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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1243**

In the Matter of the Civil Commitment of:
Jerome M. Kraskey

**Filed January 16, 2018
Affirmed
Rodenberg, Judge**

Hennepin County District Court
File No. 27-MH-PR-17-237

Kurt M. Anderson, Minneapolis, Minnesota (for appellant)

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Considered and decided by Rodenberg, Presiding Judge; Worke, Judge; and Toussaint, Judge.*

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant Jerome Kraskey appeals from the Hennepin County District Court’s order civilly committing him as a “person who is mentally ill” and from its denial of his motion for amended findings or a new trial. He argues that we should overrule our previous decision in *In re Civil Commitment of Williams*, 735 N.W2d 727, 731-33 (Minn. App.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

2007), *review denied* (Minn. Sept. 26, 2007), or, in the alternative, that we should find Minn. Stat. § 253B.08, subd. 7 (2016), to be unconstitutional. Appellant also argues that, should we not overrule *Williams* or find Minn. Stat. § 253B.08, subd. 7, to be unconstitutional, we should reverse the referee and the district court for having considered unreliable hearsay and because the record does not contain clear and convincing evidence that appellant satisfied the behavioral criteria for commitment. Further, appellant argues that the district court improperly reviewed the referee's findings contained in the civil-commitment order. Finally, appellant argues that a preexisting guardianship rendered his civil commitment unnecessary. We affirm.

FACTS

In July 2016, appellant suffered a traumatic brain injury with cognitive impairment, resulting in a “substantial psychiatric disorder of his thought, mood, perception, and memory, which grossly impairs his judgment, behavior, capacity to recognize reality and ability to reason or understand.” The diagnosis is not in dispute.

Following the initial hospitalization for his injury, appellant received treatment in three facilities. He was discharged from the third facility, apparently for refusing to remain there. After his discharge, appellant struggled to find a stable living situation and eventually ended up homeless and living in his car at a truck stop. Appellant's mother and brother were named his guardians shortly after his brain injury. The guardians do not have a conservatorship and, despite attempts, have not been able to arrange funding for a placement for appellant because appellant will not cooperate with them regarding financial arrangements.

While living at the truck stop, appellant had two encounters with law enforcement that led to his hospitalization. On February 24, 2017, appellant called law enforcement from the truck stop, complaining that people were making a hostile gesture at him. When law enforcement investigated, they found appellant to be verbally combative. Officers arranged for an ambulance to drive appellant to Mercy Hospital for an evaluation. When appellant arrived at the hospital, medical staff found him to be argumentative and agitated, but he eventually calmed down. He also had an alcohol concentration of 0.115. The hospital staff thought that appellant's traumatic brain injury led to his inability to control his verbal outbursts and impaired his memory. The hospital discharged him, finding outpatient care to be appropriate. On March 6, 2017, appellant was again brought to Mercy Hospital. Law enforcement stated to medical staff that appellant had been threatening to kill people with a knife at the truck stop and was physically aggressive toward the police. At the hospital, appellant was intoxicated and, according to medical records, was "uncooperative, agitated, and belligerent[,] calling staff members vulgar names and stating that he was going to kill everyone." Appellant was given a sedative to calm his aggression toward staff members. Appellant told hospital staff that he "carried a knife for protection against others and his son."

On March 7, 2017, appellant was placed on a 72-hour hold and transferred from Mercy Hospital to inpatient care at Mercy Hospital's Unity Campus (Unity Hospital). While there, he was agitated at times, but calm at other times. Unity Hospital staff determined that a petition for appellant's judicial commitment as a mentally ill person should be filed. On March 8, a mental health therapist, employed by Mercy Hospital, filed

a petition for appellant's civil commitment. Dr. Krista Peterson was appointed by the district court to examine appellant. Her March 15 report supported appellant's commitment. She found appellant to suffer from a substantial psychiatric disorder. Appellant was noted to have erratic speech, agitated mood, paranoia, and "misperception of others' actions." Dr. Peterson opined that (1) appellant's disorder grossly impaired his judgment, evidenced by his "sleeping in his car" and being "uncooperative with police"; (2) appellant had grossly impaired behavior, evidenced by his being impulsive and his threats to kill people with a knife; and (3) appellant's disorder grossly impaired his capacity to recognize reality because he had "no insight into his behaviors, reason for hospitalization, or impairments related to [traumatic brain injury]."

