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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1329**

In the Matter of the Civil Commitment of: John Gerald Mathias

**Filed February 12, 2018
Reversed
Ross, Judge**

Wabasha County District Court
File No. 79-PR-17-584

Michael D. Schatz, Rochester, Minnesota (for appellant)

Karen S. Kelly, Wabasha County Attorney, Wabasha, Minnesota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Ross, Judge; and Bratvold,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

A police officer and a social worker went to the storage unit that John Mathias was living in after he dialed 9-1-1 four times to ask if the operator would tell his friend that his prepaid phone had run out of minutes. The officer took Mathias to the hospital for a psychological evaluation. About a month later, Mathias was drunk and operating his riding lawnmower in the street to cut off a car driven by a man who had obtained a restraining order against Mathias. The Wabasha County Attorney filed a petition for Mathias’s civil commitment, which the district court granted after finding that he is a “mentally ill” and

“chemically dependent” person under Minnesota Statutes, section 253B.02 (2017). Because the district court’s findings fail to satisfy section 253B.02’s specific-findings requirement, we reverse.

FACTS

John Mathias is a 56-year-old man who has a history of depression, anxiety, and alcohol abuse and who was living in his storage unit in Wabasha. One evening in May 2017, he called police four times on the emergency 9-1-1 line, asking the operator to call one of his friends and inform her that his prepaid phone ran out of minutes and that he would call her within 24 hours. A police officer and a social worker showed up at his storage unit the next day. Mathias refused to speak with the social worker. The officer took Mathias to the Mayo Clinic in Rochester for a psychological evaluation.

According to the clinic’s records, when Mathias arrived, he was “somewhat threatening to some of the staff intermittently.” After a while, he calmed down and conversed with one of the guards appointed to watch him. A few hours later, he became upset and insisted there was no reason he should be there. He eventually settled down, took medication, and fell asleep. At about 4:00 a.m., he woke up, “stormed out of [his] room agitated” and demanded to speak “with the ‘quack’ that was [t]here to evaluate him.” His attendants refused his demand, and Mathias returned to bed angry. When he woke up later, he was “anxious to see the doctors.”

Several doctors saw Mathias. Mathias told one that he has two to four drinks daily. Mathias reported having no suicidal or homicidal ideation. Answering if he had thoughts of harming other people, Mathias said, “I would never punch someone unless they

punch[ed] me first.” A report indicates that Mathias was angry about being detained in the hospital, exhibited “[t]hreatening behavior,” and was “full of profanities.” Another report says that his “cognition [was] fair” and that his “thought form was linear and goal directed,” although he was “preoccupied with wanting to be left alone and undisturbed.” A final report indicates that Mathias was “very pleasant and cooperative [in the] interview.” The hospital released Mathias.

About a month after his release, police arrested Mathias. He was driving his lawnmower in front of a car driven by a man who had obtained a restraining order against Mathias. Two social workers interviewed Mathias in jail. When they questioned him about his mental health, he replied, “My mental health is awesome.” He reaffirmed that he did not have any suicidal thoughts and wanted no help to address his drinking alcohol, “unless that help is getting more.”

About a month after Mathias’s arrest, the Wabasha County Department of Social Services petitioned the district court to civilly commit him. The district court requested an in-person psychological evaluation, which was later performed by psychologist Kenneth Dennis. Dennis testified at Mathias’s civil commitment hearing. During his cross-examination, Dennis stated that he had no reason to disbelieve Mathias’s statement that he did not pose a harm to himself. But Dennis did state that, based on the Mayo Clinic records and the lawnmower incident, he believed Mathias was a threat to others. In a form order, the district court committed Mathias, finding that he was mentally ill and chemically dependent.

Mathias appeals.

DECISION

Mathias challenges the district court's decision to civilly commit him. If a district court finds by clear and convincing evidence that a person is "mentally ill" or "chemically dependent," it "shall commit the patient to the least restrictive treatment program," unless "careful consideration" reveals a suitable alternative to judicial commitment. Minn. Stat. § 253B.09, subd. 1 (2017). "Where commitment is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for commitment is met." *Id.* at subd. 2. Our review of an involuntary civil commitment is limited to examining whether the district court complied with these statutory requirements and whether the commitment is "justified by findings based upon evidence at the hearing." *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995). We review the district court's findings for clear error but apply a de novo standard in reviewing whether clear and convincing evidence supports the district court's conclusion that the standards for commitment are met. *Id.*

Mathias argues that the district court should not have found that he met the statutory definitions of mentally ill and chemically dependent. Before a patient may be declared a "chemically dependent person" or a "person who is mentally ill," the district court must find that he "poses a substantial likelihood of physical harm to self or others." Minn. Stat. § 253B.02, subds. 2, 13 (2017). It is this risk-of-physical-harm requirement that Mathias says was not met. He is correct.

The district court's commitment order states, "Given the criminal charges pending against him, [Mathias] is a threat to others in a community setting." But the district court

never discussed what charges it was referring to or detailed the underlying conduct that indicated that Mathias is substantially likely to harm himself or someone else. It simply concluded that the unspecified criminal charges—not actual convictions or any particular conduct that led to charges—establish that Mathias is a threat to others. Summary findings like this are “wholly inadequate” to support a commitment because they fail to satisfy the statute’s specific-findings requirement. *See In re Danielson*, 398 N.W.2d 32, 36–37 (Minn. App. 1986) (citing § 253B.09, subd. 2). And although the order also loosely references four notes in the Mayo Clinic reports, the notes are insufficient to establish that Mathias posed a substantially likely threat.

One note does say unspecifically that Mathias had “[t]hreatening behavior.” Another says that he was “somewhat threatening to some of the staff intermittently,” and the third note states that Mathias made “threatening movements when frustrated.” These characterizations do not identify any conduct that could satisfy the substantially-likely-to-harm element. And the district court did not explore what the authors of the records meant by “threatening behavior,” “threatening movements,” or “somewhat threatening.” Nowhere in the record are these “threat[s]” described in a fashion that indicates Mathias’s words or conduct threatened physical harm to anyone, let alone a substantial likelihood of physical harm. The district court’s findings lack the specificity necessary to support its conclusion.

The transcript informs us that, near the end of the hearing, the county attorney did say that Mathias attempted suicide in the past. But the “chemically dependent” definition requires the risk-of-physical-harm finding to be premised on “recent” conduct, Minn. Stat.

§ 253B.02, subd. 2, and the transcript does not suggest that the attempt—which seems from the record to have occurred about eight months before the commitment hearing—was considered recent. Although the “mentally ill” definition appears to permit risk-of-physical-harm findings not premised on recent conduct under certain circumstances, the district court did not identify any such circumstances here. *See id.*, subd. 13(a). Not only did the district court not find that the suicide attempt was recent, its order does not refer to the attempt. This omission presumably resulted from the district court’s reading of the most recent hospital records and listening to testimony, all of which indicate that Mathias was not recently experiencing suicidal thoughts. The district court’s apparent, reasonable concern for Mathias’s wellbeing notwithstanding, we cannot affirm its civil-commitment order.

Reversed.