don't
11 believe I'm equipped to provide interpreting services
12 from the Court's perspective.

13 I am very familiar with interpreting
14 services, and my suggestion for someone in Miss H[REDACTED]'s
15 position and what's in her best interest is to provide
16 a two-person relay interpreter, and I know there are
17 companies in the area that do that I just understand
18 that they weren't available on short notice because it
19 is in great demand and it's a small availability.

20 THE COURT: All right. I'm familiar with
21 the procedures generally, but I noticed you were here
22 and providing some signing. So I'm trying to make a
23 record of exactly what you've been doing here today so
24 we understand that if we have to look at that in the
25 future.

1 MS. RUMPF: And, yeah, just to be clear I
2 was not interpreting the court proceedings. I was
3 explaining as an attorney to my client what was
4 happening.

5 THE COURT: All right. I understand. All
6 right. Anything else from anyone for the record here
7 at this time?

8 MS. HAINES: Not from the public, your
9 Honor.

10 MS. SETTE: No, your Honor.

11 THE COURT: All right. I'm going to just
12 take a brief recess and consult with some other
13 documents that I don't see available to me right here.
14 So stand by, everybody.

15 (Recess.)

16 THE COURT: All right. Thank you for your
17 patience. Just to confirm, Miss Haines, my
18 understanding from the public's perspective is that --
19 and the public is representing that there's currently a
20 no-contact order with respect to Miss H[REDACTED] and her
21 current guardian. Is that -- That's Miss L[REDACTED]?

22 MS. HAINES: Miss L[REDACTED] is Miss H[REDACTED]'s
23 guardian; that's correct. And I represent that to the
24 Court on the basis of Attorney Sette informing me of
25 the no-contact order. I don't have independent

1 information as to that fact.

2 THE COURT: Attorney Sette referenced Case
3 No. 17-CM-1678, and I believe that that is accurate
4 that there is a no-contact order as a result of a bond
5 condition in that criminal prosecution, and the public
6 is also representing that currently and I know counsel
7 for the guardian is here as well that there's been no
8 other viable alternative placement location identified
9 as of this moment.

10 MS. HAINES: That's correct, your Honor.

11 THE COURT: All right. The Court notes
12 we're here on this petition for examination in a
13 section 51.20 proceeding. Dr. Pinkonsly's testified.
14 Dr. Pinkonsly's on staff at Winnebago Mental Health
15 Institute, conducted an evaluation of Miss H[REDACTED].
16 Court has had an opportunity to review the petition for
17 examination that was before the Court today, the
18 allegations contained in that particular petition.

19 My understanding of the record as
20 well through limited exposure in the testimony of
21 Dr. H[REDACTED] (sic), rather unusual set of circumstances in
22 a difficult situation as presented here and
23 unfortunately we have some communication issues that
24 come into play as well. Court would note that
25 Miss H[REDACTED]'s date of birth as I understand it is

1 [REDACTED]. So today is her birthday?

2 MS. SETTE: Mm-hm. She's 19 today.

3 THE COURT: Okay. Miss H [REDACTED] is 19 as of
4 today. Happy birthday to Miss H [REDACTED]. Unfortunate that
5 she has to be here in court under those circumstances,
6 but she's 19 years of age. She's an adult. The Court
7 is satisfied that the record establishes that there is
8 a developmental disability here. The public is asking
9 the Court to proceed under a conversion to Chapter 51
10 or under 51.67.

11 The Court notes that there is an
12 alternate procedure for protective services that is
13 identified in Section 51.67 which indicates that after
14 a hearing under 51.20 the Court finds that commitment
15 under this chapter is not warranted and that the
16 subject individual is a fit subject for guardianship
17 and protective placement or services Court may without
18 further notice appoint a temporary guardian of the
19 subject individual and order temporary protective
20 placement or services under Chapter 55 for a period not
21 to exceed 30 days.

22 The statute goes on to provide
23 additional provisions indicating in addition that if
24 the individual is in a treatment facility the
25 individual may remain in that facility during the

1 period of temporary protective placement if no other
2 appropriate facility is available and further that the
3 Court may order psychotropic medication as a temporary
4 protective service under this section if it finds that
5 there is probable cause to believe the individual's not
6 competent to refuse psychotropic medication and that
7 the medication ordered will have therapeutic value and
8 will not unreasonably impair the ability of the
9 individual to prepare for and participate in subsequent
10 legal proceedings.

11 Given the circumstances that have
12 been made available to the Court, including the Court's
13 understanding of the testimony presented by
14 Dr. Pinkonsky this afternoon, the Court is satisfied
15 first of all that it's been established through the
16 filings here that Miss H [REDACTED] is a resident of Waukesha
17 County, that given the record here today that
18 commitment under Chapter 51 is not warranted, however
19 Miss H [REDACTED] is a fit subject for guardianship and
20 protective placement and I'm also accepting the
21 representation that there is a guardianship order in
22 effect with a permanent guardian having been identified
23 by the Court previously, or a court previously.

24 Further from the testimony of the
25 doctor that at this time Miss H [REDACTED] is not competent to

1 refuse psychotropic medication under Section 51.67 or
2 55.14. I'm relying specifically on the opinion of the
3 doctor that was clarified on that particular issue. I
4 am going to enter an order today that the matter be
5 converted to an action for temporary guardianship,
6 temporary protective placement under Chapters 54 and 55
7 with the understanding that efforts are being made to
8 find some other alternative placement, however
9 temporary protective placement to occur at Winnebago
10 Mental Health Institute for not more than 30 days from
11 the date of this hearing, that the guardian may consent
12 to the involuntary administration of psychotropic
13 medication as a temporary protective service.