There was a hearing on the commitment petition before a referee on March 17. Appellant objected to four exhibits, consisting of appellant's records from Community Outreach for Psychiatric Emergencies (COPE), his medical records from Mercy and Unity Hospitals, and his medical records from Hennepin County Medical Center (HCMC). His objection was not to the use of those records "as evidence of the direct observations, opinions, and diagnoses of the treatment teams at these respective facilities[.]" but to the hearsay statements contained in the records.

The records from COPE detail appellant's behavior at the times his mother and brother called to request assistance from the organization. The records from Mercy and Unity Hospitals describe appellant's medical state, his behavior towards hospital staff, and, based largely on hearsay statements contained in the records, appellant's behavior that led to his contacts with law enforcement in late February and early March. The records from

HCMC described appellant's traumatic brain injury and his mental state since the injury, including other people's descriptions concerning appellant's behavior (including a report that, at one point, law enforcement were called to respond to appellant's banging on neighborhood doors). The referee admitted the records, "with the exception of any hearsay that the [c]ourt finds is not reliable." The referee admitted as reliable hearsay evidence references to appellant's outside-of-hospital conduct as reported by law enforcement to hospital and emergency medical staff, indicating that appellant was carrying a knife to "protect" himself from strangers and that he was threatening to kill people.

Appellant, appellant's mother, and Dr. Peterson all testified at the hearing. The referee made detailed findings in an order which was then signed by a district court judge. The referee found, and the district court adopted, that appellant's illness could not be adequately treated by voluntary inpatient or outpatient care, appointment of a guardian or conservator, or a conditional release. It further found that there were no less restrictive alternatives, because there was no evidence that an appropriate facility was available. Appellant moved under Minn. Stat. § 484.70, subd. 7(d) (2016), and Minn. R. Civ. P. 52 and 59 for judicial review, amended findings, dismissal of the case, or in the alternative for a new trial.

The district court heard appellant's posttrial motions on June 5, 2017. The district court reviewed its commitment order and found that the medical records stated that law enforcement brought appellant to the hospital from a truck stop after he had threatened others with a knife and exhibited other types of paranoid behavior. The district court found hearsay statements from law enforcement concerning this behavior to be reliable hearsay

under Minn. Spec. R. Commit. & Treat. Act. 15 “because hospital staff observed and reported similar behavior while [appellant] was in the hospital pending this commitment” and that,

[w]hile the officer’s statements by themselves may not have been reliable hearsay because the statements contain information from unknown sources whose ability to relate the information is unknown to the [c]ourt, when the observed behaviors are corroborated by hospital behavior, the [c]ourt is justified in attributing greater reliability to the officer’s statements.

The district court concluded that the referee’s findings were supported by the record and that the order previously adopted by the district court was not clearly erroneous. It denied appellant’s motion for amended findings or a new trial.¹

This appeal followed.

D E C I S I O N

Appellant argues that we should overrule our previous decision in *Williams* concerning the admissibility of hearsay evidence in civil-commitment proceedings or, in the alternative, that we should find Minn. Stat. § 253B.08, subd. 7, to be unconstitutional. Appellant alternatively argues that the referee and the district court improperly considered unreliable hearsay when making the commitment determination and that there was no clear and convincing evidence that appellant satisfied the behavioral criteria for commitment. Further, appellant argues that the district court applied the wrong standard when it reviewed the referee’s findings in ruling on appellant’s posttrial motions. Finally, appellant argues

¹ These motions were heard and decided by the same district court judge who had adopted the referee’s recommended order.

that the preexisting guardianship of him established by his mother and brother rendered civil commitment unnecessary.

We decline to overrule *Williams*.

Appellant first argues that this panel should overrule *Williams*, where we interpreted Minn. Stat. § 253.B.08, subd. 7, to permit the admission of relevant and reliable hearsay as evidence in civil-commitment proceedings. *Williams*, 735 N.W.2d at 731-33. Appellant argues that *Williams* was incorrectly decided. “The interpretation of a statute is a question of law that we review de novo.” *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016).

