

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0996**

In the Matter of the Civil Commitment of: Esteban Trevino.

**Filed January 19, 2021
Affirmed
Johnson, Judge**

Kandiyohi County District Court
File No. 34-PR-20-55

John E. Mack, New London Law, P.A., New London, Minnesota (for appellant Esteban Trevino)

Shane D. Baker, Kandiyohi County Attorney, Aaron P. Welch, Kristen E. Pierce, Assistant County Attorneys, Willmar, Minnesota (for respondent Kandiyohi County)

Considered and decided by Johnson, Presiding Judge; Tracy M. Smith, Judge; and Klaphake, Judge.*

NONPRECEDENTIAL OPINION

JOHNSON, Judge

The district court civilly re-committed Esteban Trevino to the custody of the commissioner of human services on the ground that he is mentally ill. The district court also authorized the involuntary administration of neuroleptic medications. On appeal, Trevino argues that he was denied his right to due process. We conclude that the district court provided Trevino with the process to which he was due. Therefore, we affirm.

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

FACTS

In 2018, Trevino was committed by the Washington County District Court to the custody of the commissioner of human services until July 5, 2019. The district court also authorized the involuntary administration of neuroleptic medications. In June 2019, Trevino was re-committed for an additional 12 months by the same court. The district court's second order again authorized the involuntary administration of neuroleptic medications.

This action was commenced on June 9, 2020, when Kandiyohi County petitioned the district court to re-commit Trevino. On the same date, Trevino's treating psychiatrist at the Anoka Metro Regional Treatment Center petitioned the district court for re-authorization to involuntarily administer neuroleptic medications. The district court promptly appointed an attorney to represent Trevino and appointed a licensed psychologist to examine Trevino and submit a written report to the court concerning his condition and the need for continued hospitalization.

The district court held an evidentiary hearing by videoconference on June 29, 2020. Trevino appeared and was represented by his court-appointed attorney. The county called the examiner as a witness and offered her report into evidence without objection. The examiner testified that she had reviewed Trevino's records and had attempted to arrange an evaluation but that he declined. The examiner testified that she diagnosed Trevino with "unspecified schizophrenia spectrum or other psychotic disorders." She testified that she recommended re-commitment, that it is the least restrictive treatment option, and that Trevino is not competent to consent to or refuse neuroleptic medications.

The county also called Trevino's treating psychiatrist, who testified about her petition for re-authorization to involuntarily administer neuroleptic medications. She testified that she diagnosed Trevino with "schizophrenia with a rule out for a trauma brain injury by history and then alcohol use disorder in a controlled setting." She testified that Trevino did not understand the benefits, risks, and alternatives to neuroleptic medications; that the benefits outweighed the risks; and that a reasonable person in Trevino's position would agree to take the proposed medications.

After the county rested its case, Trevino testified that he is not mentally ill and does not want to be re-committed. He also testified that he should not be required to take the medications that were being administered to him.

On the following day, the district court filed an order re-committing Trevino to the custody of the commissioner of human services for 12 months and re-authorizing the involuntary administration of neuroleptic medications. Trevino appeals.

DECISION

Trevino argues that the district court erred on the ground that "the process by which [he] was re-committed was rushed, perfunctory, and failed to provide him minimal due process." Specifically, he challenges the district court's use of a standardized form in preparing its order and, in a general way, the relatively quick and non-confrontational nature of the hearing.

A respondent in a civil commitment proceeding has numerous procedural rights as a matter of state statutory law. *See, e.g.*, Minn. Stat. § 253B.03 (2018). Such a person also has a right under the Due Process Clause of the Fourteenth Amendment to the United States

Constitution to not be confined because of a mental illness without due process, which ensures both that the person cannot be confined unless mentally ill and ““that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.”” *Lidberg v. Steffen*, 514 N.W.2d 779, 783 (Minn. 1994) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)); *see also Call v. Gomez*, 535 N.W.2d 312, 319 (Minn. 1995). In addition, if a petitioner seeks judicial authorization for the involuntary administration of neuroleptic medications to a committed person, detailed statutory procedures apply. *See* Minn. Stat. § 253B.092 (2018). Those statutory procedures vindicate the rights recognized by the supreme court as a matter of state constitutional law. *See In re Matter of Schmidt*, 443 N.W.2d 824, 826-30 (Minn. 1989) (citing Minn. Stat. § 253B.03, subd. 6a (1988) (replaced by Minn. Stat. § 253B.092)); *Jarvis v. Levine*, 418 N.W.2d 139, 147-49 (Minn. 1988).