14 Court is ordering that follow-up
15 occur. The guardian is to be identified as T [REDACTED]
16 L [REDACTED] with the address at [REDACTED]
17 [REDACTED]. There's a phone number associated with
18 this as well and guardianship services are to be
19 provided in Waukesha County, and further that Waukesha
20 County will have access to any court records and
21 treatment records necessary to proceed to move forward
22 on any type of protective placement or guardianship
23 deemed appropriate by the county.

24 The Court is based on that order
25 preparing to order that Miss H [REDACTED] be transported to

1 Winnebago Mental Health Institute for not more than a
2 30-day period. The date of the order is valid until
3 October 15. As far as addressing specifically as to
4 that particular issue the Court is finding that no
5 other appropriate facility exists at the present time
6 for Miss H[REDACTED]. As far as addressing other scheduling
7 issues or other court activity, what is the county's
8 position with respect to that today?

9 MS. HAINES: That there needs to be no
10 further scheduling on this matter. It's anticipated
11 that within the next 30 days that the department will
12 file for a permanent protective placement.

13 THE COURT: The Court is gonna have to
14 leave that in the public's hands then at this point.
15 The order expires of its own accord then at 30 days out
16 on October 15 of 2017. Miss Sette on behalf of
17 Miss H[REDACTED], any questions or clarification issues with
18 respect to that?

19 MS. SETTE: No. I would just ask that if
20 the county is gonna file a protective placement to file
21 that soon so it can get on the calendar and we can get
22 interpretive services as soon as possible because those
23 are scheduled pretty far out.

24 THE COURT: Given the circumstances that
25 we find ourselves in here today with respect to

1 interpreting services, I would agree with that that as
2 far in advance notice as we can have for any further
3 court activity to accommodate appropriate interpreting
4 is paramount. All right. Anything else from the
5 county or on behalf of Miss H [REDACTED] then today?

6 MS. SETTE: No, your Honor.

7 THE COURT: All right. Good luck
8 everybody.

9 MS. HAINES: Thank you.

10 THE COURT: Good luck to Miss H [REDACTED] as
11 well.

12 MS. HAINES: Thank you for hearing this
13 case.

14 THE COURT: Thank you for your patience.

15 (Whereupon proceedings were
16 concluded.)

17


STATE OF WISCONSIN)

)

COUNTY OF WAUKESHA)

I, Cindy K. Baumeister, Official Court
Reporter for Branch 11 Waukesha County, State of
Wisconsin, do hereby certify that the foregoing
transcript is a true and correct transcription of said
digital recording to the best of my belief and ability.

Dated this 8th day of December, 2017.


Cindy K. Baumeister, CPR

Name	Date of Birth	Responsible C.O.	Case Number
J [REDACTED] J H [REDACTED]	[REDACTED]	Paul Bugenhagen Jr.	2017ME000589

Case Class 50501 - Mental Commitments

Filing Date/C.O.	Disposition Date/C.O.	Disposition	Next Action
09-12-2017 Paul Bugenhagen Jr.	09-15-2017 Lloyd V Carter	Dismissed Before Final Hearing	

Party Type	Name	Address	City	St	Zip	Attorney/GAL
Person In Need	J [REDACTED] J H [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Colleen D. Ball Laura P. Sette

Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
09-12-2017	Petition for examination 3pp filed by T [REDACTED] (T [REDACTED]) L [REDACTED], G [REDACTED] M [REDACTED] and J [REDACTED] H [REDACTED]		
09-12-2017	[DC] Order To Detain, signed by Commissioner Saafir on 9/12/17		Linda Saafir
09-12-2017	[DC] Notice of Probable Cause Hearing & Notice of Rights		Paul Bugenhagen Jr.
09-13-2017	[DC] Affidavit of service Petition for Examination, Notice of Probable Cause Hearing, Statement of Rights and Order for Detention served on J [REDACTED] L H [REDACTED] on 9/12/17 by WCSO		
09-13-2017	[DC] Other papers Copy of email from the PD's office, requesting interpreters, and video conferencing.		
09-14-2017	[DC] Notice of Probable Cause Hearing & Notice of Rights		Paul Bugenhagen Jr.
09-14-2017	[DC] Notes Please note: Myself and others called all Certified Sign Language Interpreters in the State of Wisconsin listed in the Wisconsin Court System, PIE, SWITS, Interp Solutions, Western Bi-lingual, Purple Communications out of Madison, Chicago Hearing Society out of Illinois, Keystone Interpreting Solutions out of Minnesota, Sign Language Group of out Appleton and the Milwaukee County Interpreter Coordinator. I reached out to other departments and other counties. NO LUCK.		
09-15-2017	[lo] Probable cause hearing 12:08 Person In Need J [REDACTED] J H [REDACTED] In court with attorney Laura P. Sette Atty. Amber Ruff In court. Atty. Kim Haines In court. Mother- Tamera L [REDACTED] In court, Grandparents G [REDACTED] & S [REDACTED] M [REDACTED] In court, Social worker Jeff Stuber In court. Atty. Robert Pledhl In court. Atty. Haines indicates that we do not have a certified Court interpreter in court today. Court explains the extensive efforts that the court made to obtain an interpreter today. Atty. Sette is not asking for an adjournment and her client wants to go home. Atty. Haines is prepared to proceed however, that the court may find good cause to toll the time limits in this proceeding. Atty. Haines indicates that J [REDACTED] is unable to return home today due to a no contact order between J [REDACTED] and her Mother. Atty. Sette objects to the court finding good cause to adjourn. Court determines to go forward with the proceeding today. Atty. Sette objects to proceeding with an evidentiary hearing with no		Sara Scullen Digital Audio Recording