Generally, the doctrine of stare decisis encourages us to “adhere to former decisions in order that there might be stability in the law,” *Oanes v. Allstate Ins. Co.*, 617 N.W.2d 401, 406 (Minn. 2000), and we “only overrule our precedent if provided with a compelling reason to do so.” *Ariola v. City of Stillwater*, 889 N.W.2d 340, 356 (Minn. App. 2017), review denied (Minn. Apr. 18, 2017) (quotation omitted). More specifically, we may determine that the doctrine does not apply where “the reasons underlying the particular rule no longer exist or the rule no longer conforms to changed conditions of society.” *Doe v. Lutheran High Sch. of Greater Minneapolis*, 702 N.W.2d 322, 330 (Minn. App. 2005), review denied (Minn. Oct. 26, 2005).

Appellant moved to have this issue considered by the court of appeals en banc. We denied that motion, because a panel of this court may overrule the decisions of another panel when “provided with a compelling reason to do so. . . . The reasons for departing from former decisions [must] greatly outweigh reasons for adhering to them.” *Ariola*, 889

N.W.2d at 356 (alteration in original) (quotation omitted); *see also* Minn. Stat. § 480A.08, subd. 3(c)(2) (2016) (indicating that the court of appeals may publish decisions that “overrule a previous Court of Appeals’ decision not reviewed by the Supreme Court”).

We decline to overrule *Williams*. Our decision in *Williams* interpreting Minn. Stat. § 253B.08, subd. 7, has stood for ten years. “The doctrine of stare decisis has special force in the area of statutory interpretation because the Legislature is free to alter what we have done.” *Schuette v. City of Hutchinson*, 843 N.W.2d 233, 238 (Minn. 2014). Here, Minn. Stat. § 253B.08, subd. 7, has not been amended in the numerous legislative sessions taking place since *Williams* was decided.

Minn. Stat. § 253B.08, subd. 7, is not unconstitutional as violating due process or equal protection.

Appellant argues in the alternative that, if *Williams* correctly interpreted Minn. Stat. § 253B.08, subd. 7, then the statute is unconstitutional under the Due Process and Equal Protection Clauses of the federal and state constitutions. “The constitutionality of a statute is a question of law that we review de novo.” *SooHoo v. Johnson*, 731 N.W.2d 815, 821 (Minn. 2007). “Minnesota statutes are presumed constitutional and, as we have said in the past, our power to declare a statute unconstitutional must be exercised with extreme caution and only when absolutely necessary.” *Hamilton v. Comm’r of Pub. Safety*, 600 N.W.2d 720, 722 (Minn. 1999). “The challenger of the constitutional validity of a statute must meet the very heavy burden of demonstrating beyond a reasonable doubt that the statute is unconstitutional.” *Assoc. Builders & Contractors v. Ventura*, 610 N.W.2d 293, 299 (Minn. 2000). “A person to whom a statute may constitutionally be applied has no standing to

challenge that statute on the ground that it might conceivably be applied to others.” *State v. Mireles*, 619 N.W.2d 558, 561 (Minn. App. 2000), *review denied* (Minn. Feb. 15, 2001).

Appellant makes two main arguments that the statute is unconstitutional: first, that the statute violates due process generally; and second, that the statute deprives respondents in judicial commitment proceedings of equal protection of the laws.²

We addressed in *Williams* the question of whether Minn. Stat. § 253B.08, subd. 7, concerning the admission of hearsay evidence in a civil-commitment hearing, violates an individual’s due process rights. *Williams*, 735 N.W.2d at 731-33. We recognized in *Williams* that “the trustworthiness of evidence is the primary concern of the rules of evidence generally and of the hearsay rule particularly. The purpose of the hearsay rule with its various exceptions is to prevent unreliable evidence from infecting fairness of process.” *Id.* at 732. We determined that a district court’s “thoughtful preview” of evidence “satisfies the concern about trustworthiness of [hearsay] evidence.” *Id.* In *Williams*, we commended the district court for receiving “relevant evidence, weigh[ing] it, and mak[ing] findings supported by the record.” *Id.* The challenged hearsay in that case had “threshold indicia of reliability for admission” and *Williams* was unable to show that the challenged evidence was “false or unreliable.” *Id.*

² Appellant also argues that Minn. Stat. § 253B.08, subd. 7, is unconstitutional because it both abrogates the requirement of clear-and-convincing evidence in commitment proceedings and shifts the burden of production to district-court respondents in commitment cases. Because Minnesota law requires the use of the clear-and-convincing-evidence standard in commitment cases, *In re Thulin*, 660 N.W.2d 140, 144 (Minn. App. 2003), and unambiguously puts the burden of production on the petitioner, we reject this argument.

