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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0993**

In the Matter of the Civil Commitment of: Susan E. Lein.

**Filed December 24, 2018
Affirmed
Stauber, Judge***

Hennepin County District Court
File No. 27-MH-PR-18-434

Mark Gray, Minneapolis, Minnesota (for appellant Susan E. Lein)

Michael O. Freeman, Hennepin County Attorney, John L. Kirwin, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County)

Considered and decided by Rodenberg, Presiding Judge; Hooten, Judge; and Stauber, Judge.

UNPUBLISHED OPINION

STAUBER, Judge

On appeal from her commitment as mentally ill, appellant argues that the record does not support the findings that are the basis for the determination that appellant is a danger to herself or others. We affirm.

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

FACTS

The manager of the apartment building where appellant Susan E. Lein lived called police because she believed that Lein might be suicidal. Two Edina police officers responded, and, shortly after they arrived, Lein exited her apartment and “was immediately defensive and upset” on meeting with the officers. Lein’s conversation did not stay on track, and her emotions ranged from being upset and yelling to being sympathetic with the officers. Lein tried to walk away and continued walking away after being told she was not free to leave. When the officers grabbed her arms to prevent her from leaving, Lein began “screaming, swearing, pulling away and flailing her arms around and toward [the officers].” Lein would not calm down, so the officers handcuffed her for their safety and hers.

Lein was transported to the University of Minnesota Medical Center (UMMC). Emergency room staff noted that Lein had a previous diagnosis of chronic schizophrenia, that she reported a history of multiple hospitalizations, and that she stated that she felt less stable than usual and was having difficulty sleeping and had a poor appetite.

Lein was admitted to the hospital’s psychiatric unit, where she was evaluated by psychiatrist Lora Wichser. Lein was reluctant to disclose information, and her behavior was irritable, paranoid, and confrontational. Lein was diagnosed with schizophrenia vs. schizoaffective disorder vs. bipolar disorder with psychotic features,¹ prescribed

¹ The connector “vs.” is used when the diagnosing professional cannot definitively determine a diagnosis among multiple similar disorders. *Am. Psychiatric Ass’n Diagnostic & Statistical Manual of Mental Disorders* 124 (5th ed. 2013).

medications, and placed her on “suicide precautions.” Wichser noted that Lein had a history of similar diagnoses.

Two days after her hospital admission, Lein was yelling on the phone and then was rude to staff when instructed to return to her room. Back in her room, Lein became increasingly hostile and agitated; she was yelling, swearing, throwing pillows, and banging her feet on the wall. Multiple doses of medication were administered in an effort to control her agitation. Jeffrey Olson, a psychiatric associate who evaluated her a few hours later, described her as paranoid, delusional, tense, and angry.

Lein exhibited delusional thoughts regarding the effects of psychiatric medications, believing that Abilify and lithium had damaged her adrenal glands, thyroid, and spine. She also believed that toxins were leaking from “various orifices of her body” due to her use of Abilify for seven years, although she said she had most recently used Abilify eight years earlier. Lein did suffer from hypothyroidism, but the record contains no medical evidence supporting her claim that Abilify damaged her thyroid. Lein’s other complaints about the effects of those drugs are unsubstantiated by any medical evidence.

UMMC filed petitions to judicially commit Lein as mentally ill and to administer medications to treat her mental illness. The district court appointed psychologist Catherine Carlson, Psy.D., to examine Lein. At the commitment hearing, Carlson testified that Lein suffered from a mental illness, which she diagnosed as either schizoaffective disorder or bipolar disorder with psychosis. Carlson described Lein as suffering from a psychotic illness with strong evidence of manic symptoms. Carlson testified that Lein’s belief that she was suffering from Abilify poisoning was delusional.

Carlson concluded that Lein's mental illness presented a risk of harm to her in multiple ways. First, Lein's delusions about having health problems related to her previous use of Abilify impacted her ability to understand her medical condition. Lein's refusal to take medication to treat her hypothyroidism could cause long-term harm. Carlson also testified that Lein was not competent to make decisions on psychiatric medications because she had "somatic delusions and concerns about medications" and was not cooperative. In addition, Lein's statements that caused the apartment manager and responding police officers to believe that she was suicidal and her aggressive behavior with others when in a manic state made her a possible risk of harm to herself. Carlson opined that commitment was the least restrictive alternative to meet Lein's needs and protect her from harm.