Trevino’s appellate brief is devoid of any legal authority with which we might analyze his arguments. He makes one general reference to section 253B.03 of the Minnesota Statutes, which is entitled “Rights of Patients,” but he does not argue with particularity that any of the 11 subdivisions of that statute were violated. He does not cite any other statute or any judicial opinion as the legal basis of his argument for reversal. He does not invoke the well-known three-factor balancing test that often is used to analyze claims of a denial of procedural due process. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

We are disinclined to analyze specific arguments that have not been made or specific issues that have not been raised. *See In re Application of Olson for Payment of Servs.*, 648

N.W.2d 226, 228 (Minn. 2002). We will, however, respond to Trevino’s generalized due-process argument. We believe that the applicable law may be found in a supreme court opinion concerning a different but analogous issue: whether a mother’s right to due process was denied by the entry of a default judgment after she failed to appear for an evidentiary hearing on a petition to terminate her parental rights. In *In re Welfare of Children of Coats*, 633 N.W.2d 505 (Minn. 2001), the supreme court held that “a judgment will be held void for want of due process only where the circumstances surrounding the trial are such as to make it a sham and a pretense rather than a real judicial proceeding.” *Id.* at 512 (quotation omitted). The supreme court concluded in that case that there was no due-process violation because the district court received evidence on the merits of the petition, resolved the appropriate factual and legal issues, and “was focused on the welfare of” the persons affected by its decision. *Id.*

In this case, the district court received the testimony of the court-appointed examiner and Trevino’s treating psychiatrist as well as the testimony of Trevino himself. The record reveals that the district court listened attentively, occasionally interjecting to ask a follow-up question of a witness or to ask a witness to repeat an answer. The district court also considered the examiner’s report and other documents, including records of Trevino’s prior treatment. Trevino’s attorney cross-examined the examiner and presented a closing argument. Nothing in the record indicates that the district court limited any party’s ability to introduce any evidence or to make any argument. In short, the district court proceedings plainly were not “a sham and a pretense rather than a real judicial proceeding.” *See id.* (quotation omitted). Rather, the district court received evidence on the merits of the

petition, resolved the appropriate factual and legal issues, and “was focused on [Trevino’s] welfare.” *See id.* Thus, there was no violation of Trevino’s right to due process.

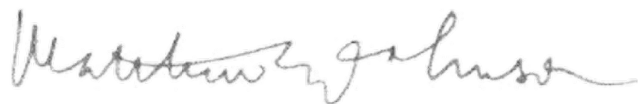
This conclusion is not undermined by the fact that the district court used a standardized form (which was developed and approved by the Minnesota Judicial Branch) as the outline of its five-page order. This court has held that the use of such a form may result in inadequate findings, if the form is used improperly. *See, e.g., In re Welfare of J.L.Y.*, 596 N.W.2d 692, 696 (Minn. App. 1999) (reversing and remanding due to inadequate findings); *In re Welfare of M.R.S.*, 400 N.W.2d 147, 151-52 (Minn. App. 1987) (same). But Trevino does not argue that the district court’s findings are inadequate. *See, e.g., In re Civil Commitment of Spicer*, 853 N.W.2d 803, 810-12 (Minn. App. 2014). Such an argument likely would fail because, in paragraph 5 of the order, the district court made relatively detailed narrative findings, which demonstrate the district court’s familiarity with the evidence and provide a factual basis for the district court’s conclusions of law.

Furthermore, to the extent that Trevino challenges the district court’s re-authorization of the involuntary administration of neuroleptic medications, his argument does not account for the fact that judicial approval of a physician’s recommended course of treatment need not be an extended, adversarial proceeding in every case. In *Jarvis*, the supreme court noted that, if a treating physician’s treatment plan is not supported by his or her peers, “serious questions arise regarding the reasonableness and necessity of the treatment plan,” and “[c]ourt approval in such cases may indeed be difficult to obtain, but is necessary.” 418 N.W.2d at 149. But the supreme court also noted that, if the medical professionals are in agreement on a treatment plan, “*court approval should be quickly*

forthcoming with little difficulty.” Id. (emphasis added). In this case, the court-appointed examiner supported the *Jarvis* petition and testified that Trevino’s condition likely would deteriorate if his medications were discontinued. Trevino did not provide the district court with any evidence capable of contradicting the views of the medical professionals. In these circumstances, the law does not require an unnecessarily contentious or protracted hearing.

In sum, the district court did not violate Trevino’s right to due process in the course of ordering that he be re-committed for an additional 12 months and re-authorizing the involuntary administration of neuroleptic medications.

Affirmed.

A handwritten signature in cursive script, appearing to read "Matthew Johnson".