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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A19-1038**

In the Matter of the Civil Commitment of: William Lee Erickson.

**Filed March 23, 2020  
Affirmed  
Hooten, Judge**

Otter Tail County District Court  
File No. 56-PR-17-686

William Lee Erickson, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Angela Helseth Kiese, Assistant Attorney General, St. Paul, Minnesota; and

Michelle Eldien, Otter Tail County Attorney, Danielle Baan Hofman, Assistant County Attorney, Fergus Falls, Minnesota (for respondent)

Considered and decided by Hooten, Presiding Judge; Connolly, Judge; and Reilly, Judge.

**UNPUBLISHED OPINION**

**HOOTEN**, Judge

On appeal from the district court's order denying appellant's motion to withdraw his stipulation to an indeterminate commitment as a sexually dangerous person and to vacate his judgment of commitment, appellant argues that: (1) he should have been allowed to withdraw his stipulation because he was not adequately informed by his attorney; (2) his

attorney gave him ineffective assistance of counsel; and (3) his stipulation did not satisfy the requirements of a criminal plea agreement and, therefore, is defective. We affirm.

### FACTS

In 2017, the state petitioned for the civil commitment of appellant William Lee Erickson as a sexually dangerous person and sexually psychopathic personality. The state based its petition on Erickson's history of harmful sexual conduct, as exhibited by the following events.

In 1995, Erickson sexually assaulted a thirteen-year-old girl and was charged with four counts of third-degree criminal sexual conduct. Erickson admitted that he had sexual intercourse with the victim and pleaded guilty to one count of third-degree criminal sexual conduct. Erickson was placed on probation for 10 years.

In 1996, Erickson violated probation after he was charged with felony telecommunication fraud for making long distance calls to sexual pay-per-call phone numbers. Erickson placed some of the calls from jail.

In 2001, Erickson sexually assaulted a 16-year-old coworker twice. The state charged Erickson with fifth-degree criminal sexual conduct, and Erickson entered an *Alford*<sup>1</sup> plea to the offense. Erickson was placed on probation for two years. In 2002, Erickson was convicted of failing to register as a predatory offender.

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<sup>1</sup> When a defendant enters an *Alford* plea, he maintains his innocence but admits that the state possesses sufficient evidence for a jury to find him guilty at trial. See *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007) (citing *North Carolina v. Alford*, 400 U.S. 25, 38, 91 S. Ct. 160, 168 (1970)).

In 2012, Erickson's 12-year-old stepdaughter reported that Erickson had attempted to have sex with her. Erickson's wife obtained an order for protection (OFP) against him. After violating the OFP on several occasions, Erickson was charged with violating the OFP and pleaded guilty.

Erickson eventually pleaded guilty to fifth-degree criminal sexual conduct regarding the sexual assault of his stepdaughter. He was placed on probation for five years. Erickson's probation agent filed a violation report after Erickson had unsupervised contact with minors, was terminated from sex offender treatment, changed his residence without permission, and failed to remain law abiding. Erickson's wife also reported that she sustained injuries from Erickson's sexual behavior and that Erickson would continue to engage in sexual behavior with her even after she begged him to stop.

The state also alleged that Erickson engaged in other criminal sexual behavior and harassment since 1995, which had not been charged.

Following the state's petition, Erickson appeared for a commitment hearing. After testifying at length, Erickson conferred with his counsel and decided to stipulate to an indeterminate commitment as a sexually dangerous person. The district court accepted the stipulation and ordered Erickson to be civilly committed.

The following year, Erickson moved to withdraw his stipulation. He argued that his stipulation was not made voluntarily, knowingly, and intelligently, asserting that his counsel was ineffective for several reasons, including that his counsel had been recently charged for the possession and sale of drugs. The district court appointed special counsel to represent Erickson in his motion to withdraw his stipulation.

