

*This opinion is nonprecedential except as provided by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
A21-0834**

In the Matter of the Civil Commitment of: John Michael Thomey.

**Filed January 10, 2022
Affirmed
Bryan, Judge**

Crow Wing County District Court
File No. 18-PR-21-866

Jean Gustafson, Brainerd, Minnesota (for appellant John Michael Thomey)

Donald F. Ryan, Crow Wing County Attorney, Rockwell J. Wells, Assistant County Attorney, Brainerd, Minnesota (for respondent county)

Considered and decided by Worke, Presiding Judge; Florey, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this civil commitment case, appellant challenges the district court's decision revoking his stay of commitment. Because the record supports the district court's factual determinations that appellant violated material conditions of his release and met the remaining requirements for commitment, we affirm.

FACTS

On March 15, 2021, Crow Wing County (the county) filed a petition to civilly commit appellant John Michael Thomey as a chemically dependent person.¹ The petition alleged that Thomey had shot himself in the chest. Thomey was taken to the hospital, where he underwent a psychiatric evaluation. According to the petition, Thomey had a history of depression and anxiety, had been taking medication four times daily for years, and had become delirious after his psychiatrist started tapering off his medication. Thomey told the doctor that he was “confused and hallucinating” when he shot himself and that it was not a suicide attempt.

The court-appointed examiner conducted a forensic psychological examination of Thomey and submitted a report to the district court. The examiner opined that Thomey met the definition of a chemically dependent person. The examiner noted that Thomey was diagnosed with severe sedative use disorder and severe opioid use disorder, and that he was “incapable of self-management due to excessive use of these substances.” The examiner determined that Thomey misused his medication by taking more than prescribed, and after he ran out of medication, he experienced acute withdrawal symptoms, including hallucinations and delirium. According to the examiner, the reason for Thomey’s self-inflicted harm was severe distress caused by drug-use withdrawal. Based on his “habitual and excessive substance use,” the examiner opined that Thomey posed a substantial risk of

¹ The petition also sought to commit Thomey as a person who poses a risk of harm due to a mental illness, but the district court determined that the county failed to prove that basis for commitment.

harm to himself. Because Thomey appeared to understand that his self-injury was due to his substance use and withdrawal, and he told the examiner he was willing to comply with chemical dependency treatment recommendations, the examiner recommended a stay of commitment.

The commitment hearing was held before a referee on April 2, 2021. The parties told the referee that, based on the examiner's recommendation, they had agreed to a stay of commitment. The county's attorney explained that the agreement was "with the understanding that [Thomey] would follow the recommendations of his Rule 25 chemical use assessment, which . . . is recommending residential treatment." During questioning, Thomey admitted that he was chemically dependent. He agreed that he intended to receive a stay of commitment and expressly agreed to follow the recommendations of a chemical-use assessment and to complete an inpatient treatment program. Thomey understood that failure to comply with this condition could result in his commitment. The referee found that Thomey suffered from a chemical dependency, that the chemical dependency created a substantial risk of harm to himself as shown by the self-inflicted gunshot wound, and that a stayed commitment, conditioned on the completion of an inpatient treatment program, was the least restrictive alternative for effective treatment.

The district court issued a stayed order for commitment, which incorporated the referee's findings. The district court found that there was clear and convincing evidence that Thomey was a chemically dependent person, based on a recent threat to physically harm himself. The district court determined that a conditional stay requiring inpatient treatment was a reasonable alternative to civil commitment. Accordingly, the district court

stayed commitment on certain specific conditions. One condition was that Thomey would complete a chemical-use assessment and follow the recommendations of that assessment. The district court noted that Thomey had already completed the assessment, which recommended inpatient treatment. The district court's order provided that, if Thomey failed to comply with a material condition of release, the district court could revoke the stay of commitment.

