No. 25-7497

In the

Supreme Court of the United States

J. D. B.,

Petitioner,

v.

WISCONSIN,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE WISCONSIN SUPREME COURT

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

Whether, under *Sell v. United States*, 539 U.S. 166 (2003), the potential for an insanity acquittal is a special circumstance that undermines the government's interest in obtaining an involuntary medication order to restore trial competency, and whether there are minimum requirements for proposed treatment plans.

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JURISDICTION

The judgment of the Wisconsin Supreme Court was entered on February 25, 2026. The petition for a writ of certiorari was filed on May 22, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257. But petitioner fails to address mootness under article III, section 2. As discussed below, this case is moot and therefore this Court lacks jurisdiction to decide the questions presented.

STATEMENT

The State of Wisconsin (State) charged petitioner with battery to a law enforcement officer, a felony, in August 2022. Pet. App. 3a ¶ 4. According to the complaint, police arrived at petitioner's home in response to a call from petitioner's mother, who said that petitioner threatened to get a gun and kill everyone at his home. Pet. App. 3a ¶ 4. Petitioner threatened the responding officers and punched one of the officers in the face. Pet. App. 3a ¶ 4.

At petitioner's first court appearance, defense counsel questioned petitioner's competency to proceed. Pet. App. 4a ¶ 5. The Wisconsin Department of Health Services evaluated petitioner, diagnosed him with schizophrenia, and found him incompetent. Pet. App. 4a ¶ 5. The trial court committed petitioner to a mental health institution for treatment to competency. Pet. App. 4a ¶ 5.

Petitioner's treating psychiatrist eventually moved the trial court to involuntarily medicate petitioner to restore his competency. Pet. App. 4a ¶ 6. The trial court held a hearing on the motion, where the treating psychiatrist testified about his proposed treatment plan and the *Sell* factors. Pet. App. 4a ¶ 6. The treating

psychiatrist met with petitioner five times, reviewed his medical records, and observed his responses to psychotropic medication in combination with other medications. Pet. App. 15a–16a ¶ 38, 87a–88a, 105a–06a. He offered unrefuted testimony that involuntary medication would significantly further the government's interest in prosecuting a serious crime, was necessary, and was medically appropriate. Pet. App. 14a–18a. While the treating psychiatrist proposed seven different psychotropic medications and "testified extensively about the potential side effects of" each, his plan was to start with a medication that petitioner had used in the past with some success and without side effects. Pet. App. 18a ¶ 45, 105a–07a, 117a–18a, 126a, 149a. The trial court found all four *Sell* factors satisfied and ordered involuntary medication. Pet. App. 4a ¶ 6.

Petitioner filed a notice of appeal the next day. Pet. App. 36a ¶ 20. The Wisconsin Court of Appeals stayed the involuntary medication order the day after that. Pet. App. 36a ¶ 20. While petitioner's appeal was pending, he was found not competent and not likely to regain competency within the statutory time remaining. Pet. App. 36a ¶ 21. He was discharged from the competency commitment—and therefore the involuntary medication order expired—on July 6, 2023. Pet. App. 36a ¶ 21. Acknowledging that the case was moot but applying Wisconsin's public-interest exception to mootness, the court of appeals addressed the merits of petitioner's challenge to the involuntary medication order. Pet. App. 39a–40a ¶¶ 28–30. It

reversed the order, reasoning that the State failed to prove all four *Sell* factors. Pet. App. 30a ¶ 3.

The State appealed and the Wisconsin Supreme Court reversed the Wisconsin Court of Appeals, upholding the involuntary medication order. Pet. App. 3a ¶ 3. It acknowledged that the case was moot but chose to address the merits under the public-interest exception to mootness. Pet. App. 5a ¶ 11 n.2. Adopting the standard of review employed by the overwhelming majority of federal circuits, it reviewed the first *Sell* factor de novo, and the remaining factors under the deferential standard for factual findings. Pet. App. 9a ¶ 21, 14a ¶ 35, 16a ¶ 40, 17a–18a ¶ 43.

Regarding the first *Sell* factor, the Wisconsin Supreme Court found an important government interest: the prosecution of a serious crime. Pet. App. 9a ¶ 22. Although petitioner did not raise special circumstances that undermined the government's interest at the circuit court, the Wisconsin Supreme Court nevertheless addressed petitioner's arguments on this issue. Pet. App. 10a ¶ 23. It rejected three of petitioner's arguments as undeveloped or speculative. Pet. App. 10a–11a ¶¶ 25–27. It rejected a fourth, a potential insanity acquittal, as illogical. Pet. App. 10a ¶ 24. And while petitioner's pretrial confinement was a mitigating factor, it did not outweigh the State's interest in prosecution. Pet. App. 11a–12a ¶ 28.

