

COURT OF APPEALS OF WISCONSIN, DISTRICT II

State v. B.M.T.

B.M.T. · No. 2025AP1745-CR, 2025AP1746-CR, 2025AP1747-CR, 2025AP1748-CR, 2025AP1749-CR,
2025AP1750-CR · Decided November 21, 2025

SUMMARY

The Wisconsin Court of Appeals, District II, affirmed involuntary medication orders entered in six criminal cases involving B.M.T., who was found incompetent to stand trial and diagnosed with schizoaffective disorder. Applying *Sell v. United States*, the court held that the totality of the alleged criminal conduct supported an important governmental interest in prosecution, that potential future civil commitment or NGI proceedings did not diminish that interest, and that the treatment plan was sufficiently individualized. The decision is identified as a per curiam opinion dated November 21, 2025.

CASE DETAILS

COURT	Court of Appeals of Wisconsin, District II
WRITING FOR THE COURT	Lazar, J.; Gundrum, J.; Grogan, J.
JURISDICTION	Wisconsin Court of Appeals, District II
DECIDED	November 21, 2025
DOCKET	2025AP1745-CR, 2025AP1746-CR, 2025AP1747-CR, 2025AP1748-CR, 2025AP1749-CR, 2025AP1750-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeals from circuit-court orders authorizing the involuntary administration of psychotropic medication to restore an incompetent criminal defendant to competency under <i>Sell v. United States</i> .
STANDARD OF REVIEW	The court declined to resolve the unsettled question whether <i>Sell</i> determinations are reviewed under a constitutional-fact two-tier standard, with historical facts reviewed for clear error and the ultimate legal determination reviewed de novo. It affirmed after applying the standard most favorable to B.M.T.
PRECEDENTIAL VALUE	Published Wisconsin Court of Appeals opinion; recommended for publication in the official reports.

TOPICS

criminal procedure

due process

constitutional law

standard of review

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

mental health law

appellate procedure

QUESTIONS PRESENTED

1. Whether the State demonstrated an important governmental interest under the first Sell factor when the defendant faced two conceded serious crimes and other felony and misdemeanor charges, while possible future civil commitments or NGI commitments might otherwise diminish the interest in prosecution.
2. Whether the proposed involuntary medication treatment plan was sufficiently individualized and medically informed to satisfy the second and fourth Sell factors and due process.
3. What standard of appellate review applies to a Sell determination.

HOLDINGS

1. A court may consider the totality of the alleged criminal conduct, including the nature, scope, and aggregate criminal exposure from serious crimes coupled with other allegedly felonious conduct, when determining whether the State has an important interest in bringing an incompetent defendant to trial.
2. Under the facts presented, the possibility of a future commitment under WIS. STAT. ch. 51 or one or more commitments following NGI verdicts was too uncertain and speculative to diminish the State's important interest in prosecuting B.M.T.
3. The treatment plan satisfied Sell's due process requirements because it was sufficiently individualized and based on a medically informed record.

KEY QUOTATIONS

“Pursuant to Sell, when determining whether to authorize the involuntary administration of psychotropic medication to restore an incompetent defendant to competency, the circuit court may consider the totality of the alleged criminal conduct to assess whether the State has an important interest in bringing a defendant to trial.” (§60)

“Finally, the treatment plan approved by the circuit court to restore B.M.T. to competency was sufficiently individualized to satisfy Sell’s due process demands because it was based on a medically informed record.” (§61)

FACTUAL BACKGROUND

B.M.T. has schizoaffective disorder, a lengthy history of psychiatric hospitalization and civil commitment, and prior competency-restoration treatment involving involuntary medication. Across six criminal cases spanning approximately a decade, he faced twenty charges, including nine felonies, involving alleged violence, drug

possession, disorderly conduct, and repeated bail jumping, with aggregate exposure exceeding fifty years of imprisonment. After being found incompetent and admitted to Mendota Mental Health Institute, he refused medication, and a psychiatrist proposed individualized treatment using Abilify, with olanzapine as a fallback, based on B.M.T.'s medical records, physical characteristics, prior medication responses, and treatment history.

PROCEDURAL HISTORY

B.M.T. was found incompetent to assist in his defense and committed to the custody and care of the Wisconsin Department of Health Services for competency restoration. After B.M.T. refused medication, a psychiatrist requested involuntary medication orders in each of six criminal cases. The Manitowoc County Circuit Court found the statutory and Sell requirements satisfied and entered the orders. The Wisconsin Court of Appeals consolidated B.M.T.'s appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- Sell v. United States, 539 U.S. 166 (2003)
- State v. Green, 2021 WI App 18, 396 Wis. 2d 658, 957 N.W.2d 583, aff'd in part, 2022 WI 30, 401 Wis. 2d 542, 973 N.W.2d 770
- State v. D.E.C., 2025 WI App 9, 415 Wis. 2d 161, 17 N.W.3d 67
- State v. J.D.B., 2024 WI App 61, 414 Wis. 2d 108, 13 N.W.3d 525
- United States v. White, 620 F.3d 401 (4th Cir. 2010)
- United States v. Evans, 404 F.3d 227, 238 (4th Cir. 2005)
- United States v. Dillon, 738 F.3d 284 (D.C. Cir. 2013)
- Johnson v. Tinwalla, 855 F.3d 747, 748 (7th Cir. 2017)
- Washington v. Harper, 494 U.S. 210, 229 (1990)
- Riggins v. Nevada, 504 U.S. 127, 135-36 (1992)
- Illinois v. Allen, 397 U.S. 337, 347 (1970)
- State v. Post, 2007 WI 60, 301 Wis. 2d 1, 733 N.W.2d 634
- Cook v. Cook, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997)
- State ex rel. Oitzinger v. City of Marinette, 2025 WI App 19, 415 Wis. 2d 635, 19 N.W.3d 663