Here, as in *Williams*, the district court carefully reviewed the referee’s findings to determine that the statements by law enforcement contained in appellant’s medical records were corroborated and were reliable hearsay. The district court acknowledged that these statements would be unreliable without the corroboration. The district court discharged its duty under *Williams* to ensure that the hearsay evidence was reliable and relevant. Appellant’s due-process rights were not violated by the admission of reliable, corroborated hearsay in his civil-commitment hearing under Minn. Stat. § 253B.08, subd. 7.

Appellant next argues that Minn. Stat. § 253B.08, subd. 7, is unconstitutional because it deprives respondents in commitment proceedings, including appellant, of equal protection of the laws. He contends that the statute treats civil-commitment litigants differently than other types of civil and criminal litigants by abrogating the hearsay rule.

The threshold question in an equal-protection analysis is whether “similarly situated” individuals are being treated differently. *State v. Cox*, 798 N.W.2d 517, 521 (Minn. 2011).

[W]e have routinely rejected equal-protection claims when a party cannot establish that he or she is similarly situated to those whom they contend are being treated differently. . . . [C]ontrolling law is clear that the Equal Protection Clause does not forbid classifications. It simply keeps governmental decisionmakers from treating differently persons who are in all relevant respects alike.

Id. at 521-22 (quotations and citations omitted). The “focus” of this threshold determination then, is whether two groups are alike “in all relevant respects.” *Id.* at 522.

It is clear to us that civil-commitment respondents are not similarly situated to other civil or criminal litigants. In *Williams*, we highlighted a significant difference between

civil-commitment proceedings and criminal proceedings: that the Confrontation Clause does not apply to civil-commitment proceedings. *Williams*, 735 N.W.2d at 732; *see also Allen v. Illinois*, 478 U.S. 364, 375 (1986) (holding there is no privilege against self-incrimination in proceedings under a state sexually dangerous persons act because civil-commitment proceedings are not “criminal” within the meaning of the Fifth Amendment); *State ex rel. Pearson v. Probate Ct. of Ramsey Cty.*, 205 Minn. 545, 556-57, 287 N.W. 297, 303 (1939) (holding there is no constitutional right to a jury trial in civil-commitment proceedings). Further, the Minnesota Rules of Civil Procedure provide that civil-commitment hearings are not subject to all of the rules. Minn. R. Civ. P. 81.01 directs us to Appendix A of the rules, which lists proceedings that are not subject to all of the rules of procedure and includes civil-commitment hearings. And, Minn. Stat. § 253B.08, subd. 1 (2016), provides for a number of procedures applicable to a civil-commitment proceeding that differ significantly from other civil litigation. Appellant does not appear to contend that all the various exceptions to the Rules of Civil Procedure identified in Appendix A to those rules offend equal protection. The very fact of the exceptions suggests a recognition that the proceedings excepted from the rules are not “in all relevant respects” like other cases. Because respondents in commitment cases in the district court are not similarly situated to other types of civil litigants or to criminal litigants, appellant cannot demonstrate that respondents in commitment cases are deprived of equal protection rights by the district court’s application of Minn. Stat. § 253B.08, subd. 7, to civil-commitment hearings.

The referee and the district court properly considered reliable hearsay evidence when making the commitment determination, and the record contains clear and convincing evidence that appellant satisfied the behavioral criteria for commitment.

Appellant argues in the alternative that, if we do not find Minn. Stat. § 253B.08, subd. 7, to be unconstitutional, then the hearsay considered by the referee and the district court was not reliable, and there was not clear and convincing evidence that appellant satisfied the behavioral criteria for civil commitment.

Appellant argues that the referee abused its discretion in considering unreliable hearsay because it “did not state an adequate basis for crediting multiple and unattributed levels of hearsay evidence, and erred in admitting that evidence.”

“The decision of whether to admit or exclude evidence is within the district court’s discretion and will be reversed only if the court has clearly abused its discretion.” *In re Civil Commitment of Spicer*, 853 N.W.2d 808, 813 (Minn. App. 2014) (quotation omitted). Minn. Stat. § 253B.08, subd. 7, permits the admission of relevant hearsay evidence. *See also Williams*, 735 N.W.2d at 732-33 (determining that when a district court thoughtfully considered hearsay evidence to find it reliable and relevant, appellant’s due-process rights were not violated and the district court properly admitted the evidence).