Applying the deferential standard of review to the trial record, the Wisconsin Supreme Court found the remaining *Sell* factors satisfied. Pet. App. 14a–19a ¶¶ 37–

48. It stressed that the State offered an individualized treatment plan and unrefuted expert testimony on these factors. Pet. App. 14a–19a ¶¶ 36–48.

Justice Crawford dissented solely based on the first *Sell* factor. Pet. App. 22a ¶ 55. She reasoned that two special circumstances, the likelihood of a civil commitment and petitioner's pretrial confinement, served to sufficiently undermine the government's important interest. Pet. App. 23a ¶ 58.

Petitioner has petitioned for a writ of certiorari.

ARGUMENT

Petitioner challenges an involuntary medication order to restore trial competency that expired three years ago. This case is moot, and no established exception to mootness applies. This Court therefore lacks jurisdiction to decide the questions presented. In any event, petitioner has not identified meaningful disagreement in the courts on the *Sell* factors. The petition for a writ of certiorari should be denied.

I. THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE DENIED BECAUSE THIS CASE IS MOOT AND THEREFORE THIS COURT LACKS JURISDICTION.

Petitioner seeks clarification on *Sell*'s standard for when it is constitutional to involuntarily medicate a criminal defendant to restore trial competency. He asks (1) what special circumstances might undermine the government's interest in prosecution, and (2) whether there are minimum requirements for proposed treatment plans. Pet. i. The answers to these questions no longer matter to petitioner

because he has not been subject to the underlying involuntary medication order for three years. Pet. App. 36a ¶ 21. This case is therefore moot, and this Court's review of the questions presented is unwarranted. Petitioner does not address mootness—a jurisdictional matter—in his petition. Pet. 1. Regardless, the established exceptions to the mootness doctrine are inapplicable.

"[F]ederal courts are without power to decide questions that cannot affect the rights of litigants in the case before them." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (per curiam). "The Constitution provides for [this Court's] jurisdiction over 'Cases' and 'Controversies.'" *Moore v. Harper*, 600 U.S. 1, 14 (2023) (citing U.S. Const. art. III, § 2). "That constitutional requirement ensures that the parties before [this Court] retain a 'personal stake' in the litigation." *Id.* (citing *Baker v. Carr*, 369 U.S. 186, 204 (1962)). "As '[a] corollary to this case-or-controversy requirement,' there must exist a dispute 'at all stages of review.'" *Id.* (citation omitted).

When a case is moot, it is "no longer a 'Case' or 'Controversy' for purposes of Article III."[1] *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (citing *Murphy v. Hunt*, 455 U.S. 478, 481 (1982) (per curiam)). Mootness arises "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome."

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[1] Mootness is not jurisdictional in Wisconsin and can be overlooked for an issue of great public importance. *Matter of D.K.*, 2020 WI 8, ¶ 19, 390 Wis. 2d 50, 937 N.W.2d 901. But that does not matter. "Even in cases arising in the state courts, the question of mootness is a federal one which a federal court must resolve before it assumes jurisdiction." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (per curiam).

Id. "No matter how vehemently the parties continue to dispute the lawfulness of the conduct that precipitated the lawsuit, the case is moot if the dispute 'is no longer embedded in any actual controversy about the plaintiffs' particular legal rights.'" *Id.* (citing *Alvarez v. Smith*, 558 U.S. 87, 93 (2009)).

Petitioner seeks guidance on *Sell*'s standard for involuntary medication to restore trial competency. Pet. i. While the parties "continue to dispute the lawfulness of the" involuntary medication order in this case, *Alvarez*, 558 U.S. at 93, the order expired three years ago, Pet. App. 36a ¶ 21. Accordingly, the parties' dispute "is no longer embedded in any actual controversy about the [petitioner's] particular legal rights." *Alvarez*, 558 U.S. at 93. "Rather, it is an abstract dispute about the law . . . ." *Id.* "And a dispute solely about the meaning of the law, abstracted from any concrete actual or threatened harm, falls outside the scope of the constitutional words 'Cases' and 'Controversies.'" *Id.*

Petitioner cannot point to collateral consequences to avoid mootness. This case does not involve a criminal conviction, so there is no presumption of "continuing collateral consequences." *Spencer v. Kemna*, 523 U.S. 1, 8 (1998). And this Court has been unwilling to "accept[ ] the remote possibility of collateral consequences as adequate to satisfy Article III" in other contexts. *Id.* at 10–12. Because "there is no evidence in the record that [petitioner] ever received treatment under the involuntary medication order," he cannot even claim a hypothetical consequence of the order: a collection action due to cost-of-care liability. Pet. App. 38a–39a ¶¶ 26–27.

