

STATE OF WISCONSIN : CIRCUIT COURT : WAUKESHA COUNTY 14CF000597

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STATE OF WISCONSIN

vs.

BRANCH 1

ANISSA WEIER

CASE NO. 14CF00597

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**ARGUMENT IN SUPPORT OF MISS ANISSA WEIER'S  
PETITION FOR CONDITIONAL RELEASE**

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**LEGAL STANDARD**

The State of Wisconsin grants authority to the circuit court to determine appropriateness for conditional release subsequent to determination of not guilty by reason of mental disease and defect (NGI) and commitment under WI Stat. § 971.17(4).

As outlined in WI Stat. § 971.17(4)(d), the court shall grant the petition unless it finds by clear and convincing evidence that the person would pose a significant risk of bodily harm to himself or herself or to others or of serious property damage if conditionally released.

The statute lays out a number of factors to guide the court: In making this determination, the court may consider, without limitation because of enumeration, the nature and circumstances of the crime, the person's mental history and present mental condition, where the person will live, how the person will support himself or herself, what arrangements are available to ensure that the person has access to and will take necessary medication, and what arrangements are possible for treatment beyond medication.

The Wisconsin Court of Appeals and Supreme Court reviewed the circuit court's application of the statute in two cases referenced by Branch 1 at the March 10, 2021 hearing on this matter. The cases are State v. Randall, 222 Wis.2d 53 (Crt.App. 1998) (*Randall 1*) and State v. Randall, 336 Wis.2d 399 (2011) (*Randall 2*). Branch 1 indicated that the Randall cases will serve as guides for the court's assessment of the conditional release request in this matter.

## ***RANDALL 2***

In *Randall 2*, the circuit court denied Randall's request for conditional release, although the mental health experts recommended release into the community. The supreme court upheld the circuit court's determination. In doing so, the supreme court held that the "(1) brutal nature of Randall's crimes; (2) Randall's behavior while institutionalized, and (3) the mental health expert's testimony" offered support for the circuit court's decision. *Randall 2* at p. 408.

The circuit court's concern about Randall's continued dangerousness was based upon the extreme violent nature of the crimes. Randall committed multiple burglaries (including a police station) to obtain weapons. He dug a pit at his home to store the stolen weapons until he was ready to use them to commit additional crimes. He murdered two police officers who discovered him in the act of committing the burglary of the police station. He stole the squad car of the police officers that he murdered to use in the commission of an additional burglary.

The circuit court's concern about Randall's continued dangerousness was also based upon his behavior while institutionalized. Randall engaged in numerous rule violations during his multiple years under institutional care. He engaged in secretive behavior by failing to report information to his supervisors. He purchased property, including real estate, without approval of his supervisor. He violated conditions of his off-grounds passes by going to unapproved locations. He lied when confronted about his infractions. He became increasingly angry when confronted about his lying. He hid illicit items on property he owned. What was of extreme concern to the circuit court is that he hid items in a manner consistent with the behavior he exhibited prior to engaging in his original committing crimes.

Randall was described by institution staff as breaking rules whenever it suited him. His social worker described him as anti-social and manipulative, not accepting responsibility for his criminal behavior, and not eliminating his deceptive and lying behavior even after receiving consequences.

The circuit court's concern about Randall's continued dangerousness was lastly based upon the evidence presented by the mental health experts. Two of the experts did multiple evaluations of Randall after he committed his original crimes. All of the experts who evaluated him in relation to his request for conditional release determined that he had been previously misdiagnosed. He, in fact, had

never suffered from the mental health diagnosis ascribed to him when he originally entered institutionalized care. As a result, the circuit court determined that he was untreated without the circuit court having a clear understanding of what was the root cause of his criminal behavior.

### **DISCUSSION**

Miss Weier has never denied that the nature and circumstances of her crime are serious. At the age of 12 years old, she helped to plan and encouraged her same age friend to kill her classmate. The State erroneously indicates that she held the victim down while the stabbing occurred. She did not wield the knife and she did not hold the victim down when the knife was used to injure the victim, but she was a willing participant in the commission of the crime.

