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**STATE OF MINNESOTA
IN COURT OF APPEALS**

A17-1312

A17-1314

A17-1315

In the Matter of the Civil Commitments of:
Alexander Donovan Christodoulou (A17-1312),
Eric Emanuel Elm (A17-1314), and
Mohamed Garad Ahmed Hassan (A17-1315)

**Filed March 5, 2018
Vacated
Rodenberg, Judge**

Hennepin County District Court
File Nos. 27-MH-PR-17-499, 27-MH-PR-17-456, 27-MN-PR-17-501

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Considered and decided by Bjorkman, Presiding Judge; Rodenberg, Judge; and
Smith, Tracy M., Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant Commissioner of Human Services (Commissioner) appeals from the district court's orders in three commitment files requiring the Commissioner to submit quarterly reports to the district court regarding all Hennepin County cases to which Minn. Stat. § 253B.10, subd. 1 (2016) applies. We vacate the district court's orders.

FACTS

Respondents Alexander Christodoulou and Eric Elm were civilly committed as mentally ill on June 1, 2017. Respondent Mohamed Hassan was civilly committed as mentally ill on June 2, 2017.¹ Each of them was in jail when committed.

Patients who are civilly committed from a jail or correctional facility “must be admitted to a service operated by the commissioner within 48 hours.” Minn. Stat. § 253B.10, subd. 1(b) (2016). This is colloquially referred to as the 48-hour rule. None of the respondents were admitted to a commissioner-operated service within 48 hours, and all remained jailed. Department of Human Services (DHS) Executive Medical Director, Dr. KyleeAnn Stevens, sent letters to the district court on June 2, informing the court that DHS would not be able to admit respondents in conformity with the 48-hour rule because the treatment facilities that would be suitable for these three respondents were operating above capacity. Dr. Stevens reported that respondents would be admitted as soon as beds became available in a suitable facility. That day, the district court responded to Dr. Stevens

¹ We refer to the three committed patients as respondents. Hennepin County, another respondent, makes no appearance on appeal.

and requested that DHS confirm compliance with the 48-hour rule, and advised the doctor that a hearing would be scheduled “for the Commissioner to explain why [DHS] is unable to comply with the statutory mandate” if no such confirmation was received.

On June 5, the district court, acting sua sponte, issued an Emergency Order to Show Cause and set a hearing for that very afternoon, ordering the Commissioner and Dr. Stevens to appear and show cause why DHS had not admitted respondents to a service under the 48-hour rule. The Commissioner and Dr. Stevens both appeared at the hearing and testified.

The Commissioner testified that all three DHS facilities offering competency-restoration treatment were over capacity when respondents were committed as mentally ill.² Dr. Stevens testified that, by the time DHS received the orders for respondents’ commitments, the facilities had already exhausted their options to transfer, discharge, or otherwise shift patients to make space for respondents. As such, when respondents were committed, DHS could not safely admit them within 48 hours. Dr. Stevens agreed that jails are not the appropriate place to treat persons with mental illness, but testified that hospital overcrowding also creates an unsafe environment.

Elm was admitted to the CRP on June 6, and Christodoulou and Hassan were admitted to the AMRTC on June 7.

² Specifically, the Anoka-Metro Regional Treatment Center (AMRTC) was three patients over capacity, the Competency Restoration Program (CRP) was one patient over capacity, and the Community Competency Restoration Program (CCRP) was two patients over capacity.

On June 6, the district court issued an order in each commitment file requiring the Commissioner to, among other things, report quarterly to the district court concerning all cases to which the 48-hour rule applies, identifying the originating county, the time and date that each committed patient was transferred to DHS, and the time and date that the 48-hour period would have expired for each such patient. The Commissioner objected in writing to these orders, arguing that the district court did not have personal jurisdiction over her because she is not a party to the judicial commitment proceedings. Two months later, the district court issued an order determining that the Commissioner could not “presently be held in contempt of court,” but the district court continued the requirement that the Commissioner file quarterly reports with the district court regarding when committed persons from Hennepin County were transferred to DHS facilities, and other reporting obligations.