This case does not fall into any established exception to mootness. "The rule that a claim does not become moot where it is capable of repetition, yet evades review, is . . . inapposite." *City of Los Angeles v. Lyons*, 461 U.S. 95, 109 (1983). That doctrine "applies only in exceptional situations, and generally only where the named plaintiff can make a reasonable showing that he will again be subjected to the alleged illegality." *Id.* There is no reasonable expectation that petitioner will *again* be subjected to an involuntary medication order with the *same* alleged deficiencies. Petitioner's criminal case remains suspended and can only be resumed if he becomes competent on his own. *See* Wis. Stat. § 971.14(6)(a), (d). There is no statutory mechanism for the government to attempt to treat him to competency a second time. *See* Wis. Stat. § 971.14. And petitioner cannot speculate that he will again violate the law and be subjected to competency proceedings. *See United States v. Sanchez-Gomez*, 584 U.S. 381, 391 (2018) ("[W]e have consistently refused to 'conclude that the case-or-controversy requirement is satisfied by' the possibility that a party 'will be prosecuted for violating valid criminal laws.'" (citation omitted)).

The remaining established mootness exceptions likewise do not apply. *See Already*, 568 U.S. at 91 (voluntary cessation); *Sanchez-Gomez*, 584 U.S. at 386–87 (class actions); *Lackey v. Stinnie*, 604 U.S. 192, 204 (2025) (damages).

Petitioner inconspicuously acknowledges (Pet. 6) that this case is moot but does not appear to recognize that mootness presents a jurisdictional issue in this Court. It is therefore unclear whether he believes that an established exception to mootness

applies, or if he would like this Court to create a new mootness exception to cater to his circumstances. If the latter, any attempt to advocate for a freestanding "public interest" exception will fail. *See DeFunis v. Odegaard*, 416 U.S. 312, 316–20 (1974) (finding a lack of jurisdiction even though under state law the case "would be saved from mootness" by a public-interest exception). Regardless, this Court does not decide issues in the first instance. *See Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) ("[W]e are a court of review, not of first view . . . ."). The state courts below obviously did not consider whether an issue of great public importance is sufficient to create an Article III case or controversy.

Because this case is moot and no established exception to mootness applies, this Court lacks jurisdiction to decide the questions presented. The petition for a writ of certiorari should be denied.

II. PETITIONER HAS NOT IDENTIFIED MEANINGFUL DISAGREEMENT IN THE COURTS ON THE *SELL* FACTORS.

A. The courts have not adopted conflicting legal rules on special circumstances, and petitioner's case would not be a good vehicle to address a conflict in any event.

Petitioner first submits that federal courts "are divided over which special circumstances—aside from the two expressly stated in *Sell*—should be considered in determining the government's interest in prosecution." Pet. 11. He offers a single example: "courts are divided about whether the possibility of a successful insanity defense can lessen the government's interest in prosecution." Pet. 11. Courts have not

adopted conflicting legal rules on this issue. Even if they have, petitioner's case is not a good vehicle to address the conflict.

Petitioner argues, "Two circuits suggest that a potential insanity acquittal is a special circumstance." Pet. 11. The word "suggest" reveals that petitioner compares dicta to holdings. Pet. 11. The Tenth Circuit in *United States v. Morrison*, 415 F.3d 1180, 1181–82 (10th Cir. 2005), reversed the *Sell* order and remanded for further proceedings because the district court "did not explore whether involuntary medication would be proper under [*Washington v.*] *Harper*."[2] It did not decide whether the involuntary medication order was proper under *Sell*, so any comments possibly bearing on the *Sell* inquiry are dicta. *Morrison*, 415 F.3d at 1186–87. Nor has the Eighth Circuit held that a potential insanity acquittal is a special circumstance, as evidenced by petitioner's contention that "the Eighth Circuit *implicitly agrees* that a potential insanity acquittal is a special circumstance under the first *Sell* factor." Pet. 12 (emphasis added). Rejecting an argument "that an insanity acquittal was likely" is not the same thing as holding that a potential insanity acquittal is a special circumstance under *Sell*. Pet. 12.