Miss Weier's mental history at the time of the crime was chronicled in numerous reports provided to this court. Three mental health experts, two court-appointed by Branch 1, Dr. Gregory Van Rybroek, and Dr. Melissa Westendorf, and one, Dr. Michael Caldwell, retained by Miss Weier's attorneys, offered opinions to a reasonable degree of professional certainty that Miss Weier suffered from a mental diagnosis when she committed the crime. She was diagnosed with a Shared Delusional Disorder. She was diagnosed as the recipient in relationship with the co-actor who was the primary in the relationship.

In her report to the court dated November 4, 2016, Dr. Westendorf described the diagnosed mental illness as a mental health condition that begins to resolve after the separation of the recipient individual from the primary individual. Dr. Westendorf noted that, although Miss Weier had begun to resolve the delusional beliefs when she met with her on September 20, 2016, she still held some delusional beliefs about Slender Man. In his report to the court also dated November 4 2016, Dr. Van Rybroek indicated that based upon his assessment of Miss Weier's mental state at the time he met with her on November 29, 2016, he did not believe that she required the use of psychotropic medication to resolve her delusional beliefs. He also noted that the delusional beliefs had dissolved.

Miss Weier's records confirm her dissolution from the shared delusional beliefs subsequent to her separation from the co-actor. Her records also contain confirmation of treatment offered to treat the root cause of her involvement in the offense as well as her complete compliance with the treatment offered.

In the reports of Dr. Debra Collins, Dr. Melissa Westendorf, and Dr. Robert Rawski which were prepared pursuant to the court-order



related to the Petition for Conditional Release, the mental health experts (Their CV's have been efiled and included as attachments 1, 2, and 3 respectively to this brief.) diagnosed Miss Weier as currently suffering from Post-Traumatic Stress Disorder, Major Depression, and Personality Disorder. Neither court-ordered mental health expert ordered to evaluate Miss Weier for purposes of her conditional release diagnosed her as currently suffering from a psychotic or delusional disorder.

Dr. Rawski opined that Miss Weier has possibly never had a psychotic or delusional disorder. But, he acknowledged that he did not have access to the entire wealth of information that the two court-appointed and other defense-retained mental health experts ordered to conduct the NGI evaluations reviewed and thus the jury thoroughly assessed when making their determination that Miss Weier was NGI.

Miss Weier's past and current mental health illnesses have been treated and addressed while she has been institutionalized. Upon her admittance to Winnebago Mental Health Institution on January 4, 2018, Miss Weier shared with her unit social worker that one of the goals she wanted to attain was to learn warning signs for the emergence of delusional beliefs. Since then, she has remained committed to effectively addressing the issues that led to her committing offense. She has even expressed distaste for individuals serving commitments who pretend to be well in order to get released.

In the reports of Dr. Collins, Dr. Westendorf, and Dr. Rawski, they have each described Miss Weier as diligently working to gain insight into her mental illness and exceptional in terms of her compliance with treatment expectations. Each summarized an example of Miss Weier appropriately responding to a mental health concern. She was befriended by peers who introduced her to the Wicca religion. A week or so after being introduced to the practices, Miss Weier separated herself from the peers and shared with her mental health care providers that she had allowed herself to be drawn into a practice that she eventually realized was not healthy for her. She then utilized the advice and suggestions from the care providers to better prepare herself for handling situations of that nature again.

In respect to her current mental health treatment needs, Dr. Rawski indicated her current treatment resembles that provided in traditional weekly outpatient counseling. In addition to engaging in counseling sessions, she is prescribed an antidepressant. He explained that Miss Weier has no treatment needs that require institutional care.

If granted conditional release, Miss Weier has a residence and financial support in the community. Miss Weier's parents and extended

family have always been supportive of her. As the court can see from the contents of Petition for Conditional Release Exhibit #2 prepared and submitted by her father, William Weier, that support continues and has not waned. Mr. Weier has offered his home as an option for her to reside and he has offered his financial assistance to support and provide for Miss Weier as she explores educational and employment opportunities.

Dr. Westendorf, Dr. Collins, and Dr. Rawski all concur that a more successful transition to the community will likely occur if Ms. Weier is allowed to return to the residence of her father who, along with the rest of her family, have been and remain supportive. This is only logical as it would represent a return to the normal learning environment of a late adolescent while still blessed with the neuroplasticity of adolescence allowing her to learn appropriate adult behaviors through the example of her family members. Thus, providing her a more normative transition into adulthood.

