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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2118**

In the Matter of the Civil Commitment of:
Karl Leonard Meyer.

**Filed May 20, 2019
Affirmed
Cleary, Chief Judge**

Hennepin County District Court
File No. 27-MH-PR-18-1171

Mark Gray, Minneapolis, Minnesota (for appellant Karl Leonard Meyer)

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Considered and decided by Cleary, Chief Judge; Ross, Judge; and Johnson, Judge.

UNPUBLISHED OPINION

CLEARY, Chief Judge

On appeal from his commitment as mentally ill, appellant Karl Leonard Meyer argues that the district court erred in (1) admitting hearsay evidence, (2) finding that Meyer had made threats against government figures, and (3) concluding that Meyer poses a substantial likelihood of physical harm to himself or others as shown by a recent attempt or threat to harm others. We affirm.

FACTS

Meyer has schizoaffective disorder and had multiple previous civil commitments. One commitment came in 2009 after Meyer was found incompetent to stand trial when faced with charges of internet or computer solicitation of children and attempted burglary. The state brought these charges after Meyer described sexual conduct, prostitution, and masturbation to a 13-year-old girl and violated a harassment restraining order. After being recommitted several times, Meyer was released in 2012.

In 2014, Meyer began to harass S.K. by showing up at his office with gifts, sending him emails, and leaving voicemails. Meyer believes that S.K. is a biblical prophet and asked him to share Meyer's story with President Obama. Despite being told that he was trespassing and that if he returned he would be arrested, Meyer continued to show up at S.K.'s office. S.K. eventually obtained a harassment restraining order against Meyer.

Meyer was again committed as mentally ill in 2015. Starting in July 2017, Meyer resided in Birchwood Home Care where he received nursing services. Although his doctors supported continued commitment, a pre-petition screening suggested that Meyer was stable. As a result, the county did not seek recommitment, and in October 2017, Meyer's commitment ended. Meyer continued to live at Birchwood for several months after his commitment expired, but he expressed that he was not mentally ill and refused to take psychoactive medications.

Meyer's medical records reflect that, throughout his stay at Birchwood, Meyer maintained an ongoing, fixed delusion about wanting to fight the police and raise a militia

to fight the government over his displeasure with the Fourteenth Amendment.¹ The Birchwood records show that Meyer has a history of planning to solicit funds online in order to purchase specialized weapons and recruit others to help him “shoot up City Hall” to protest forcing children to attend school. He has stated that he “has the right to a machine gun” and wants “to get a machine gun and use it upon the Minneapolis Police Department.” Meyer left Birchwood at the end of February 2018.

In early July 2018, Meyer contacted S.K. again by posting a document on his Facebook timeline and sending a document by facsimile. Meyer also emailed S.K. to ask if he could meet S.K. at his office and later sent a follow-up email. S.K. applied for a second restraining order and in his affidavit, S.K. stated that Meyer made a threatening reference to the prior restraining order in the first email and the second email allegedly frightened and intimidated S.K.

Also in early July, Meyer applied for a permit to purchase a firearm. The Edina Police Department denied his petition, stating that Meyer needed to provide additional documentation showing that his civil commitments did not bar him from purchasing a handgun. Approximately two months later, Meyer wrote a letter to the Edina Chief of Police in response stating, “When the time comes to bear arms in defense of our mutual liberty . . . maybe as soon as now . . . I will be provided with a suitable weapon by one of my compatriots.” (Ellipses in original.)

¹ The record also indicates that Meyer takes issue with the Fourth Amendment.

In September, Meyer saw a picture of E.H., a 12-year-old girl, in the newspaper after she won a sporting event. Meyer testified that, through his organization, the Inalienable Rights Coalition, he wished to honor E.H. and a boy featured in the paper for their achievements. Meyer founded the Inalienable Rights Coalition to spread his belief that he has the right to be free from compelled school attendance. Meyer asserted that honoring E.H. and the boy would help improve relations between the Inalienable Rights Coalition and the public. Meyer manufactured an award with E.H.'s picture on it and received a donation card from a local sporting goods store. He then went to E.H.'s school to present the award. School staff informed Meyer that he could not present the award to E.H. without her parents present but that they may come to pick her up and if he waited, he could present the award when they arrived. Meyer testified that he was on a schedule, gave the award to the staff, and left.