Name	Date of Birth	Responsible C.O.	Case Number
J [REDACTED] J H [REDACTED]	[REDACTED]	Paul Bugenhagen Jr.	2017ME000589
Case Class 50501 - Mental Commitments			

Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
	<p>Interpreter in court. Atty. Haines indicates that J [REDACTED] can be held @ Wauk. Memorial Hospital under a Chapter 55.</p> <p>Court recesses to allow for finding another Court official to take over the hearing.</p> <p>Case is recalled @ 12:40 with Judge Lloyd Carter with all of the appearances being the same as listed above.</p> <p>Atty. Sette re-iterates her objection to her client's due process rights and proceeding without an Interpreter.</p> <p>Court notes the objection but does not see any viable option to obtain an interpreter or a real time court reporter and the Doctor's inability to testify at a later time today therefore decides to proceed with the hearing.</p> <p>Sworn to testify: Dr. William Pinkonsky (by phone) direct by Atty. Haines, cross by Atty. Sette.</p> <p>Testimony is closed arguments are made.</p> <p>Court asks for a briefing on the specifics of this case. Atty. Haines provides the information and recommends 51.67 and to be returned to Winnebago Mental Health with a medications order. Dept of Human Services indicates if the court chooses to dismiss this matter they will proceed to a chapter 55 and have her placed at Waukesha Memorial Hospital.</p> <p>Atty. Pledhl makes statements to the court on behalf of his client. Atty. Sette indicates that her client is willing to go to Waukesha Memorial Hospital.</p> <p>Court finds that a Chapter 51 is not warranted and that J [REDACTED] H [REDACTED] is in need of a Temporary Guardian of the person and that T [REDACTED] L [REDACTED] is appropriate to serve in that capacity for 30 days, with all powers and duties of a General guardian.</p> <p>Court further finds that J [REDACTED] H [REDACTED] meets the criteria for a Temporary Protective placement under Chapter 55 is hereby entered for a period of 30 days, placing him/her at Winnebago Mental Health, to transition to a less restrictive facility as soon as</p>		

Name	Date of Birth	Responsible C.O.	Case Number
J [REDACTED] J H [REDACTED]	[REDACTED]	Paul Bugenhagen Jr.	2017ME000589

Case Class 50501 - Mental Commitments

Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
	able. Medications order is entered. Court dismisses the Chapter 51 case.		
09-15-2017	[DC] Physician's rept for meds/treatmnt/req for hearing Evaluating Doctor's Report for Medication or Treatment and Request for Hearing		
09-15-2017	[DC] Order Of Conversion to Temporary Guardianship and/or Temporary Protective Place Services. THE COURT FINDS: 1. The subject is a resident of Waukesha County, Wisconsin. 2. Commitment under Chapter 51, Wis.Stats., is not warranted, and the subject individual is a fit subject for guardianship and protective placement or services. 3. The subject is not competent to refuse psychotropic medication under 51.67 or 55.14, Wis. Stats. THE COURT ORDERS: 1. This matter shall be converted to an action for temporary guardianship and/or temporary protective placement or services under Chapters 54 and 55, Wis. Stats. 2. The subject individual is temporarily protectively place at Winnebago MHor other appropriate treatment or placement facility for not more that 30 days from the date of this hearing. 3. The guardian may consent to the involuntary administration of psychotropic medication as a temporary protective service. 4. To prepare the permanent guardianship and protective or services petition, the department responsible for guardianship or protective placement or services in Waukesha County and the county corporation counsel or privately retained attorney by temporary guardian shall have access to all court records and to all treatment and service records. 5. The temporary guardian of the subject individual shall be T [REDACTED] L [REDACTED]. 6. This order is valid until 10/15/17. Signed by Circuit Court Judge Lloyd V Carter on 9/15/17.		Lloyd V Carter
09-15-2017	Dismissed Before Final Hearing		Lloyd V Carter
09-18-2017	[DC] Public defender order appointing counsel Atty Sette for PIN		
09-20-2017	[DC] File destroyed Entire Court Record is electronically scanned. Hard copy of file was sent to Probate on 9/15/17		
09-20-2017	[JE] Notice of Intent to pursue post-conviction relief Filed by Atty Sette, re: orders entered on 09/15/17.		
09-22-2017	[JE] Letters/correspondence Dated 09/22/17, to SPD - Appellate Division enclosing copies of the Notice of Intent, orders as specified in the Notice of Intent & Court Reporter listing.		
09-25-2017	[DC] Notice of Discharge Under Wis, Stat 51.35(4)(f) after Conversion and Temporary Protective Placement under Wis, Stat 51.67, signed by Deven D Adams from WMHI		
10-12-2017	Request for court record Filed by Atty Colleen Ball.		

Name	Date of Birth	Responsible C.O.	Case Number
J H		Paul Bugenhagen Jr.	2017ME000589

Case Class 50501 - Mental Commitments

Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
11-22-2017	Letters/correspondence to Atty Colleen D. Ball with certified copies of the printed Court Record and all filings as requested in the RC filed on 10-12-2017.		Lloyd V Carter
11-22-2017	Letters/correspondence to SPD - Transcript Payment in the amount of \$3.40 for copies sent to Atty Ball on today's date.		Lloyd V Carter
12-11-2017	[KH] Transcript Transcript of 9/15/17 proceedings.		
01-23-2018	Notice of appeal Filed by Atty Ball.		
01-23-2018	Statement on transcript Filed by Atty Ball.		
01-23-2018	Letters/correspondence Cover letter dated 01/19/18, filed by Atty Ball regarding Notice of Appeal filed on today's date.		