At the motion hearing, Erickson argued that his prior counsel's admitted drug use resulted in his ineffective representation of him. Following the hearing, the district court denied Erickson's motion to withdraw his stipulation, but reserved his claim of ineffective assistance of counsel with the instruction that Erickson was required to submit an amended motion and affidavit in support of his claim. The district court ordered Erickson to provide "at least *some* specifically-articulated extrinsic evidence" regarding how his counsel's drug use affected his representation of Erickson. Erickson filed an amended motion with the district court but did not file an affidavit discussing the drug use. In its order, the district court found that Erickson did not address the specific issues that the district court left open for him to address and instead raised new issues that were "entirely counter to the record." The district court therefore denied Erickson's motion.

Erickson appeals.

## **D E C I S I O N**

### **I. The district court did not abuse its discretion by denying Erickson's motion to withdraw his stipulation to be civilly committed.**

Erickson argues that the district court abused its discretion by denying his motion to withdraw his stipulation because he received ineffective assistance of counsel as his attorney told him that he would be committed for only three to four years.

A civil commitment stipulation, as any other civil stipulation, cannot be withdrawn by one party without the consent of the other party, "except by leave of the court for cause shown." *In re Commitment of Rannow*, 749 N.W.2d 393, 396 (Minn. App. 2008), *review denied* (Minn. Aug. 5, 2008). A district court has wide discretion in vacating a stipulation,

and this court will not reverse its decision “absent a showing that the court acted so arbitrarily as to constitute an abuse of that discretion.” *Anderson v. Anderson*, 225 N.W.2d 837, 840 (Minn. 1975). “A stipulation may be vacated when it was made improvidently and in good conscience and equity should not stand.” *Rannow*, 749 N.W.2d at 396. “Stipulations are therefore accorded the sanctity of binding contracts.” *Shirk v. Shirk*, 561 N.W.2d 519, 521 (Minn. 1997). Thus, stipulations made under fraud or duress and “that prejudice the defrauded or coerced party” are unenforceable. *Toughill v. Toughill*, 609 N.W.2d 634, 639 (Minn. App. 2000).

Erickson asserts that he would not have entered the stipulation but for counsel’s promise that he would be committed to the Minnesota Sex Offender Program (MSOP) for only three to four years, although the commitment stipulation was for an indeterminate period of time. Therefore, he argues that his civil-commitment stipulation is an unenforceable contract based on fraud or duress.

The district court ruled that because Erickson testified before the district court that he had not received any promises for entering the stipulation and had acknowledged that no one knew the length of time his commitment would last and that it could last a long time, Erickson did not allege facts sufficient to prove fraud or duress and thus vacate the stipulation.

When a person has “a sound, rational basis for entering into [a] stipulation, and the record lacks any evidence of fraud or duress that influenced [that person],” a district court properly concludes that the person made the stipulation knowingly and voluntarily. *Rannow*, 749 N.W.2d at 399. In *Rannow*, this court determined that the district court was

well within its discretion in refusing to vacate a civil-commitment stipulation because “the record lack[ed] any evidence of fraud or duress.” *Id.*

In the present case, the following exchange occurred between Erickson and his counsel at the stipulation hearing:

Q: And prior to entering the stipulation did anybody threaten you or make you any promises?

A: No.

Q: Do you understand that there is no way to predict how long this commitment will be?

A: Yes.

Q: In fact, because it’s indeterminate it could be short, but more likely it could be a very long time; do you understand that?

A: Yes.

Q: And that the only way to get out of this process right now is through a separate court proceeding where you prove that you’re no longer dangerous to society?

A: Yes.

Erickson also testified that he had no questions about what he was agreeing to in the stipulation and stated that he believed his counsel’s representation was sufficient.

Erickson also signed each page of the seven-page stipulation, which stated that Erickson “fully understand[s] the nature of these proceedings and the contents of the Petition” and “believe[s] that the Petitioner has enough evidence that, if it were presented to a judge, would most likely result in [him] being indeterminately committed as a ‘sexually dangerous person.’” The signed stipulation also states that Erickson “wish[es] to agree to indeterminate judicial commitment as a ‘sexually dangerous person.’”