Appellant challenges the referee’s crediting of the hearsay regarding appellant’s threatening behavior at the truck stop. He argues that, in applying the clear-and-convincing evidentiary standard, evidence that he carried a knife for protection does not “adequately corroborate[] an assertion that [appellant] threatened anyone with the use of a knife.”

The referee found that appellant was “angry” and “verbally aggressive” toward hospital staff during his first visit following an interaction with law enforcement in late

February 2017. During his early March hospital visit following a second interaction with law enforcement, the referee found that appellant was “uncooperative, agitated, and belligerent,” drunk, and that he was “calling staff members vulgar names and stating he was going to kill everyone.” The referee also found that a clinical counsellor at Mercy Hospital spoke with law enforcement over the phone regarding appellant’s behavior at the truck stop on March 6. It further found that law enforcement said that they had ongoing contact with appellant, and that he had a knife and was making threats at the truck stop on two occasions. The referee also found that appellant told hospital staff that he carried a knife for protection. And, the referee found the hospital staff’s account of appellant’s in-hospital behavior to be credible, and found that their description of their communications with law enforcement was also credible. While the referee did not explicitly identify why he found this hearsay evidence credible, the referee’s findings are supported by the record.

A reading of the referee’s findings indicates that the referee made factual findings regarding appellant’s in-hospital behavior *before* he found the hearsay evidence to be reliable, and thus appears to have taken into consideration appellant’s in-hospital behavior and statements in determining that the hearsay evidence of his out-of-hospital behavior was reliable. The referee appears to have complied with *Williams* by properly determining that the hearsay evidence was relevant and reliable before considering it.

Further, the district court reviewed the referee’s findings in its own order after appellant’s post-trial motions. It found that law enforcement’s statements to hospital staff, which “by themselves may not have been reliable,” were corroborated by appellant’s observed in-hospital behavior and statements about appellant’s aggression and his

admission to carrying a knife. The district court stated that the “context of the entire medical record” permits any “facial unreliability” to “disappear[.]” The district court also found that there was no strong, facially apparent reason to doubt the reliability of the hearsay evidence. The challenged hearsay is statements from law enforcement to medical staff regarding the behavior of a patient in that staff’s care. That hearsay was corroborated by appellant’s own statements to medical staff. Those statements on their own support appellant’s civil commitment. Neither the referee nor the district court abused their discretion in finding the challenged hearsay evidence to be reliable.

Appellant further argues that there was not clear and convincing evidence that appellant satisfied the behavioral criteria for commitment. On appeal, we will not reverse a district court’s “findings of fact unless they are clearly erroneous.” *In re Commitment of Janckila*, 657 N.W.2d 899, 902 (Minn. App. 2003). “We review de novo whether there is clear and convincing evidence in the record to support the district court’s conclusion that appellant meets the standards for commitment.” *Thulin*, 660 N.W.2d at 144. Minn. Stat. § 253B.02, subd. 13 (2016), defines a mentally ill person as

any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand . . . and it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or debilitation, or serious illness, unless appropriate treatment and services are provided.

Minn. Stat. § 253B.02, subd. 13. The Minnesota Supreme Court has interpreted the statute as requiring that “the substantial likelihood of physical harm must be demonstrated by . . .

a recent attempt or threat to harm self or others.” *In re McGaughey*, 536 N.W.2d 621, 623 (Minn. 1995) (emphasis omitted). Mere speculation or allegations are not enough to justify commitment; the commitment must be supported by clear and convincing evidence. *See id.* at 623-24. And our case law indicates that a person can satisfy the substantial-likelihood-of-harm standard by acting in a way that may provoke others into an attack. *See, e.g., In re Gonzalez*, 456 N.W.2d 724, 729 (Minn. App. 1990) (finding an appellant committable when he “pose[d] a likelihood of harm to himself by his conduct which may outrage others and result in an attack on him”); *In re Burmeister*, 391 N.W.2d 89, 91 (Minn. App. 1986) (holding that the commitment statute “requires only that an individual pose a threat of harm to others or himself”) (emphasis omitted).

The record supports the district court’s factual findings. Here, the referee found that appellant “has a traumatic brain injury with cognitive impairment which is a substantial psychiatric disorder.” And both the referee and the district court found that appellant carried a knife and made threats to kill people. There is record evidence that supports these findings.