There are a number of factors that provide assurance that Miss Weier will continue to receive access to and will take necessary medication as well as receive possible treatment beyond medication. If conditional release is granted, Miss Weier will be monitored multiple times per week by staff from the Department of Corrections and the Department of Health Services (Efiled and included as attachment 4 is the minimum rules Miss Weier would be required to comply with while under conditional release.). The Court will undoubtedly require her to engage in mental health services and she will be monitored to make sure that she is compliant.

The mental health experts who have evaluated her for purposes of conditional release described in detail her level of compliance. Document 531 filed by the Department of Health Services also describes her extraordinary compliance with treatment. Her compliance with medication and mental health treatment has never been an issue.

As a result of her compliance history, the three mental health experts concluded that given her established pattern of rule and medication compliance while institutionalized, there is no basis to conclude to a reasonable degree of professional certainty that Ms. Weier, if placed on conditional release, would be less compliant with her supervising agent and case manager.

Unlike the behavior in *Randall 2*, her behavior and compliance weigh heavily against finding that she poses a significant risk of bodily harm to herself or to others or of serious property damage if conditionally released. Ms. Weier has demonstrated exemplary behavior while institutionalized. Ms. Weier's non-violent behavior has been maintained

in both correctional and institutionalized settings since the date of her offense.

Subsequent to her involvement in the offense on May 31, 2014, Miss Weier's conduct has been remarkable in terms of her lack of violent behavior to person or property. There has not been one episode of reported violence or the threat of violence towards another individual or herself. On occasion, she expressed thoughts of scratching herself, but those thoughts were rare, rarely if ever acted upon, and not thoughts of serious self-injury.

As a result of her compliance, Miss Weier has advanced to the highest level attainable while institutionalized and earned numerous privileges in the institution. At no point has her behavior ever resulted in her receiving a loss of level or privilege due to non-compliance.

Miss Weier has worked in the Log Cabin workshop and Kitchen handling knives and electric power tools, including a bandsaw. There has not been one episode of reported violence or threat of violence while she has been in possession of electric power tools, a bandsaw and knives. Since turning 18 years old, she has had a roommate. There has not been one episode of reported violence or the threat of violence towards her roommate.

Since December 6, 2018 Miss Weier has resided on the same unit but different wing as her co-actor. Since May 18, 2020, Miss Weier has resided on the same unit and same wing as her co-actor. And, although they have come in contact with one another, she has not developed a re-emergence of her prior delusional belief system nor has she engaged in violent behavior or threat of violent behavior towards persons or property.

Additional support in favor of Miss Weier's Petition for Conditional Release is provided in the HCR-20 V3 risk assessment of her. The assessment is based upon factors that empirical literature associates with increased risk of violence. Significant in her assessment is the absence of numerous risk factors that are indicators of increased risk for future violence.

The mental health experts noted that throughout Miss Weier's institutionalized treatment progress notes, she has expressed shame for her actions and involvement in the committing offense. As a result of her remorse, she has actively sought out and engaged in appropriate treatment to assure that she does not experience a re-emergence of anti-social behaviors of any kind. Further the diagnosis of Post-Traumatic Stress Disorder is directly related to her reaction to the underlying



offence. It required lengthy exposure therapy and processing. Her fear and trauma generated from the offense are further indicators that she would not now engage in similar behaviors.

### **CONCLUSION**

Since Miss Weier's placement in correctional and institutionalized care, she has remained compliant with treatment, prescribed medications, and generally all rules and expectations set for her by institution staff. She has completed high school and as soon as she was allowed to have employment has been employed.

The court-appointed mental health experts describe Miss Weier as motivated to maintain her current pro-social pattern of living when released into the community. She has established short-term and long-term goals which exemplify her desire to continue a pro-social pattern of living upon her return to the community.

Miss Weier's commitment to continuing treatment, including taking all prescribed medication, motivation to maintain her current positive behavior and the absence of numerous risk factors associated with increased risk for future violence, weigh heavily in favor of her readiness for conditional release.

For all of the reasons above, Miss Weier requests that the court find there is clear and convincing evidence that she would not pose a significant risk of bodily harm to herself or to others or of serious property damage if conditionally released and grant her Petition for Conditional Release.

Dated at Milwaukee, Wisconsin, this 9th day of April, 2021.

RESPECTFULLY SUBMITTED,

Electronically signed

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