

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2115**

In the Matter of the Civil Commitment of:
Joseph Valentyn.

**Filed May 20, 2019
Affirmed
Rodenberg, Judge**

Steele County District Court
File No. 74-PR-18-856

Catherine Brown Furness, Owatonna, Minnesota (for appellant)

Daniel A. McIntosh, Steele County Attorney, Christy M. Hormann, Chief Deputy County Attorney, Owatonna, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Rodenberg, Judge; and Reilly, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant Joseph Valentyn appeals from the district court's order continuing his civil commitment as a mentally-ill person. He argues that the district court's findings are not supported by the record and do not meet the requirements of Minn. Stat. § 253B.12, subd. 4 (2018). We affirm.

FACTS

Appellant is a 35-year-old man who has been diagnosed with paranoid schizophrenia. Appellant has a history of civil commitments and hospitalizations dating back to 2006. In April 2018, appellant's parents took him to the Owatonna Hospital because appellant had become "increasingly delusional and paranoid over the previous week to the point where they [could] no longer handle him." Appellant's parents explained that appellant had called the FBI several times because he believed that the "Chinese were trying to get him." Appellant's mother reported that appellant was talking to himself and was on an internet chat room where people were telling him to kill himself. His mother also described that appellant would "sit on his bed for hours doing nothing" and would not eat or take care of his personal hygiene.

During this time, appellant had stopped taking risperidone (a neuroleptic medication prescribed for appellant) after a previous commitment and associated *Jarvis* order had expired.¹ Appellant had also stopped contact with all of his outpatient mental-health providers.

After being evaluated at the Owatonna Hospital, appellant agreed to transfer to St. Joseph's Hospital in St. Paul. While hospitalized, appellant often refused to take psychotropic medications, refused meals and showers, and neglected to care for his

¹ The terms 'neuroleptic,' 'major tranquilizer,' 'psychotropic,' and 'antipsychotic' are used interchangeably to describe a major class of drugs that effectuate a "sedation of the nervous system." *Jarvis v. Levine*, 418 N.W.2d 139, 140 n.1 (Minn. 1988).

personal hygiene. Hospital staff reported that appellant's failure to take medications had contributed to his acute psychosis and deterioration in functioning.

In May 2018, the Steele County Attorney petitioned for appellant's civil commitment. The district court held a preliminary hearing and appointed an examiner. Appellant was uncooperative with the court-appointed examiner, but the examiner spoke with a registered nurse and social worker concerning appellant's status; both described that appellant's thought process remained poor, he did not participate in treatment or group therapy, and he slept for most of each day. The examiner reviewed appellant's records, diagnosed appellant with paranoid schizophrenia, and recommended that he be civilly committed as a mentally-ill person.

The district court determined at the initial commitment hearing in May 2018 that appellant was mentally ill as defined in Minn. Stat. § 253B.02, subd. 13 (2018), and that appellant then met the statutory criteria for civil commitment. The district court committed appellant for a six-month period. Appellant did not appeal his initial commitment.

After his commitment, appellant received treatment at the Fergus Falls Community Behavioral Health Hospital. In July 2018, a social-work specialist, J.C., filed a treatment report in the district court. Included with the report was a treatment plan describing appellant's goals and progress. The plan indicated that appellant had made some progress, but also noted that appellant required a medication regimen to treat his symptoms, his thought processes remained "disorganized," and his "thought content [was] paranoid." The report recommended continuing appellant's mental-illness civil commitment.

In October 2018, J.C. filed another treatment report requesting that appellant's civil commitment be continued. The report detailed that appellant continued to display symptoms of his mental illness despite extensive hospitalization, and that appellant "expresses paranoia as well as persecutory and grandiose delusional thought content." The report also included that appellant "continues to state that he does not need to take psychiatric medications and reports that he feels that he does not have any type of mental illness." Appellant had "declined all group programming since his admission."

The district court held a commitment-review hearing in November 2018. The treatment reports, appellant's medical records, and the testimony of Dr. Rambeau (appellant's treating psychiatrist) were received into evidence.