Less than one month later, on April 26, 2021, Thomey's case manager filed a request to revoke the stay of commitment. The request alleged that Thomey had been unsuccessfully discharged from chemical dependency treatment, in violation of the conditions of the order. A revocation hearing was held before the referee on May 11, 2021. Thomey's case manager testified that, after Thomey was released from the hospital, he went directly to inpatient treatment. However, Thomey resided at the treatment center for just four days, when Thomey got into an altercation with another patient. As a result, he was discharged from the treatment center and taken back to the hospital. The case manager also testified that there was no other inpatient program available at that time, in part because other programs did not allow for the type of medication that Thomey was prescribed.

Ultimately, the district court issued an order revoking the stay of commitment. The district court found that there was clear and convincing evidence that Thomey had not complied with the material conditions of his release. The district court reiterated its conclusion that Thomey met the definition of a chemically dependent person and determined that there was no less restrictive alternative to civil commitment. Thomey appeals.

DECISION

Thomey argues that the district court erred when it revoked his stay of commitment. We affirm the district court's decision because the record supports its determinations that Thomey violated material conditions of his release, that he remained a chemically dependent person, and that there were no less restrictive alternatives to commitment.

The district court may civilly commit an individual if it finds by clear and convincing evidence that the individual is chemically dependent and less restrictive alternatives to commitment are not appropriate for the individual. Minn. Stat. § 253B.09, subd. 1(a) (2020). As an alternative to commitment, the district court may release an individual to the custody of an individual or agency, on conditions guaranteeing the care and treatment of the individual. Minn. Stat. § 253B.095, subd. 1(a) (2020). Upon a showing that the individual “has not complied with a material condition of release,” the district court may revoke the release and commit the individual. *Id.*, subd. 5 (2020).

On appeal from a civil-commitment decision, we review the district court's factual findings for clear error and view the record in the light most favorable to those findings. *In re Civil Commitment of Spicer*, 853 N.W.2d 803, 807 (Minn. App. 2014). “[Appellate courts] will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed.” *In re Civil Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotations and citations omitted). Additionally, appellate courts should not reconcile conflicting evidence or “weigh the evidence as if trying the matter *de novo*.” *Id.* at 221 (quotation omitted). “When the record reasonably supports the findings at issue on appeal, it is immaterial that the

record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* at 223 (quotation omitted).

In this case, Thomey challenges the factual basis for the district court’s decision to revoke the stay of commitment: “Appellant claims that there was not a sufficient basis for which the trial Court could make a finding that the revocation of the stay and the subsequent order for commitment was proper.”² We are not convinced. The record supports the district court’s determination that Thomey failed to comply with material conditions of his release. The stay was conditioned on Thomey completing an inpatient chemical dependency treatment program. The record supports the district court’s factual conclusion that Thomey violated these conditions when, after just four days, Thomey was discharged after an altercation with another patient.

The record further supports the district court’s determinations that Thomey remained a chemically dependent person and that there were no less restrictive alternatives to civil commitment. Thomey’s stay was revoked just 39 days after the district court had issued the stayed order for commitment. At the time it imposed the stay, the district court relied on the examiner’s opinion that Thomey was a chemically dependent person. The examiner’s conclusion was based on the determination that Thomey misused prescription drugs, experienced severe withdrawal symptoms when he stopped taking the medication, and posed a risk of harm to himself as a result, as evidenced by his self-inflicted gunshot

² The quoted sentence above represents Thomey’s entire argument to this court, and Thomey does not identify any specific factual deficiencies. Nevertheless, we address Thomey’s general challenge to the district court’s factual findings.

wound. There was no evidence suggesting that Thomey's condition had improved by the time of the revocation order.³ Additionally, at the revocation hearing, Thomey's case manager told the referee that the county had explored other potential placements for Thomey but that none were available at the time. Based on the recency of the stayed order for commitment and the county's examination of alternative placements at the time of the revocation, the district court did not err when it revoked the stay of commitment.

Affirmed.

³ We also note that this court has previously affirmed revocation of a stay of commitment without further consideration of less restrictive alternatives at the time of revocation when the revocation occurred 45 days after the entry of the commitment order and when there had been no significant change in circumstances since the commitment order. *In re Roberds*, 473 N.W.2d 378, 380 (Minn. App. 1991).