A referee issued recommended orders (1) committing Lein as mentally ill to UMMC and to the Minnesota Commissioner of Human Services and (2) authorizing her treating physicians to administer certain psychiatric medications to her. The district court confirmed the orders. Lein appeals the confirmed orders.

D E C I S I O N

Our review of an involuntary civil commitment is limited to examining whether the district court complied with 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 will not reverse a district court's factual findings unless they are clearly erroneous, giving deference to the district court's credibility determinations. *Id.* But we review de novo whether the evidence is sufficient to support the district court's

determination that a person meets the standards for commitment. *In re Thulin*, 660 N.W.2d 140, 144 (Minn. Appl. 2003).

To civilly commit a person as “mentally ill,” the district court must find by clear and convincing evidence that the person meets the statutory criteria for commitment. Minn. Stat. § 253B.09, subd. 1 (a) (2018).

A “person who is mentally ill” means 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, which is manifested by instances of grossly disturbed behavior or faulty perceptions and poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment;

(2) an inability for reasons other than indigence to obtain necessary food, clothing, shelter, or medical care as a result of the impairment 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; [or]

(3) a recent attempt or threat to physically harm self or others[.]

Minn. Stat. § 253B.02, subd. 13(a) (2018).

Lein challenges the sufficiency of the evidence to show that she posed a substantial likelihood of harm to herself or others. Lein argues that her health concerns were not corroborated and the district court did not commit her for any failure to provide medical care. But medical evidence showed that Lein’s thyroid-stimulating hormone level was significantly elevated and that her refusal to take thyroid medication could result in long-term harm. Lein’s refusal to take the thyroid medication resulted from her delusional

beliefs about the effects of Abilify on her body. Lein also refused to take the full dose of psychiatric medications likely to stabilize her mental condition. This refusal was a result of her delusional beliefs about the effects of Abilify and other medications.

Lein objects to the district court's finding that "[t]he reporting party contacted police to report that [Lein] was possibly suicidal." Lein incorrectly asserts that no evidence was introduced on the reporting party's identity. The reporting party was identified in the police report and the party's name was contained in the hospital report and provided at the commitment hearing. Lein also objects to the finding as based on hearsay evidence. Minn. Stat. § 253B.08, subd. 7 (2018), permits the admission of relevant and reliable hearsay as evidence in civil commitment proceedings. *In re Civil Commitment of Williams*, 735 N.W.2d 727, 730-33 (Minn. App. 2007), *review denied* (Minn. Sept. 26, 2007); *see also* Minn. Spec. R. Commit. & Treat. Act 1(a), 15. Lein also argues that the "informant" who stated that Lein said she should not be around anymore and should flush herself down the toilet was not identified. The police report identifies the reporting party as the person who made this statement.

Lein argues that the evidence is insufficient to show that she was suicidal. It was unnecessary for the evidence to show that Lein was suicidal given her aggressive behavior toward the police and hospital staff. *See* Minn. Stat. § 253B.02, subd. 13(a) (requiring substantial likelihood of harm to self or others). Regarding Lein's interaction with police, the district court found that Lein's "agitated and aggressive behavior poses a danger to others, and also poses a risk to herself by possibly inciting violence in others." The district court noted that Lein "struggled with the police, despite the fact that the responding officers

appeared to be assisting her in transporting her to the hospital.” The court cited Carlson’s testimony that Lein experienced “periods of extreme agitation,” including a “dangerous interaction with the police.” Lein also behaved aggressively while hospitalized, describing herself as “decompensating” and “being more hostile, swearing at people I don’t even know.” Lein’s conduct leading up to and during her hospitalization created a threat of physical harm to herself and others.

Clear and convincing evidence supports the findings underlying the district court’s determination of a substantial likelihood of harm to self or others and its decision to commit Lein as mentally ill. See *In re Gonzalez*, 456 N.W.2d 724, 729 (Minn. App. 1990) (affirming commitment when, among other things, appellant posed “a likelihood of harm to himself by his conduct which may outrage others and result in attack on him”); *In re Martin*, 458 N.W.2d 700, 705 (Minn. App. 1990) (finding substantial likelihood of harm to self or others when appellant became threatening and was easily provoked, and his behavior would likely present a threat in the community).

Affirmed.