Wisconsin State Public Defender

735 N. Water St. - Ste 912
Milwaukee, WI 53202-4116

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www.wisspd.org

Kelli S. Thompson
State Public Defender
Jeremy C. Perri
Appellate Division Dir.
Andrea Cornwall
Regional Atty. Manager

February 27, 2018

Ms. Kelly K. Haag
Clerk of Juvenile Court, Waukesha County
521 Riverview Avenue, Room JC-103
Waukesha, WI 53188-3636

FILED

MAR 01 2018

**CIRCUIT COURT
WAUKESHA COUNTY, WI**


Re: *Waukesha County v. J. [REDACTED] J.H.*, Waukesha Case No. 2017ME589; Appeal No. 2018AP168

Dear Ms. Haag:

Thank you very much for forwarding the Index for Appeal to counsel on February 23rd. I have reviewed it and note that it lists as Record No. 5 a 1-page document titled "Copy of email dated 9/13/17, from the PD's office, requesting interpreters, and video conferencing." There were several email exchanges between the circuit court and counsel regarding efforts to secure an interpreter for the probable cause hearing in this matter. For the sake of completeness, I respectfully request that you include the other emails in the record too. I attach those emails to this letter.

I understand that you intend to forward the appellate record to the court of appeals on March 5th. I will be out of the country from Wednesday February 28th through Wednesday March 7th. If any matters relating to the contents of the record require my attention, I respectfully request that you postpone the filing the record with the court of appeals until Monday March 12th. Thank you very much for your assistance in this matter.

Sincerely,


COLLEEN D. BALL
Assistant State Public Defender

cc:

Mr. Robert J. Muller, Waukesha County Corporation Counsel
Ms. T. [REDACTED] L. [REDACTED], Guardian

WAUKESHA COUNTY
JUVENILE COURT

2018 MAR - 1 AM 11:24

RECEIVED

17 ME 589 for Friday, Sept. 15, 2017...

Willick, Christine <willickc@opd.wi.gov>

Wed 9/13/2017 1:54 PM

To: Juve, Juve <Juve@waukeshacounty.gov>; Urban, Christine <CUrban@waukeshacounty.gov>;

FILED

SEP 13 2017

**REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A**

Attorney Laura Sette is assigned to this case. She is requesting that a video appearance be set up tomorrow, September 14th at 1:30 p.m. to meet with the client.

She is also requesting that an interpreter from PIE be at Winnebago for the hearing on Friday. She is requesting that you tell PIE that two interpreters will be needed because they work with deaf DD clients and will know what that means.

The hearing on Friday should be done by video from Winnebago, unless something changes after Laura's video conference with the client on Thursday afternoon then you will be notified.

CONFIDENTIALITY NOTICE: This e-mail message (and any attachments) is confidential and may contain information that is subject to the attorney-client privilege. This information is intended only for the use of the individual named above. If you are not the individual named above or have otherwise received this message in error, please do not read it. Notify us immediately by telephone or return e-mail message that you have received this message in error, and erase or destroy the message and any hard copies you may have created. (608) 266-0087 Wisconsin State Public Defender

RECEIVED

2017 SEP 13 PM 1:49

**WAUKESHA COUNTY
JUVENILE COURT**

<https://webmail.waukeshacounty.gov/owa/>

9/13/2017



Willick, Christine <willickc@opd.wi.gov>

J [REDACTED] H

1 message

Juve, Juve <Juve@waukeshacounty.gov> Wed, Sep 13, 2017 at 2:42 PM
To: "Hojnacki, Marlon E" <MHojnacki@waukeshacounty.gov>, "Urban, Christine" <CUrban@waukeshacounty.gov>, "Sette, Laura" <settel@opd.wi.gov>, Chris Willick <willickc@opd.wi.gov>, "Comer, Blake" <Comerb@opd.wi.gov>, "Jesse Cunningham (cunninghamj@opd.wi.gov)" <cunninghamj@opd.wi.gov>, "schultet@opd.wi.gov" <schultet@opd.wi.gov>, Maricela Tellez <tellezm@opd.wi.gov>

re: J [REDACTED] H [REDACTED]

Video confirmed for 11:00 on 9/15/17 for her Probable Cause Hearing

Thanks

Darc

Juvenile Court

Receptionist: 262-548-7449

Adult & Juvenile Ch. 51 Phone: 262-548-7458

Fax: 262-548-7459



Willick, Christine <willickc@opd.wi.gov>

J [REDACTED] H

1 message

Juve, Juve <Juve@waukeshacounty.gov> Wed, Sep 13, 2017 at 3:43 PM
To: "Sette, Laura" <settel@opd.wi.gov>, Chris Willick
<willickc@opd.wi.gov>, "Comer, Blake" <Comerb@opd.wi.gov>, "Jesse
Cunningham (cunninghamj@opd.wi.gov)" <cunninghamj@opd.wi.gov>,
"schultet@opd.wi.gov" <schultet@opd.wi.gov>, Maricela Tellez
<tellezm@opd.wi.gov>
Cc: "Urban, Christine" <CUrban@waukeshacounty.gov>

re: J [REDACTED] H [REDACTED]

Laura

I needed to get permission from Commissioner to authorize the 2 Interpreters that you have requested go to Winnebago for Ms L [REDACTED]'s Probable Cause Hearing on this Friday. Commissioner stated, that if this case is to be contested (your decision of course, after you video with your client tomorrow) that Ms H [REDACTED] is to be transported down for the PCH and the interpreters are to come to the Juvenile court. So...after your video conference if you would please let us know what your plan is so I can instruct the interpreters on where to go and set up transport if needed.