Dr. Rambeau testified that appellant has "expressed paranoia, as well as what are called persecutory, so primarily paranoid, delusional beliefs." She testified that appellant's thoughts are organized at times, but at other times, his thoughts become disorganized and tangential. She further testified that she has not been able to fully assess appellant's progress because he has not been willing to engage in discussion with her. She also stated that she was concerned that appellant, if discharged, would fail to provide himself with his basic needs of food, clothing, shelter, and medical care. She opined that extending appellant's commitment would give him additional time for his symptoms to improve or to maintain a stable pattern and that the additional time would allow her to make a recommendation concerning outpatient treatment.

Appellant did not testify, but served as co-counsel. He argued that his commitment was improper and that he should not be punished for doing his federally required duty of

reporting death threats to the FBI. He argued that he has been suffering from physical torture and that the neuroleptic drugs have caused him heart damage and caused his weight to triple.

In summation, appellant explained that his only health problem is that he has been forced to take risperidone, “the number five most deadly drug in the entire world.” He also claimed that his confinement is “fascism” and that “this infringement of fascism clearly opposite not Freudians fly-by-night wheeling and dealing but western ethics and morals, flushed out in the federal code of law in the spirit of Jesus Christ and Socrates and the rest of Christianity and western philosophy.” He stated that he reported the death threats to the FBI because he “rightly followed federal law and reported a Turkish-born militant, or who claims to be, who incited assassinating the present President of the United States of America 73,000 times or so.”

The district court made findings of fact on the record at the conclusion of the hearing and found that appellant continues to be mentally ill. After the hearing, in a written order, the district court continued appellant’s civil commitment—and continued the *Jarvis* order authorizing the treatment of neuroleptic medications—for twelve months.²

This appeal followed.

² In briefing to this court, appellant states that the “order being appealed is the findings and order granting continued commitment and a Jarvis Order.” Appellant does not argue, however, that the district court erred by continuing the *Jarvis* order, and he cites to no legal authority on that point. We therefore do not review the *Jarvis* order. See *Fannie Mae v. Heather Apartments Ltd.*, 811 N.W.2d 596, 600 n.2 (Minn. 2012) (“[s]ummary arguments made without citation to legal support are waived”).

DECISION

I. The district court's findings are supported by the record and meet the statutory requirements under Minn. Stat. § 253B.12 (2018).

Appellant argues that the district court's findings are not supported by clear and convincing evidence and that the district court's findings are insufficient to support his continued commitment.

When reviewing a district court's order continuing a mental-illness civil commitment, we are limited to an examination of the district court's compliance with the statute, and the commitment must be justified by findings based on evidence at the hearing. *In re Thulin*, 660 N.W.2d 140, 144 (Minn. App. 2003). Findings of fact, whether based on oral or documentary evidence, will not be set aside unless they are clearly erroneous, and appellate courts defer to the district court's credibility determinations. *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995). "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.

In order to civilly commit a person, the district court must find that there is clear and convincing evidence that a person is mentally ill. Minn. Stat. § 253B.09 (2018); *In re Civil Commitment of Janckila*, 657 N.W.2d 899, 902 (Minn. App. 2003). A person must meet the definition as set forth in Minn. Stat. § 253B.02, subd. 13(a), to be mentally ill. The definition requires that the person poses a substantial likelihood of physical harm to self or others, as demonstrated by, among other ways, a recent attempt or threat to harm self or others. Minn. Stat. § 253B.02, subd. 13(a). A district court may continue an

involuntary commitment beyond six months under a less-stringent standard than an initial commitment. Minn. Stat. § 253B.12, subd. 4. To continue a commitment, a district court must find “by clear and convincing evidence that (1) the person continues to be mentally ill, developmentally disabled, or chemically dependent; (2) involuntary commitment is necessary for the protection of the patient or others; and (3) there is no alternative to involuntary commitment.” Minn. Stat. § 253B.12, subd. 4.