Based on Erickson’s testimony before the district court and his signed stipulation, we hold that there is sufficient evidence to conclude that Erickson knowingly and voluntarily made the stipulation to be committed as a sexually dangerous person. Because

Erickson has failed to show that the district court abused its discretion in failing to grant his motion to vacate the stipulation, we affirm the district court’s denial of his motion.

**II. The district court did not abuse its discretion by denying Erickson’s ineffective-assistance-of-counsel claim.**

Erickson argues that his counsel was ineffective because his counsel told him that, if he stipulated to the commitment, his commitment would last only three to four years.

A person who is subject to civil-commitment proceedings has the right to be represented by counsel. Minn. Stat. § 253B.07, subd. 2c (2018). A person who is indeterminately committed as a sexually dangerous person may bring an ineffective-assistance-of-counsel claim under Minn. R. Civ. P. 60.02. We analyze ineffective-assistance-of-counsel claims in civil-commitment cases under the *Strickland* standard. *In re Civil Commitment of Johnson*, 931 N.W.2d 649, 657 (Minn. App. 2019). And we review these claims de novo. *Id.*

To succeed on an ineffective-assistance-of-counsel claim, *Strickland* requires a defendant to show that: (1) “counsel’s representation fell below an objective standard of reasonableness”; and (2) “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland v. Washington*, 466 U.S. 668, 669, 104 S. Ct. 2052, 2055 (1984).

We apply “a strong presumption that [an attorney’s] performance falls within the wide range of reasonably professional assistance.” *Johnson*, 931 N.W.2d at 657 (quotation omitted). “General assertions of error without evidentiary support are inadequate to establish ineffective assistance of counsel.” *Id.* If one of the *Strickland* prongs is

determinative, this court need not address the other. *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003).

*A. The district court did not err by finding that Erickson failed to show that his counsel's performance was unreasonable.*

Erickson offers no evidence to support his claim that his counsel told him he would be released from MSOP in three to four years. Rather, the record shows that Erickson entered into the stipulation of his own free will and that no one threatened or coerced him to obtain the stipulation. He also testified that no one made any promises in order to induce him to enter into the stipulation and that he understood that there was no way to predict how long his commitment would last. Erickson stated that his attorney's representation of him was sufficient and that he had enough time to discuss the issues with his attorney. Furthermore, Erickson signed the stipulation which reads:

My attorney has told me, and I understand that by stipulating to this commitment, I shall not be discharged unless it appears to the satisfaction of the Special Review Board, that I am capable of making an acceptable adjustment to open society, that I am no longer dangerous to the public, and that I am no longer in need of in-patient treatment and supervision . . . and that I have the right to review of that determination by a three judge panel . . . .

Through the stipulation, Erickson expressly acknowledged that he would be discharged only when he is no longer a danger to the public—which is contrary to a belief that he will be released in three to four years. This is consistent with his counsel's affidavit which states, "Because of the significant procedural difficulty in securing a release for persons committed to MSOP, it has also been my practice to specifically inform every client who stipulates to commitment that I have no idea when they will actually be



released.” Therefore, nothing in the record supports Erickson’s assertion that his counsel’s representation fell below an objectively reasonable standard.

Erickson also argues that his counsel’s representation was objectively unreasonable because of his counsel’s drug use. In both his brief to this court and his submissions to the district court, Erickson failed to state how his counsel’s drug use impacted his representation. And when the district court gave Erickson another opportunity to submit an amended motion about his counsel’s representation and drug use, Erickson failed to discuss the drug use and, instead, raised other unrelated issues. Indeed, his only assertion regarding drug use was that his attorney’s “ineffective counsel was likely caused by his addiction to drugs and alcohol.” Erickson has not alleged any facts sufficient to show that his representation fell below an objectively reasonable standard. *See State v. Nissalke*, 801 N.W.2d 82, 111 (Minn. 2011) (holding that Nissalke could not prove ineffective assistance of counsel because he did “not articulate with any specificity how” counsel’s drug use affected his representation). Therefore, the district court did not clearly err by finding that Erickson failed to show that his counsel’s performance was unreasonable.