Later that month, staff at Community Outreach for Psychiatric Emergencies (COPE) met with Meyer to evaluate him. COPE responders made contact with Meyer and transported him to Hennepin County Medical Center (HCMC) without incident. HCMC staff determined that he needed treatment and should be committed to a treatment facility. On October 1, a social worker at HCMC petitioned for the judicial commitment of Meyer. One of Meyer's doctors at HCMC also requested authorization to impose treatment because of Meyer's "incompetency to make a rational decision regarding the proposed treatment."

The district court appointed Dr. Kathryn Jameson as the examiner, and she interviewed Meyer on October 8. In her report to the court, Dr. Jameson stated her opinion

that civil commitment was necessary because of Meyer's mental illness. She also stated that Meyer had made a recent attempt or threat to physically harm himself or others based on his recent efforts to present E.H. with an award and his history of inappropriate contact with minors. Dr. Jameson also discussed Meyer's attempt to purchase a gun and his previous threats against law enforcement. When Dr. Jameson asked Meyer why he had applied for a permit to purchase a gun, Meyer stated that he is a "commenter on social media" and remarks on "controversial topics" so it is "prudent for me to own a gun in case I was tracked and assaulted by a fanatic."

The district court held a hearing on October 11, at which E.H.'s parents, Meyer, and Dr. Jameson testified. Dr. Jameson's testimony repeated much of what was in her report. Dr. Jameson also testified that Meyer poses a substantial threat of continuing to harass S.K. and to have inappropriate contact with a minor. The district court admitted eight exhibits without objection, and three over Meyer's objection to their relevance.

After trial, Meyer left a voicemail with the Hennepin County Attorney's Office, stating that he had a message for E.H.'s father: "[D]ear [M.H.]. Having been now described as, quote, fixated, unquote, upon [E.H.]. I will attempt to live up to that description and learn more about you." The petitioner moved to reopen the record, and the district court admitted the voicemail into evidence over Meyer's objection. The district court also admitted additional medical records without objection. The district court found by clear and convincing evidence that Meyer is mentally ill and there is no suitable alternative to judicial commitment.

DECISION

If a district court finds by clear and convincing evidence that a proposed patient is mentally ill and that there is no suitable alternative to judicial commitment, the court shall civilly commit the patient. Minn. Stat. § 253B.09, subd. 1(a) (2018). “A person who is mentally ill” is defined to include a person who has

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:

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

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

The district court found that Meyer has “schizoaffective disorder, a substantial psychiatric disorder of his thought, mood, perception, and orientation, grossly impairing his judgment, behavior, capacity to recognize reality, and capacity to reason or understand.” Meyer does not challenge this finding. Instead, Meyer argues that the district court erred in (1) admitting hearsay evidence, (2) finding that Meyer had made threats against government figures, and (3) concluding that Meyer poses a substantial likelihood of physical harm to himself or others. We address the arguments in turn.

Meyer first challenges the district court’s decision to admit exhibits containing hearsay statements into evidence. The Minnesota Rules of Evidence do not strictly apply at a civil commitment hearing. *See In re Civil Commitment of Williams*, 735 N.W.2d 727,

730-31 (Minn. App. 2007) (explaining that at civil commitment hearings, the district court must determine relevancy in accordance with the rules of evidence, but need not apply the other rules of evidence), *review denied* (Minn. Sept. 26, 2007). Instead, the Commitment and Treatment Act Rules apply to civil commitments. Minn. Spec. R. Commit. & Treat. Act 1(a). Rule 15 provides that the district court “may admit all relevant, reliable evidence, including but not limited to the respondent’s medical records, without requiring foundation witnesses.” Minn. Spec. R. Commit. & Treat. Act 15; *see also* Minn. Stat. § 253B.08, subd. 7 (2018) (“The [district] court shall admit all relevant evidence at the hearing.”). The district court may therefore admit hearsay if the court determines the evidence is reliable and relevant. *Williams*, 735 N.W.2d at 730-31. The district court’s decision to admit evidence is reviewed for an abuse of discretion. *In re Civil Commitment of Spicer*, 853 N.W.2d 803, 813 (Minn. App. 2014).