In determining whether a person continues to be mentally ill at a hearing under section 253B.12, the district court need not find that there has been a recent attempt or threat to physically harm self or others, or a recent failure to provide necessary personal food, clothing, shelter, or medical care. *Id.* “Instead, the court must find that the patient is likely to attempt to physically harm self or others, or fail to provide necessary personal food, clothing, shelter or medical care unless involuntary commitment is continued.” *Id.*

Appellant first argues that the district court should not have relied on the social-work specialist’s report because it does not meet the statutory requirements in Minn. Stat. § 253B.12, subd. 1(b). Appellant’s challenge is to a portion of the report which states:

In the past, [appellant’s] symptoms have caused him to present a significant threat of serious harm or danger to himself and others and they have interfered with his ability to adequately meet his personal living needs. He has a history of threatening to kill his parents and threatened to harm hospital staff.

The report addresses, among other things, appellant’s history of threats. It was therefore properly admitted as evidence at the hearing, and the district court did not err in relying on information in the report. The history recited in the report is relevant to the issues before the court under section 253B.12, subdivision. 4.

Appellant argues that the district court's findings of fact are conclusory and do not provide an adequate basis for a determination that appellant continues to be mentally ill because he does not pose a danger to himself or others. Appellant's argument, however, would require that we import the definition of mentally-ill person in Minn. Stat. § 253B.02, subd. 13(a), into a continued-commitment hearing. The initial-commitment statute requires a finding that a person "poses a substantial likelihood of physical harm to self or others." Minn. Stat. § 253B.02, subd. 13(a). In contrast, in determining whether a person continues to be mentally ill under section 253B.12, the district court need only find that the patient is "likely to attempt to physically harm self or others, or to fail to provide necessary personal food, clothing, shelter, or medical care unless involuntary commitment is continued." Minn. Stat. § 253B.12, subd. 4.

The district court made adequate findings, based on the evidence presented at the hearing, to support the continued commitment under Minn. Stat. § 253B.12, subd. 4. Dr. Rambeau testified that appellant continues to be mentally ill and that his symptoms include paranoia, delusional beliefs, and disorganized thoughts. Similarly, the social-work specialist's report details that appellant continues to display symptoms of his mental illness and that appellant expresses "paranoia as well as persecutory and grandiose delusional thought content." The district court determined that appellant "still suffers from [s]chizophrenia," that his thought process is "circumstantial to tangential," and that he "expresses paranoia as well as persecutory and grandiose delusional thought content." In addition to the other evidence at the hearing, appellant's own statements at the hearing provided further indication of his disorganized thinking.

In making the determination that appellant continues to be mentally ill, the district court also found that appellant is likely to attempt physical harm to himself or fail to provide necessary food, clothing, shelter, or medical care unless commitment is continued. Dr. Rambeau opined that “when [appellant] is isolating and is making statements that people want to hurt him and then is not eating, that . . . can actually impair his safety and interact[ions] with other people.” Although appellant has never attempted to kill himself or harm others, Dr. Rambeau testified that appellant’s condition affects his ability to recognize reality, especially when he “feels that people are after him.” Similarly, the social worker’s report included that appellant believes that he is neither mentally ill nor in need of medication. The report also noted that, in the past, appellant has threatened to kill his parents and to harm hospital staff.

The record supports the district court’s finding that, if discharged, appellant would likely stop taking his medication and regress into a worse psychological state and that, as a result, he would be likely to attempt physical harm to himself, or fail to provide for his necessary food, clothing, shelter, or medical care.

Appellant further argues that there is no evidence that he has ever failed to obtain necessary food, clothing, shelter, and medication and that the statute does not require that appellant obtain food, clothing, shelter, and medical care on his own. Appellant analogizes this case to *In re McGaughey*, 536 N.W.2d 621 (Minn. 1995), arguing that the district court’s findings are based on speculation.