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[2] In *Harper*, this Court "held that it is permissible to administer antipsychotic drugs involuntarily to a prison inmate with a serious mental illness 'if the inmate is dangers to himself or others and the treatment is in the inmate's medical interest.'" *United States v. Morrison*, 415 F.3d 1180, 1181 (10th Cir. 2005) (citing *Washington v. Harper*, 494 U.S. 210, 227 (1990)).

As for circuits on the other side of the purported split, the Fifth Circuit has not held "that a potential insanity acquittal is *never* a special circumstance that lessens the government's interest in prosecution." Pet. 13 (emphasis added). In *United States v. Gutierrez*, 704 F.3d 442, 452 (5th Cir. 2013), the court first rejected the argument that a potential insanity acquittal was a special circumstance because it was not clear that the defendant would "plead not guilty by reason of insanity." It proceeded to dismiss the argument for a second, fact-dependent reason: as it was unclear "whether Gutierrez ha[d] the inclination to act on his threats" to the President, the court surmised that it was more advantageous for the government to pursue civil commitment via a successful insanity plea, not the "normal civil commitment procedures," given the more favorable burden of proof. *Gutierrez*, 704 F.3d at 452–53. This does not "read[ ] as a wholesale dismissal of a potential insanity acquittal as a special circumstance." Pet. 14. Even if it does, what matters is that the court's reasoning does not conflict with any rule articulated in the Eighth and Tenth Circuits.[3]

The Sixth Circuit *has* flatly rejected the argument that the potential for an insanity acquittal is a special circumstance under *Sell*, reasoning that "affirmative

[3] Petitioner's attempt to show a conflict between Fifth Circuit decisions on this issue is unpersuasive. The Fifth Circuit did not even address special circumstances in *United States v. Palmer*, 507 F.3d 300, 303–04 (5th Cir. 2007). Regardless, it "is primarily the task of a Court of Appeals to reconcile its internal difficulties." *Wisniewski v. United States*, 353 U.S. 901, 902 (1957) (per curiam).

defenses such as insanity are strikingly different from the two examples of special circumstances announced in *Sell*." *United States v. Mikulich*, 732 F.3d 692, 700–01 (6th Cir. 2013). "Unlike the possibility of a civil commitment or the relative length of time already served for the crime, an insanity defense relates to the triable merits of the case." *Id.* The insanity defense "is fully contingent upon the occurrence of a condition precedent—the Government taking the case to trial." *Id.* "It is thus logically backwards to say that a potential insanity defense may somehow lessen the value of the condition precedent coming to pass in the first instance." *Id.*

The Sixth Circuit viewed the Fifth Circuit's decision in *Gutierrez* as creating a blanket rule that the potential for an insanity acquittal is not a special circumstance under *Sell*. *Mikulich*, 732 F.3d at 700–01. Whether that is the correct reading of *Gutierrez* is beside the point; either way, the circuits have not adopted conflicting rules on this issue.

At most, petitioner has shown uniformity among circuits on the issue whether the potential for an insanity acquittal is a special circumstance under *Sell*. The Wisconsin Supreme Court is in accord. Pet. App. 10a ¶ 24. This Court's review is unwarranted.

Even if courts are divided on this issue, petitioner's case is not a good vehicle to address the conflict. Petitioner did not argue any special circumstances at the trial

court.[4] Pet. App. 10a ¶ 23. Therefore, there was no expert testimony supporting a potential insanity defense. Pet. App. 65a–145a. Nor did petitioner give any indication that he planned to pursue the defense. That makes his argument "far too speculative to be persuasive, even on its own terms." *Mikulich*, 732 F.3d at 701.

B. Petitioner has not identified meaningful disagreement in the courts regarding minimum requirements for proposed treatment plans.

Petitioner argues that "[s]tate and federal courts are divided over what information must be provided to a trial court before the final three *Sell* factors can be met." Pet. 16. He has not identified meaningful disagreement in the courts regarding minimum requirements for proposed treatment plans.