Thanks so much, Darcey

Juvenile Court

Receptionist: 262-548-7449

Adult & Juvenile Ch. 51 Phone: 262-548-7458

Fax: 262-548-7459



Willick, Christine <willickc@opd.wi.gov>

Court Official and room Change for 51's on 9/15/17

1 message

Juve, Juve <Juve@waukeshacounty.gov> Thu, Sep 14, 2017 at 4:18 PM
 To: "Chris Bailey (cmblaw@aol.com)" <cmblaw@aol.com>, "Schleis, Adam" <schleisa@opd.wi.gov>, "Urban, Christine" <CUrban@waukeshacounty.gov>, "Hojnacki, Marion E" <MHojnacki@waukeshacounty.gov>, "Sette, Laura" <settel@opd.wi.gov>, "Olson, Lori" <lori.olson@wicourts.gov>, "Haag, Kelly" <Kelly.Haag@wicourts.gov>, "Larsuel, Michelle" <MLarsuel@waukeshacounty.gov>, "Goldmann, Michael" <MGoldmann@waukeshacounty.gov>, "Hinkley, Bobbi Jo" <BHinkley@waukeshacounty.gov>, "Puza, Barbara" <BPuza@waukeshacounty.gov>, "Zielke, Lisa A" <LZielke@waukeshacounty.gov>, "Dussault, Neil" <NDussault@waukeshacounty.gov>, "Moerman, Thom" <TMoerman@waukeshacounty.gov>, "Gumm, Kala M" <kgumm@waukeshacounty.gov>, "Button, Christopher A" <CButton@waukeshacounty.gov>, "Leffler, Michelle L" <mleffler@waukeshacounty.gov>, "Schaller, Claire T" <cschaller@waukeshacounty.gov>, Chris Willick <willickc@opd.wi.gov>, "Comer, Blake" <Comerb@opd.wi.gov>, "Jesse Cunningham (cunninghamj@opd.wi.gov)" <cunninghamj@opd.wi.gov>, "schultet@opd.wi.gov" <schultet@opd.wi.gov>, Maricela Tellez <tellezm@opd.wi.gov>

Please note that Judge Carter will be hearing the 9/15/17 51's in his court room JC-124 on 9/15/17. We have 3 transports tomorrow morning that will need to just go to JC-124 now.

Thanks

Darcey

Juvenile Court

Receptionist: 262-548-7449

Adult & Juvenile Ch. 51 Phone: 262-548-7458

Fax: 262-548-7459



Willick, Christine <willickc@opd.wi.gov>

J [REDACTED] H

1 message

Juve, Juve <Juve@waukeshacounty.gov> Thu, Sep 14, 2017 at 5:10 PM
To: "Sette, Laura" <settel@opd.wi.gov>, "Urban, Christine" <CUrban@waukeshacounty.gov>, "Haines, Kimberly K" <KHaines@waukeshacounty.gov>, Chris Willick <willickc@opd.wi.gov>, "Comer, Blake" <Comerb@opd.wi.gov>, "Jesse Cunningham (cunninghamj@opd.wi.gov)" <cunninghamj@opd.wi.gov>, "schultet@opd.wi.gov" <schultet@opd.wi.gov>, Maricela Tellez <tellezm@opd.wi.gov>
Cc: "Haag, Kelly" <Kelly.Haag@wicourts.gov>

re: J [REDACTED] H [REDACTED] 9/15/17 PCH

Myself and others called all Certified Sign Language Interpreters in the State of Wisconsin listed in the Wisconsin Court System, PIE, SWITS, Interp Solutions, Western Bi-lingual, Purple Communications out of Madison, Chicago Hearing Society out of Illinois, Keystone Interpreting Solutions out of Minnesota, Sign Language Group of Appleton and the Milwaukee County Interpreter Coordinator. I reached out to other departments and other counties. NO LUCK. I'm sorry all...I feel terrible that I was not able to secure interpreters for tomorrow's hearing.

Darcey

Juvenile Court**Receptionist: 262-548-7449****Adult & Juvenile Ch. 51 Phone: 262-548-7458****Fax: 262-548-7459**

FILED
STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY

SEP 12 2017

In the Matter of:

REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A

ORDER TO DETAIN

J. [REDACTED] L. H. [REDACTED]
d.o.b. [REDACTED]

Case No. 17ME0 589

Alleged to be Mentally Ill, Developmentally Disabled, Drug Dependent and/or Alcoholic

It is determined on receipt of a Petition in due form for commitment of J. [REDACTED] L. H. [REDACTED] alleged Mentally Ill/Drug Dependent/Developmentally Disabled.

1. The Petition meets the requirements of Wisconsin Statutes, Chapter 51.
2. A Probable Cause Hearing to determine whether there is probable cause for believing the allegations of the Petition are true will be held within seventy-two (72) hours, exclusive of Saturdays, Sundays and legal holidays, of your detention.
3. Legal counsel will be appointed.
4. Pending the outcome of the Probable Cause Hearing, J. [REDACTED] L. H. [REDACTED] is temporarily committed to the custody of the 51.42 County Department of Waukesha County. **Law enforcement officers of Waukesha County shall take J. [REDACTED] L. H. [REDACTED] into protective custody and transport her to the nearest hospital for medical clearance then to Waukesha County Mental Health Center or other appropriate treatment facility as designated by the 51.42 County Department.**
5. A copy of the Petition, this Order and a Notice of Rights shall be personally served on J. [REDACTED] L. H. [REDACTED] by the Waukesha County Sheriff's Department.