Meyer appears to argue that the district court abused its discretion by admitting unreliable hearsay. But Meyer did not present this argument to the district court. An appellate court generally will not consider matters not argued to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). “Nor may a party obtain review by raising the same general issue litigated below but under a different theory.” *Id.* Meyer did not object to the admissibility of any exhibits on reliability grounds. As a result, Meyer’s argument is forfeited. Even considering the merits of the argument, the district court relied on the exhibits, implicitly finding them to be reliable. Meyer fails to explain why this finding was an abuse of discretion.

Meyer further challenges the district court’s factual findings that Meyer had made threats toward governmental figures and that Meyer has a fixed delusion about wanting to fight the police. When reviewing a district court’s findings of fact in a civil commitment, we view the record in the light most favorable to the findings and apply a clear-error standard of review. *Spicer*, 853 N.W.2d at 807.

The record supports the district court’s findings that Meyer has a fixed delusion about wanting to fight the police and he had made previous threats toward governmental figures and law enforcement. The Birchwood records show that Meyer has a history of making statements indicating his desire to fight the police. These records also state that Meyer has a “fixed perception . . . that he has the right to raise a militia to fight against the government regarding his displeasure with the [Fourteenth Amendment].” Meyer’s belief that he has the right to raise a militia, his displeasure with the Fourteenth Amendment, and his desire to fight the police appear throughout the record. The Birchwood notes also reflect that Meyer tried to acquire guns and recruit nine other people to “shoot up City Hall” to protest forcing children to go to school. He also stated he wants to get a machine gun and use it on the Minneapolis Police Department. Meyer’s COPE records also reveal that he made threats toward law enforcement. Meyer offered no evidence to rebut these claims or deny that he made these statements. Viewing the record in the light most favorable to the district court’s decision, we hold that these findings are not clearly erroneous.

Finally, Meyer argues that the district court’s findings of fact do not support a conclusion that he poses a substantial likelihood of physical harm to himself or others as

shown by a recent attempt or threat to physically harm himself or others. Whether the facts found by the district court satisfy the statutory criteria for commitment is a question of law which we review de novo. *In re Civil Commitment of Janckila*, 657 N.W.2d 899, 902 (Minn. App. 2003). The district court found that Meyer poses a substantial likelihood of physical harm to self or others based on his attempt to acquire a gun coupled with his previous threats toward the police, his threatening behavior toward S.K., and his fixation on and attempt to contact E.H. When deciding whether a person poses a risk of physical harm to self or others, the district court need not wait until someone is actually harmed, so long as the danger of the person's condition has become evident. *In re Terra*, 412 N.W.2d 325, 328 (Minn. App. 1987).

Meyer's argument is twofold. First, he argues that the district court erred by considering incidents that are not recent. And second, that his recent actions are not attempts or threats to physically harm others showing that he poses a substantial likelihood of physical harm to others. At oral argument to this court, both parties agreed that Meyer's actions within the past year were recent actions. Assuming, without deciding, that Meyer's actions within a year of the commitment hearing are "recent," we conclude that the district court did not err in finding that Meyer poses a substantial likelihood of physical harm to others.

Meyer's Birchwood records from October 2017 until his release in February 2018 consistently maintain that he has a fixed delusion about wanting to fight the police and the government over the Fourteenth Amendment. These notes include Meyer's statements that he has the right to own a machine gun, and in January 2018, staff at Birchwood noted that

Meyer threatened to “shoot up” City Hall and use a machine gun on the Minneapolis Police Department. Meyer moved out of Birchwood at the end of February, and by July, he was seeking to purchase a gun. Two months after his application to purchase a handgun was denied, Meyer sent a letter to the Edina Police Department, stating that now may be the time to bear arms and that his compatriots will provide him with a weapon. These threats of violence against the government, combined with Meyer’s determination and recent attempts to obtain a firearm, demonstrate that the district court did not err in ruling that Meyer poses a substantial likelihood of physical harm to others.

Affirmed.