Some circuits have adopted mandatory checklists for proposed treatment plans to pass muster under *Sell*. The Fourth and Tenth Circuits require that the government "set forth the particular medication, including the dose range, it proposes to administer." *United States v. Evans*, 404 F.3d 227, 241 (4th Cir. 2005); *United States v. Chavez*, 734 F.3d 1247, 1253 (10th Cir. 2013) (holding that plans "must specify which medications might be administered and their maximum dosages"). The Seventh and Ninth Circuits add to this list the "duration of time that involuntary treatment of the defendant may continue before the treating physicians are required

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[4] Federal circuits hold defendants to forfeiture under these circumstances. Pet. App. 10a ¶ 23.

to report back to the court on the defendant's mental condition and progress." *United States v. Hernandez-Vasquez*, 513 F.3d 908, 917 (9th Cir. 2008); *United States v. Breedlove*, 756 F.3d 1036, 1043 (7th Cir. 2014). Georgia follows the approach of the Seventh and Ninth Circuits. *See Warren v. State*, 778 S.E.2d 749, 764–65 (Ga. 2015).

Other courts have declined the invitation to adopt a mandatory checklist for proposed treatment plans. The Supreme Court of Pennsylvania passed on requiring the government "to provide 'concrete details' of particular medications and dosages to satisfy the second *Sell* factor." *Commonwealth v. Sam*, 952 A.2d 565, 580 (Pa. 2008). Noting that the practice of medicine demands trial and error, the court reasoned that such requirements would pose "a virtually insurmountable obstacle" for the government in *Sell* cases. *Id.* at 581. The Wisconsin Supreme Court now joins Pennsylvania's highest court in rejecting a mandatory checklist for proposed treatment plans, finding no such requirement in *Sell* itself. Pet. App. 13a ¶¶ 32–33.

Petitioner frames this mandatory checklist disagreement as a split worth addressing without analyzing whether the disagreement matters. Pet. 16–23. Mandatory checklist or not, the cases have the same throughline: "a generic treatment plan not tailored to the individual [is] insufficient" under *Sell*. Pet. App. 13a ¶¶ 32–33.

In cases like *Evans* and *Chavez,* the government problematically reduced the *Sell* inquiry to a generic exercise. "Instead of analyzing Evans as an individual," the treatment plan merely "set[ ] up syllogisms to explain its conclusions: (1) atypical

antipsychotic medications are generally effective, produce few side effects, and are medically appropriate, (2) Evans will be given atypical antipsychotic medications, (3) therefore, atypical antipsychotic medication will be effective, produce few side effects, and be medically appropriate for Evans." *Evans*, 404 F.3d at 241. Similarly, in *Chavez*, there was no evidence "that a psychiatrist, who [would] be prescribing the drugs, ha[d] evaluated Mr. Chavez for purposes of determining whether it [was] appropriate to involuntarily medicate him." *Chavez*, 734 F.3d at 1253. Instead, a psychologist talked about a "typical" treatment plan. *Id.* at 1251.

Those generic treatment plans would not be deemed sufficient in Wisconsin and Pennsylvania. In Wisconsin, "to prove *Sell* factors two, three, and four, the State must present an individualized treatment plan tailored to the individual the State is seeking to medicate." Pet. App. 13a ¶ 32. And the plan approved in *Sam* was formulated by a psychiatrist who had examined the defendant, reviewed his medical records, and factored in his history of "good response to appropriate psychiatric treatment and utilization of medications."[5] *Sam,* 952 A.2d at 568–70. The plan also identified medications; it just did not pinpoint which one would be used to give the doctors flexibility in treating the defendant. *Id.* at 570, 580.

Nor is there any reason to believe that the generic treatment plans in *Evans* and *Chavez* would pass muster in circuits that have yet to weigh in on the mandatory

[5] The same thing happened here, as discussed below.

checklist issue. The treatment plan approved in *United States v. Dillon*, 738 F.3d 284, 288–89, 298 (D.C. Cir. 2013), was formulated by doctors who examined the defendant and considered his medical history, including his favorable responses to psychotropic medication. The Eleventh Circuit expressly distinguished *Evans* in approving the treatment plan in *United States v. Diaz*, 630 F.3d 1314, 1334 (11th Cir. 2011), noting that the "detailed treatment plan" was "based on Diaz's specific health situation." The successful plan in *United States v. Fazio*, 599 F.3d 835, 840–41 (8th Cir. 2010), was formulated by a doctor who "worked closely with Fazio" and "made his claim specifically with respect to Fazio and after examining his medical history."