Dated this 12th day of September, 2017.

BY THE COURT:


Court Commissioner/Judge

2017 SEP 12 PM 4:24
WAUKESHA COUNTY
JUVENILE COURT

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STATE OF WISCONSIN

CIRCUIT COURT BRANCH 10

WAUKESHA COUNTY

**NOTICE OF PROBABLE CAUSE HEARING
AND NOTICE OF RIGHTS**

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In the Matter of: J. H. J. H.

SEP 12 2017

Alleged to be Mentally Ill,
Developmentally Disabled, or Drug Dependent

REGISTER IN PROBATE Juvenile/Probate Court
WAUKESHA COUNTY, WI-A Waukesha County

Case No. **17ME 589**

TO: J. H. J. H.

You have been taken into custody by a law enforcement officer for purposes of an emergency detention or pursuant to an Order of Detention under Chapter 51 of the Wisconsin Statutes, the Mental Health Act.

Your custody results from:

- A law enforcement officer having cause to believe that you are mentally ill, drug dependent, or developmentally disabled and that you have exhibited conduct which constitutes a substantial risk of danger of physical harm to yourself or others; or
- A Court having determined that a petition for your commitment adequately states grounds for your commitment if subsequently proven; or
- A petition having been filed pursuant to §51.20(4)(b).

You have the right to a hearing to determine if there is probable cause to believe that grounds for your involuntary commitment exist. The Probable Cause Hearing must be held before a court within 72 hours of the time you were taken into physical custody, exclusive of Saturdays, Sundays and legal holidays. If you were not taken into physical custody, the hearing must be held within reasonable time after the filing of a 3-Party Petition.

The Probable Cause Hearing in this case will be held on:

Friday, September 15, 2017, at 11:00 a.m. at the Waukesha County Juvenile/Probate Court,

Room JC-130 before Circuit Court Commissioner Laura La

You have the right to be present and to be heard at the Probable Cause Hearing.

YOU ARE ADVISED THAT YOU HAVE THE FOLLOWING RIGHTS:

1. You have the right to an attorney. A Public Defender will be appointed to represent you if you do not have your own attorney. You may be held liable for reimbursement of counsel.
2. You have the right to consult with your attorney before a request is made for voluntary treatment.

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WAUKESHA COUNTY
JUVENILE COURT

3. You have the right to remain silent. You have the right not to speak with the examining physicians, psychologists or other personnel. Any statements you make may be used as a basis for commitment.
4. You have the right to refuse medication and treatment, except as ordered by a court, or in a situation in which the medication or treatment is necessary to prevent serious physical harm to you or others.
5. You have the right to contact a member of your immediate family.
6. You have the right to a hearing to determine if there is probable cause for an involuntary commitment. The court hearing will be held within 72 hours of the time you were taken into physical custody, exclusive of Saturdays, Sundays and legal holidays. If you were not taken into physical custody, the hearing must be held within reasonable time after the filing of a 3-Party Petition.
7. You have the right to a Final Commitment Hearing to be held within 14 days of the date you were taken into physical custody. If you were not taken into physical custody following the Probable Cause Hearing, the Final Hearing must be held within 30 days of the date of the Probable Cause Hearing.
8. You have the right to a jury trial. You must demand a jury trial 48 hours before the final hearing. Otherwise, a jury trial is waived.

You may be committed following the Final Hearing if it is determined by clear and convincing evidence that you are:

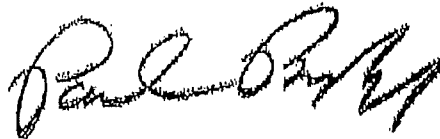
1. Mentally ill; drug dependent, or developmentally disabled.
2. A proper subject for treatment.
3. Dangerous because you:
 - a. Evidence a substantial probability of physical harm to yourself as manifested by evidence of threats of or attempts at suicide or serious bodily harm; or
 - b. Evidence a substantial probability of physical harm to other individuals as manifested by evidence of recent homicidal or other violent behavior, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do serious physical harm; or,
 - c. Evidence 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 yourself; or,
 - d. Evidence behavior manifested by recent acts or omissions that, due to mental illness, you are unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation or serious physical disease will imminently ensue unless you receive prompt and adequate treatment for this mental illness; or,
 - e. Are an individual, other than an individual who is alleged to be drug dependent or developmentally disabled, after the advantages and disadvantages of and alternatives to accepting a particular medication or treatment have been explained to you because of mental illness, evidence either incapability of expressing an understanding of the

advantages and disadvantages of accepting medication or treatment and the alternatives, or substantial incapability of applying an understanding of the advantages, disadvantages, and alternatives to your mental illness in order to make an informed choice as to whether to accept or refuse medication or treatment; and evidence a substantial probability, as demonstrated by both your treatment history and your recent acts or omissions, that you need care or treatment to prevent further disability or deterioration and a substantial probability that you will, if left untreated, lack services necessary for your health, or safety and suffer severe mental, emotional, or physical harm that will result in the loss of your ability to function independently in the community or the loss of cognitive or volitional control over your thoughts or actions.

If you are committed following the Final Hearing, you have the right to petition the court for re-examination or re-evaluation.

You have the right to appeal a final order of commitment. An appeal is to the Court of Appeals and is started by filing a Notice of Intent to Pursue Post-Commitment Relief.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul Bugenhagen", written over a horizontal line.

