

*This opinion is nonprecedential except as provided by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
A21-0850**

In the Matter of the Civil Commitment of:
Jackie Barritt.

**Filed November 15, 2021
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-MH-PR-21-598

Kurt M. Anderson, Minneapolis, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges her civil commitment as a person who poses a risk of harm due to mental illness, arguing that the record does not support the district court's determination that she poses a substantial likelihood of physical harm to herself or others. We affirm.

FACTS

Police officers found appellant Jackie Barritt sleeping or passed out in her car around 2:00 a.m. with her five-and-a-half-month-old son on her lap. The child had a full

diaper and was “covered” in feces. When awakened, Barritt was “confused,” “disoriented,” unable to answer questions, and denied having a baby. She stated that she wanted to “drive her vehicle into a brick wall.” Because Barritt was uncooperative and threatened to run away, paramedics put her in restraints and transported her to the hospital. At the hospital, Barritt refused to answer questions, yelled at staff, refused medications, appeared paranoid, and had poor insight into her mental illness. At the time of this incident, Barritt was living in a hotel after previously being homeless and living out of her car.

At a commitment hearing, Barritt denied being recently homeless and testified that she was sleeping in her car because she was tired and did not want to risk driving to the hotel. She testified that she was unaware that the child had feces on him. She also testified that her statement about driving into a brick wall was not suicidal. The district court found that Barritt was not credible. A court-appointed examiner who interviewed Barritt and reviewed her records opined that Barritt poses a substantial likelihood of physical harm to herself or others as a result of her mental illness. The district court found the examiner’s opinion persuasive.

The district court determined that Barritt suffers from a mental illness, and because she threatened to drive into a brick wall and required restraint due to her agitation, she poses a substantial likelihood of causing physical harm to herself or others. It therefore ordered that Barritt be civilly committed as a person who poses a risk of harm due to mental illness. This appeal followed.

DECISION

Barritt challenges the district court's commitment order, arguing that the record does not support the district court's determination that she poses a substantial likelihood of physical harm to herself or others due to her mental illness. We disagree.

In reviewing a district court's order for commitment, we examine whether the district court complied with the statute and whether its findings based on the evidence justify commitment. *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995). We review the district court's findings of fact for clear error and give "due regard" to its credibility determinations. *Id.* The Minnesota Supreme Court recently clarified the clear-error standard, stating that appellate courts "view the evidence in a light favorable to the findings" and "will not conclude that a factfinder clearly erred unless, on the entire evidence, [the court is] 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). Further, we may not reweigh the evidence, engage in fact-finding, or reconcile conflicting evidence. *Id.* at 221-22 (quotation omitted). Accordingly, we "need not go into an extended discussion of the evidence to prove or demonstrate the correctness" of the district court's findings. *Id.* Instead, we must consider all the evidence and determine whether it reasonably tends to support those findings. *Id.* at 223. And when the record reasonably supports the district court's findings, "it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* (quotation omitted).

Whether the evidence is sufficient to show by clear and convincing evidence that the statutory commitment criteria are met is a question of law that we review de novo. *Knops*, 536 N.W.2d at 620; *In re Linehan*, 518 N.W.2d 609, 613 (Minn. 1994). The clear-and-convincing-evidence standard requires “more than a preponderance of the evidence but less than proof beyond a reasonable doubt,” and “is met when the truth of the facts asserted is highly probable.” *In re Civil Commitment of Kropp*, 895 N.W.2d 647, 654 (Minn. App. 2017) (quotations and citation omitted), *rev. denied* (Minn. June 20, 2017).

A district court will civilly commit a person if it finds by clear and convincing evidence that, among other things, the person poses a risk of harm due to a mental illness. Minn. Stat. § 253B.09, subd. 1(a) (2020). A person poses a risk of harm due to a mental illness if the person

has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, that is manifested by instances of grossly disturbed behavior or faulty perceptions and who, due to this impairment, *poses a substantial likelihood of physical harm to self or others*.

Minn. Stat. § 253B.02, subd. 17a(a) (2020) (emphasis added). A substantial likelihood of physical harm may be shown by, among other things, the person’s “recent attempt or threat to physically harm self or others.” *Id.*, subd. 17a(a)(3). But neither the person nor others must come to harm before commitment is justified. *In re McGaughey*, 536 N.W.2d 621, 623 (Minn. 1995).

Here, the district court found that Barritt’s statement that she wanted to drive her vehicle into a brick wall was a legitimate threat to harm herself and her child. When Barritt

made the threat, she was agitated and resisting assistance from first responders. She was confused and denied having a child with her in the car. The child had a full diaper and was covered in feces. Although at the hearing Barritt denied that the statement was suicidal, the district court did not find that testimony credible. We defer to that credibility determination. *See Knops*, 536 N.W.2d at 620. These circumstances, taken together, support the district court's determination that it was highly probable that Barritt's threat was a serious one. *Kropp*, 895 N.W.2d at 654. The district court did not clearly err by so finding, and it therefore did not err by determining that Barritt met this statutory criterion for commitment.

Barritt relies on a nonprecedential opinion to argue that verbal threats alone are insufficient to show a substantial likelihood of physical harm to herself or others. Barritt's reliance on the nonprecedential opinion is unpersuasive for at least two reasons. First, nonprecedential opinions of this court are not binding authority. Minn. R. Civ. App. P. 136.01, subd. 1(c). Second, our review of the opinion shows it to be factually distinguishable.

Finally, Barritt argues that the district court erred by giving weight to the fact that she was found sleeping in her car with her infant child, who had a full diaper and was covered in feces. She argues that these circumstances are relevant to a child-protection matter but not to commitment proceedings. But the district court did not order commitment based on the conditions in which law enforcement found Barritt and her child. Rather, it recited those conditions as context for the circumstances supporting Barritt's commitment:

her threat to drive her vehicle into a brick wall and her need for physical restraints. The district court did not err by considering this relevant context.

Affirmed.