We next consider whether the clear-and-convincing-evidence standard was met. The referee found appellant to be “a brain-damaged individual who is paranoid, delusional, disorganized, and seeing threats where none exist, whose judgment is significantly impaired, who is isolated and living a marginal existence, and who is carrying a knife and threatening to kill people,” and that appellant “creates a substantial likelihood that he will provoke violence or engage in it himself with the result that someone will suffer physical harm.” The record supports the referee’s findings of fact that appellant displayed behavior

that may reasonably be construed either to place him at a risk of harm from others, or indicate that he may harm others. For example, the court examiner testified that if appellant were to offend the wrong person leading to a physical assault, it could result in his death due to his recent brain injury. Appellant made death threats to hospital staff, and he threatened individuals at the truck stop while in possession of a knife. These factual findings suffice to satisfy the clear-and-convincing-evidence standard concerning appellant's risk of causing substantial harm to himself or to others.

The district court properly reviewed its own civil-commitment order.

Appellant next argues that the district court improperly reviewed its civil commitment order, which adopted the referee's findings. Following the commitment hearing, appellant moved the district court to review the referee's findings under Minn. Stat. § 484.70, subd. 7(c)-(e) (2016), and for amended findings or a new trial under rules 52.02 and 59.01. Appellant argues on appeal that the district court incorrectly applied the "clearly erroneous" standard when it reviewed the referee's findings and order when considering appellant's posttrial motion.

Whether the district court applied the correct standard of review when reviewing the referee's findings contained in its own order seems to us to be of little consequence. The essence of appellant's posttrial motion was a request for amended findings pursuant to rule 52.02 or for a new trial pursuant to rule 59.01, and the district court responded to those motions by denying them in a carefully reasoned and thoughtful order. It is from this order that appellant takes this appeal.

We review a district court's denial of a motion to amend findings or for a new trial under an abuse-of-discretion standard. *Zander v. Zander*, 720 N.W.2d 360, 364 (Minn. App. 2006), *review denied* (Minn. Nov. 14, 2006). Here, the district court thoroughly analyzed the record and the referee's findings. It properly gave some deference to the referee as the initial factfinder. As discussed above, the referee's factual findings in support of civil commitment are supported by clear and convincing evidence in the record. The district court did not abuse its discretion in denying appellant's motion for amended findings or for a new trial.

The district court did not err in finding that the preexisting guardianship does not render civil commitment unnecessary.

Appellant argues that the preexisting guardianship established over him by his mother and brother is sufficient to meet his treatment needs and necessarily amounts to a less restrictive alternative to commitment. He argues that the district court should therefore have dismissed the petition. "Unless it is clearly erroneous, we must affirm the [district] court's finding that there was no suitable less restrictive treatment alternative." *In re King*, 476 N.W.2d 190, 193 (Minn. App. 1991); see Minn. Stat. § 253B.09, subd. 1 (2016) (listing dismissal of petition and appointment of a guardian or conservator as reasonable alternative dispositions to judicial commitment).

Appellant's mother and brother became appellant's temporary guardians when appellant suffered his brain injury. They later became his permanent guardians. The referee found that appellant's guardians had been unable to find a new placement for appellant because appellant refused to cooperate with their efforts. The referee found that,

because they are not conservators, they have “no control” over his finances. And, when the district court reviewed the referee’s findings, it found that “[i]t is clear that guardianship is not sufficient because, despite that level of supervision, [appellant] required emergency hospitalization and sedation.”

Appellant argues that his guardians have enough control over his financial affairs to take care of him without a judicial commitment. He correctly argues that Minn. Stat. § 524.5-313 (c)(2)-(5), (7) (2016), gives guardians the ability to provide for a ward’s “care, comfort, and maintenance needs” either by using government benefits or funds from the ward’s estate, and to apply or contract for non-necessities on behalf of the ward. However, despite the control that appellant’s guardians do have, the district court found that this control was not sufficient to find appellant a safe placement or to control his behavior to prevent it from leading to altercations with law enforcement and hospitalization. Appellant’s past behavior indicates that he had trouble remaining in a rehabilitation facility which he was free to leave. There is no record evidence that a suitable facility will take appellant without a civil-commitment order. We defer to the district court’s finding that there is no reasonable alternative to commitment consistent with appellant’s overall treatment needs. The referee and district court’s finding that there is no less restrictive alternative to civil commitment is not clearly erroneous.

Affirmed.