Paul Bugenhagen, Circuit Court Judge

STATE OF WISCONSIN, CIRCUIT COURT, WAUKESHA

COUNTY

For Official Use

IN THE MATTER OF THE CONDITION OF

Petition
for Examination

FILED

SEP 12 2017

REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A

J. L. H.

Name of Subject

Case No. 17ME 589

Date of Birth

This document was drafted by Waukesha County Corporation Counsel
(Name) Attorney Kimberly Haines and Christine Urban, Commitment Hearing Coordinator as required by law.

Under oath, we petition the court to examine the condition of the subject, who resides in (County) Waukesha
at [REDACTED] I currently in the Waukesha County Jail, and allege that:

a. The subject is mentally ill, drug dependent, or developmentally disabled and a proper subject for treatment because:

Subject is diagnosed with a Mood d/o, Anxiety, is developmentally disabled and deaf. Subject is displaying increased
agitation and agreed to be voluntarily admitted to Aurora Psychiatric Hospital, but when mom arrived to admit Subject,
Subject refused. Mom reports Subject is unable to care for herself; needs 24/7 care; and, Mom is unable to provide for this
care due to Subject's developmentally disabled challenges, agitation and threats at this time. Subject has been cognitively
delayed since the age of 2. Subject's communication sign language skills are limited due to Subject not wanting to learn or
learning her own way to sign or writes on a pad of paper. Mom continues to ask for help and services to no avail.

☐ See attached.

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WAUKESHA COUNTY
JUVENILE COURT

b. The subject is dangerous to himself/herself or others because: On Monday, 9-11-17, upon arrival to Aurora

Psychiatric Hospital, Subject stated that she was going to hurt herself and refused voluntary admission. While Mom was attempting to drive back home, Subject refused to go to school and began to kick the windshield; smashed in the radio; and, threw a water bottle and a pen at Mom almost hitting Mom in the face. Mom has always tried to keep things out of reach from Subject due to her agitation and throwing things at Mom all the time. Mom pulled off the expressway and drove into the police department, Subject was then arrested for domestic disorderly conduct. It has been expressed by the Summit Police Department and Mom, that jail is not the appropriate place for Subject. Mom has been trying to get Subject into a more structured residential treatment facility for some time and has undergone a long process through other services that have not been helpful. Mom feels unsafe with Subject at home and is unable to continue to care for Subject at this time. In the recent past, Subject has pulled knives on mom, made threats to kill her Mom and made threats to kill the dog. It has been a continuous cycle of Subject to get agitated, refusals to seek voluntary treatment, and throwing items at mom. Subject's elopements from the house have been more frequent. It is felt by the Petitioners that the Subject needs a medications wash and that she has not been appropriately assessed and her needs have not been met. Subject had a medications increase about a month ago and since, her behaviors of agitation have increased.

☐ See attached.

c. The following petitioner(s) has personal knowledge of the conduct of the subject:

	Name	Address	Telephone	Relationship to Subject
1)	T [REDACTED] I [REDACTED]	[REDACTED]	[REDACTED]	Mother
2)	G [REDACTED] M [REDACTED]	[REDACTED]	[REDACTED]	Grandfather
3)	J [REDACTED] E [REDACTED]	[REDACTED]	[REDACTED]	Advocate

d. The following petitioner(s) does not have personal knowledge of the conduct of the subject but bases his/her belief on the following:

	Name	Address	Telephone	Relationship to Subject
1)	n/a			
	Basis for Belief: _____			
2)	n/a			
	Basis for Belief: _____			

e. In addition to the petitioners, the following person(s) may testify in support of this petition:

NameAddressTelephone

n/a

f. The names and post office address of subject's: (If unknown or inapplicable, so state.)

SpousePost Office Address

n/a

Adult ChildrenPost Office Address

n/a

Parents or GuardianPost Office Address

T [REDACTED] L [REDACTED]

as noted above

CustodianPost Office AddressBrothers/SistersPost Office Address

n/a

Person(s) With Whom Subject ResidesPost Office Address

T [REDACTED] L [REDACTED]

as listed above

State of Wisconsin

County of Waukesha

Subscribed and sworn to before me on 9/12/2017

Christine M Urban
Notary Public/Court Official

Christine M Urban

Name Printed or Typed

My commission/term expires: 2/12/2021

SIGNATURE OF PETITIONER	NAME PRINTED OR TYPED
[REDACTED]	T [REDACTED] L [REDACTED]
[REDACTED]	G [REDACTED] M [REDACTED]
[REDACTED]	J [REDACTED] E [REDACTED]

STATEMENT OF SERVICE AND DETENTION
FOR 3-PARTY PETITION

RE: J [REDACTED] L.H. [REDACTED]

FILED

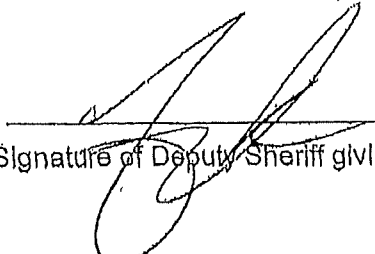
SEP 13 2017

REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A

I, Waukesha County Deputy Sheriff, Frank Fasciolo, being
first duly sworn, do certify that on Sept. 12, 2017, at 1759 pm/a.m.,
I duly served the attached Petition for Examination, Notice of Probable Cause Hearing,
Statement of Rights, and Order for Detention upon the above-named person personally by
then and there leaving with the person a true copy thereof. In addition, the Statement of
Rights was read aloud to the person.