The only possible outlier is the Second Circuit, but as petitioner acknowledges, "it is unclear . . . what the proposed treatment plan entailed" in *United States v. Gomes*, 387 F.3d 157 (2d Cir. 2004). Pet. 23 n.15. Moreover, it has been roughly 22 years since the court addressed *Sell* factors two through four, so "it is unknown if the decision would be the same." Pet. 22–23.

Because courts uniformly agree that the *Sell* inquiry cannot be reduced to a generic exercise, petitioner has not identified a meaningful conflict in the courts. That courts may take different approaches toward ensuring an individualized treatment plan is not a reason warranting this Court's review.

III. THE DECISION BELOW IS CORRECT.

This Court's review is unwarranted for the additional reason that the Wisconsin Supreme Court's decision upholding the involuntary medication order is correct.

Regarding the first *Sell* factor—"whether *important* governmental interests are at stake," *Sell*, 539 U.S. at 180—petitioner conceded that the government was prosecuting him for a serious crime. Pet. App. 9a ¶ 22. The only question was whether special circumstances sufficiently undermined the government's interest.[6] Pet. App. 10a ¶ 23. Of petitioner's five arguments, the Wisconsin Supreme Court correctly rejected three as undeveloped or speculative. Pet. App. 10a–11a ¶¶ 25–27.

The court logically rejected petitioner's argument that a possible insanity acquittal would diminish the government's interest in prosecution. Pet. App. 10a ¶ 24 ("[A] defense to prosecution cannot be the very reason to forgo prosecution in the first place."). This argument represents a fundamental misunderstanding of *Sell*'s discussion of special circumstances. The question is whether there is a potential for civil commitment absent a prosecution, not because of one. *Sell*, 539 U.S. at 180. A court should ask whether, if it denies a medication order and effectively stalls the prosecution, there is a possibility that the defendant will be civilly confined. *Id.* That

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[6] Petitioner forfeited this issue by not raising special circumstances in the trial court. *See United States v. Fieste*, 84 F.4th 713, 722–23 (7th Cir. 2023) (collecting cases finding forfeiture). The Wisconsin Supreme Court nevertheless addressed special circumstances. Pet. App. 10a ¶ 23.

possibility might lessen the government's interest in prosecution because it provides some measure of public protection while the prosecution sits dormant. *Id.* A civil commitment following an insanity acquittal cannot possibly provide that protection because it is only obtained if the defendant is treated to competency and tried for his crime.

Consistent with *Sell*, the Wisconsin Supreme Court agreed that petitioner's pretrial confinement had "a mitigating effect on the State's interest." Pet. App. 12a ¶ 28. But it reasonably concluded that the government is not solely concerned with incarceration when prosecuting a serious crime, so petitioner's pretrial confinement did not outweigh the government's interest in prosecution. Pet. App. 12a ¶ 28; *United States v. Fieste*, 84 F.4th 713, 726 (7th Cir. 2023); *Gutierrez*, 704 F.3d at 451; *United States v. Bradley*, 417 F.3d 1107, 1117 n.15 (10th Cir. 2005).

Turning to the remaining *Sell* factors—whether involuntary medication would significantly further the government's interest, whether it was necessary, and whether it was medically appropriate, *Sell*, 539 U.S. at 180–81—the Wisconsin Supreme Court first joined "the overwhelming majority of courts" in treating these factors as factual questions subject to clear error review. Pet. App. 13a–14a ¶¶ 34–35, 16a ¶ 40, 17a–18a ¶ 43. That deferential standard of review mandated affirmance given the record before the trial court, which included unrefuted testimony from the State's expert. Pet. App. 14a–19a ¶¶ 37–48.

Importantly, this case does not involve a generic treatment plan. The plan was formulated by a psychiatrist who met with petitioner five times, reviewed his medical records, and observed his responses to psychotropic medication in combination with other medications. Pet. App. 15a–16a ¶ 38, 87a–88a, 105a–06a. The doctor identified seven psychotropic medications but planned to start with one that petitioner had previously used with some success and without side effects. Pet. App. 105a–07a, 117a–18a, 126a, 149a. This is a far cry from the situations in *Evans* and *Chavez*; the Wisconsin Supreme Court rightfully rejected petitioner's contention that the State reduced the *Sell* inquiry to a generic exercise. Pet. App. 15a–16a ¶ 38.

This Court need not grant certiorari to the Wisconsin Supreme Court's decision that correctly applied *Sell* and reached a reasonable result.

CONCLUSION

The petition for a writ of certiorari should be denied.

Dated this 14th day of July 2026.

Respectfully submitted,

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