*B. The district court did not err by finding that Erickson failed to show that, but for counsel’s alleged errors, he would not have entered into the stipulation.*

Although we need not address the second prong of *Strickland*, under the second prong, “the defendant must show that counsel’s errors ‘actually’ had an adverse effect in that but for the errors the result of the proceeding probably would have been different.” *Gates v. State*, 398 N.W.2d 558, 562 (Minn. 1987).

The district court concluded that Erickson failed to show that he would not have entered into the stipulation but for his counsel's ineffective assistance. Erickson does not specifically address how his counsel's alleged promise that he would be committed for only three to four years would have changed the outcome as Erickson testified at the time of the stipulation that he believed that there was enough evidence for a court to find that he is a sexually dangerous person and therefore wished to agree to an indeterminate commitment. Therefore, the district court did not err by finding that Erickson failed to show that he would not have entered into the stipulation but for the alleged misconduct.

Because Erickson has not shown that his counsel's performance fell below an objective standard of reasonableness and that he would not have stipulated to the commitment but for his counsel's alleged errors, we affirm the district court's dismissal of Erickson's ineffective-assistance-of-counsel claim.

*C. The district court did not abuse its discretion by failing to grant Erickson an evidentiary hearing.*

Erickson also argues that the district court should have held an evidentiary hearing before dismissing his ineffective-assistance-of-counsel claim. “[A]n evidentiary hearing is merely a procedural means by which a district court may determine whether a party is entitled to relief.” *In re Civil Commitment of Moen*, 837 N.W.2d 40, 47 (Minn. App. 2013), review denied (Minn. Oct. 15, 2013). “A petitioner is entitled to an evidentiary hearing only if a factual dispute is shown by the petition.” *Seifert v. Erickson*, 420 N.W.2d 917, 920 (Minn. App. 1988), review denied (Minn. May 18, 1988).

The district court considered whether to grant Erickson an evidentiary hearing. Concluding that an evidentiary hearing would likely invite questions of his counsel's drug use, the district court stated, "The Court is not willing to go down this rabbit hole unless and until it can be certain that such evidence would actually be necessary. That means providing at least *some* specifically-articulated extrinsic evidence that [counsel] provided ineffective representation to [Erickson] *in particular*." The district court invited Erickson to submit "an affidavit setting forth the evidence he has in his possession which he intends to submit at [a] hearing." Nevertheless, Erickson did not submit an affidavit setting forth such evidence and did not raise any issues related to his counsel's drug use in his amended motion. Because of this, the district court denied Erickson's claim of ineffective assistance of counsel without an evidentiary hearing.

Because the district court gave Erickson another opportunity to provide a factual basis for his claim, and Erickson failed to do so, the district court did not abuse its discretion by denying his claim without an evidentiary hearing.

### **III. The plea agreement standard in criminal proceedings does not apply to a civil-commitment stipulation.**

In the alternative, Erickson argues that the plea agreement standard in criminal proceedings applies to a civil-commitment stipulation.

We have previously addressed a similar argument in *Rannow*. In that case, Rannow argued that his civil-commitment stipulation should be treated as an *Alford* plea. 749 N.W.2d at 399. But we rejected the argument because "commitment proceedings and commitment laws are civil in nature." *Id.* at 396; *see also Kansas v. Hendricks*, 521 U.S.

346, 361–70, 117 S. Ct. 2072, 2082–85 (1997) (discussing Kansas’s civil-commitment law for sexually violent predators and holding that it does not constitute a criminal proceeding); *Specht v. Patterson*, 386 U.S. 605, 610 n.3, 87 S. Ct. 1209, 1212 n.3 (1967) (noting that a former version of the Minnesota psychopathic personality commitment law is not criminal in nature); *In re Linehan*, 594 N.W.2d 867, 871–72 (Minn. 1999) (following the holding of *Hendricks*).

Because a civil commitment is clearly not criminal in nature, the district court did not err by failing to apply the criminal standard for accepting a plea agreement when accepting the parties’ stipulation.

**Affirmed.**