Appellant’s analogy is inapt. The challenge in *McGaughey* was to an initial commitment—not to a continued commitment. 536 N.W.2d at 623. There, the supreme

court concluded that the district court's findings were insufficient under the statutory criteria in part because nothing in the record indicated that McGaughey had failed to obtain necessary food, clothing, shelter, or medical care, or that McGaughey would refuse to take his medications outside a hospital environment. *Id.* at 624. The supreme court determined that the record did not support that McGaughey posed a substantial likelihood of physical harm to himself or others because McGaughey's case manager's testimony "was entirely based on unsupported speculation." *Id.*

Unlike in *McGaughey*, the district court here only needed to find that appellant was likely to attempt physical harm, not that appellant posed a substantial likelihood of physical harm. Minn. Stat. § 253B.12, subd. 4. And, the district court's findings here are not based on speculation. The findings are based on evidence presented at the hearing.

On this point, appellant further asserts that Dr. Rambeau's use of the word "concern" during her trial testimony does not support the finding that appellant is "likely" to attempt physical harm to himself or others or fail to provide for himself.

Statutory interpretation presents a question of law that is reviewed de novo. *Caldas v. Affordable Granite & Stone, Inc.*, 820 N.W.2d 826, 836 (Minn. 2012). The object of statutory interpretation is to ascertain and effectuate the intention of the legislative body. Minn. Stat. § 645.16 (2018). "If the language of the statute is clear and free from ambiguity, the court's role is to enforce the language of the statute and not explore the spirit or purpose of the law." *Caldas*, 820 N.W.2d at 836. If the language of the statute is unambiguous, we apply its plain meaning. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716-17 (Minn. 2014).

As discussed, in determining whether a person continues to be mentally ill, “the court need not find that there has been a recent attempt or threat to physically harm self or others, or a recent failure to provide necessary personal food, clothing, shelter, or medical care.” Minn. Stat. § 253B.12, subd. 4. “Instead, the court must find that the patient is likely to attempt to physically harm self or others or fail to provide necessary personal food, clothing, shelter, or medical care unless voluntary commitment is continued.” *Id.* Because the statute does not define “likely” we look to its plain meaning. In this context, likely means, “[p]ossessing or displaying the qualities or characteristics that make something probable.” *The American Heritage Dictionary of the English Language* 1042 (5th ed. 2011). It also means, “[w]ithin the realm of credibility; plausible.” *Id.*

Under the plain language of the statute, the district court was not required to find that appellant would commit harm to self or others—the district court only needed to find that it was “likely.” It so found. And, as addressed above, the district court’s findings are supported by the record, which reflects that the district court considered not only Dr. Rambeau’s testimony that she was concerned appellant would not be able to provide for his basic needs, but also other record evidence, including that appellant refuses to take his medications and then decompensates, that appellant fails to provide for himself, and that appellant has made threats against his parents and medical staff.

Appellant argues that we should define “likely” in this context by importing the definition of “highly likely” used in the sexually dangerous person (SDP) statute. *See* Minn. Stat. § 253D.02, subd. 16 (2018) (defining SDP as a person who among other things, is likely to engage in acts of harmful sexual conduct). We decline to do so. The supreme

court has held that the term “likely” as used in the determination of whether a person is likely to engage in acts of harmful sexual conduct, means “highly likely.” *In re Civil Commitment of Ince*, 847 N.W.2d 13, 16 (Minn. 2014).³ But that definition has not been applied to mental-illness civil commitments, and it is not our role to supply words that the legislature did not include. *See Ullom v. Indep. Sch. Dist. No. 112*, 515 N.W.2d 615, 617 (Minn. App. 1994) (stating that courts cannot add to a statute what the legislature purposely omits or inadvertently overlooks).

II. Although the district court’s order does not strictly comply with Minn. Stat. § 253B.12, subd. 7, the district court’s findings of fact and conclusions of law are sufficient when read in light of the entire record.

Appellant argues that the district court’s findings do not state the specific conduct that supports the district court’s final determination, and that the district court’s findings on less-restrictive alternatives do not meet the statutory requirements.