This appeal followed.

D E C I S I O N

The Commissioner argues that she was not a party to the initial civil-commitment proceedings. Consequently, she argues, the district court could not exercise personal jurisdiction over her and lacked any authority to order her to submit any reports to the district court. Amicus Minnesota Sheriffs’ Association argues that the district court’s orders were proper because the Commissioner is “an integral part of the statutory scheme for mental health treatment and commitment.” Respondent Hennepin County filed no brief and takes no position. We agree with the Commissioner.

The district court lacks personal jurisdiction over one who is not a party to the proceeding before it. *In re Marriage of Sammons*, 642 N.W.2d 450, 457 (Minn. App. 2002). The district court abuses its discretion when it attempts to exercise personal jurisdiction over a nonparty. *In re Ferlitto*, 565 N.W.2d 35, 37 (Minn. App. 1997). That a law exists imposing a duty on a nonparty is not, without more, sufficient to confer district-court jurisdiction over the nonparty. *See Seaway Port Auth. v. Midland Ins. Co.*, 430 N.W.2d 242, 250 n.2 (Minn. App. 1988) (stating that while a nonparty insurance company may have been obligated by state law to pay amounts owed to a party, the district court does not have personal jurisdiction over a nonparty insurance company to order such payment by the nonparty).

The Commissioner is not a party to civil-commitment proceedings. *In re Bowers*, 456 N.W.2d 734, 737 (Minn. App. 1990). In *Bowers*, the district court ordered DHS to pay the costs for care, treatment, and transportation for committed persons. *Id.* at 736. We recognized that a rule of civil procedure authorized parties to move to vacate a void judgment. *Id.* A party is “one who has the right to control the proceedings, to examine and cross-examine the witnesses, and to appeal.” *Id.* We held in *Bowers* that, because “the Commissioner did not receive notice of the hearings or the claim for costs, and she did not participate,” the Commissioner was not a party to the civil-commitment proceedings. *Id.* at 736-37. We therefore held that the district court’s order requiring DHS to pay costs was “void.” *Id.* at 737-38.

Here, the Commissioner did not receive notice of the commitment hearings and was not served with process.³ The Commissioner did not participate in the civil-commitment proceeding. It was only after the district court had committed the three respondents that it ordered the Commissioner to do anything. The Commissioner, as a nonparty to the underlying commitment proceedings, was not subject to the district court's jurisdiction.

Because the Commissioner was not a party to the civil-commitment cases, the district court did not have personal jurisdiction over her in these cases. *See Sammons*, 642 N.W.2d at 457. The district court acted without jurisdiction when it ordered the Commissioner, a nonparty, to submit quarterly reports. *See Ferlitto*, 565 N.W.2d at 37.⁴ We therefore vacate the appealed-from orders.

Vacated.

³ The record contains no evidence of whether and how the Commissioner was served with process regarding the Emergency Order to Show Cause. Nothing in the record shows that she was served with either a summons or the commitment petition in the underlying commitment proceedings.

⁴ Because we vacate the district court's order on this basis, we do not reach the many other issues raised in the briefs, including the possibility of mootness, the likelihood that the presenting issue will recur, and the concerns of the Minnesota Sheriffs' Association, as amicus, that a remedy is needed for the Commissioner's failure to adhere to the 48-hour rule. These issues, and particularly the question of whether and how the 48-hour rule is enforced, can only be addressed in an appropriate forum. Because the district court's orders impermissibly asserted jurisdiction over a nonparty, any attempt to resolve these important questions here would be beyond our proper role. *See LaChapelle v. Mitten*, 607 N.W.2d 151, 159 (Minn. App. 2000), *review denied* (Minn. May 16, 2000). Whether a different procedural posture in a future case will permit a court to reach those questions remains to be seen.