I also certify that on Sept 12, 2017 at 1736 pm/a.m., I took
physical custody of the above-named person pursuant to §51.15(2), Wisconsin Stats.

Dated this 12th day of Sept, 2017.


(Signature of Deputy Sheriff giving notice and effecting detention.)

WAUKESHA COUNTY
JUVENILE COURT

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N:\CORPORATE\161\FORMS\ORDERS\Order to Detain.wpd
Drafted by Waukesha County Corporation Counsel 3/2014

Sheriff Department

* Please scan or Interoffice this document
back to the Corporation Counsel
Office w/proof of service.
Thank you.

17 ME 589 for Friday, Sept. 15, 2017...

Willick, Christine <willickc@opd.wi.gov>

Wed 9/13/2017 1:54 PM

To: Juve, Juve <Juve@waukeshacounty.gov>; Urban, Christine <CUrban@waukeshacounty.gov>;

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SEP 13 2017

**REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A**

Attorney Laura Sette is assigned to this case. She is requesting that a video appearance be set up tomorrow, September 14th at 1:30 p.m. to meet with the client.

She is also requesting that an Interpreter from PIE be at Winnebago for the hearing on Friday. She is requesting that you tell PIE that two Interpreters will be needed because they work with deaf DD clients and will know what that means.

The hearing on Friday should be done by video from Winnebago, unless something changes after Laura's video conference with the client on Thursday afternoon then you will be notified.

CONFIDENTIALITY NOTICE: This e-mail message (and any attachments) is confidential and may contain information that is subject to the attorney-client privilege. This information is intended only for the use of the individual named above. If you are not the individual named above or have otherwise received this message in error, please do not read it. Notify us immediately by telephone or return e-mail message that you have received this message in error, and erase or destroy the message and any hard copies you may have created. (608) 266-0087 Wisconsin State Public Defender

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**WAUKESHA COUNTY
JUVENILE COURT**

STATE OF WISCONSIN, CIRCUIT COURT, WAUKESHA COUNTY

For Official Use

IN THE MATTER OF THE CONDITION OF

Physician's Report and
Request for Hearing
(51.57 Application)

Name of Subject J. H. J. H.

Date of Birth

Case No. 17ME 0589

FILED

SEP 15 2017

REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A

Report of Physician

I am a licensed physician and based upon my examination of the subject individual, I state:

1. The subject meets criteria for Temporary Guardianship and Temporary Protective Placement and involuntary medications as a Temporary Protective service.
2. The subject needs medication or treatment that would be therapeutic.
3. The medication or treatment will not unreasonably impair the subject's ability to prepare for and participate in future court proceedings.
4. The subject requires locked inpatient psychiatric care at this time.
5. I have explained to the subject the advantages and disadvantages and alternatives to accepting medication or treatment. Due to the subject's condition, the subject is incapable of expressing an understanding of the advantages and disadvantages and alternatives to accepting this particular medication or treatment, or is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her condition in order to make an informed choice as to whether to accept or refuse medication or treatment, with the result being that the subject is not competent to refuse medication or treatment due to his or her condition.

Winnebago Mental Health Institute

Name of Facility

920-235-4910

Phone Number

Signature of Physician

William P. Piroosky

Name Printed or Typed

9/13/17

Date

Request for Hearing

I request the court conduct a hearing at the probable cause hearing on Fri 9-15-17
to elicit evidence and grant an appropriate order. Please take note, pursuant to §807.13 that the Physician
intends to testify by phone.

Signature of Corporation Counsel

9-13-17

Date

Name of Corporation Counsel Robert J. Mueller <u>Kimberly Haines</u>	
Address 515 W. Moreland Blvd AC Room 330, Waukesha WI 53188	
Telephone Number 262-548-7432	Bar Number #1026890 <u>1001231</u>

CIRCUIT COURT

SEP 25 2017

STATE OF WISCONSIN

REGISTER IN PROBATE
WAUKESHA COUNTY, WI-A
WAUKESHA COUNTY

IN THE MATTER OF

J [REDACTED] J H [REDACTED]

[REDACTED]
Date of Birth

Notice of Discharge under
Wis. Stat. § 51.35(4)(f)
after Conversion and Temporary Protective
Placement under Wis. Stat. § 51.67

17ME589

Court Case Number

I am the director's designee of the treatment facility in which the above-named individual is detained.

The individual was originally detained in the facility pursuant to an emergency detention under Wis. Stat. § 51.15.

Subsequently, on 9/15/2017, the Court ordered temporary protective placement of the individual under Wis. Stat. § 51.67.

Pursuant to Wis. Stat. § 51.67, if an individual is detained in a treatment facility, the individual may remain in that facility during the period of temporary protective placement, which may not exceed 30 days.

Therefore, notice is hereby given pursuant to Wis. Stat. § 51.35(4)(f) of discharge of the above-named individual at 12:00PM on 10/15/2017, as the treatment facility has no legal authority to retain custody of the individual after that date.

Signature of Facility Director/Designee

Name Printed or Typed

DEVEN D ADAMS

Date

09/15/2017

Name of Facility

WINNEBAGO MENTAL HEALTH INSTITUTE

Address

1300 SOUTH DR. PO BOX 9 WINNEBAGO, WI 54985-0009

Telephone Number

920-235-4910 x2916

DISTRIBUTION:

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Patient Chart

Guardian, if any

County Department

Corporation Counsel

Family Care Managed Care Organization (MCO), if applicable

DHS Bureau of Managed Care or IRIS, if applicable

WAUKESHA COUNTY
JUVENILE COURT

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