Where continued commitment is ordered, the findings of fact and conclusions of law “shall specifically state the conduct of the proposed patient which is the basis for the final determination, that the statutory criteria of commitment continue to be met, and that less restrictive alternatives have been considered and rejected by the court.” Minn. Stat. § 253B.12, subd. 7. And the district court shall state its reasons for rejecting each alternative. *Id.* In reviewing whether the least-restrictive program that can meet the

³ At the time *Ince* was decided, the sexually dangerous person statute was embodied in Minn. Stat. § 253B.02, subd. 18c(a) (2012). *See Ince*, 847 N.W.2d at 16. In 2013, the statutes were reorganized to further distinguish and clarify law regarding civil commitment of sexually dangerous persons and persons with sexual psychopathic personalities from other civil commitments. 2013 Minn. Laws. ch. 49, §§ 2, at 210; 10, at 226; 22, at 229.

patient's needs has been chosen, we will not reverse a district court's findings unless clearly erroneous. *In re Kellor*, 520 N.W.2d 9, 12 (Minn. App. 1994), *review denied* (Minn. Sept. 28, 1994).

The district court's findings on less-restrictive alternatives are less-detailed than would be ideal. The written order states that "[l]ess restrictive alternatives have been considered and there is no reasonable available alternative." We read the statement in light of the entire record. At trial, Dr. Rambeau testified that a lesser-level of care would not be appropriate because, in speaking with appellant's mother, she has made the statement that "he does take his medications while under commitment, but as soon as the commitment is over that he stops his medications and starts to decompensate." The social-work specialist's treatment report also discussed that no discharge date had been set and no step-down living situation had been determined because, for the most part, appellant refused to meet with service providers and was not cooperative.

The district court, in its oral findings following the hearing, stated that appellant's commitment "seems to be the least restrictive care" and that "a step-down program [would not] be appropriate because of the medication monitoring that has to occur here, and really the lack of cooperation and follow-up at, really, any treatment plan besides taking the medications here."

Despite the written order not specifying which alternatives the district court considered, the entirety of the record, including the district court's oral findings on the record, demonstrates that the district court carefully analyzed less-restrictive alternatives and gave individualized reasons for rejecting those alternatives. It specifically noted that,

if not committed, appellant would stop taking medication and decompensate. And the record adequately supports the district court's ultimate determination. *In re Miner*, 424 N.W.2d 810, 814-15 (Minn. App. 1988) (stating court did not make a specific finding that security hospital was the least restrictive available alternative, but its choice was supported by statement that if Miner was not receiving treatment in a secure setting, his symptoms would become more florid and there would be a possibility that other members of the "conspiracy" would be at risk), *review denied* (Minn. Jul. 28, 1988). Accordingly, the district court properly concluded that no less-restrictive alternative would be appropriate here.

Moreover, in accordance with Minn. Stat. § 253B.12, subd. 7, the district court's findings of fact and conclusions of law, although brief, specifically identify the conduct that was the basis for the district court's final determination. After the hearing, the district court explained which evidence it was relying on to make its determination. And the district court, in its written order, again noted the specific conduct. The district court's order states that appellant "continues to suffer from [s]chizophrenia" and that "[h]is thought process is circumstantial to tangential. He expresses paranoia as well as persecutory and grandiose delusional thought content. His insight and judgment remain poor."

The district court also credited the testimony of Dr. Rambeau that appellant "has paranoid delusional beliefs," that he "believes treatment providers are out to harm him or kill him," and that appellant "believes he is hiding from the FBI and that the FBI is recording him." The order also notes that appellant "does not believe he has a mental

illness and does not need medication.” And while appellant did not testify at the hearing, the district court had an opportunity to see and listen to appellant.

Given the recommendations to the district court from appellant’s social worker and psychiatrist, as well as appellant’s medical records, and appellant’s own statements during the hearing, we conclude that the district court sufficiently complied with the requirements of Minn. Stat. § 253B.12 and therefore did not err in continuing appellant’s mental-illness civil commitment.

Affirmed.