

*This opinion is nonprecedential except as provided by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
A21-1104**

In the Matter of the Civil Commitment of: Thomas Steven Allen Snook.

**Filed February 7, 2022
Affirmed
Reilly, Judge**

Wadena County District Court
File No. 80-PR-20-852

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

Kyra Leigh Ladd, Wadena County Attorney, Wadena, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Johnson, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

On appeal from his commitment as a sexually dangerous person (SDP), appellant argues that the record does not support the district court's determinations that (a) his disorder causes him to lack adequate control over his sexual impulses; and (b) he is highly likely to engage in harmful sexual conduct in the future. We affirm.

FACTS

Respondent Wadena County (the county) petitioned to civilly commit appellant Thomas Steven Allen Snook as a sexually dangerous person (SDP). The petition outlined incidents of sexual misconduct spanning over twenty years. The matter proceeded to a civil commitment hearing in March 2021. The district court heard testimony from multiple witnesses, including two court-appointed experts, and admitted 30 exhibits into evidence. The fact summary below is taken from the testimony and evidence presented at Snook's SDP commitment hearing.

The first known sexual assault by Snook occurred when he was 11 years old. Snook disclosed the sexual assault a few years later and originally disclosed that he had sexual intercourse with his eight-year-old male cousin. But, during the commitment hearing, Snook testified that he might have been referring to his female cousin in his initial disclosure whom he had digitally penetrated. The district court found that Snook contradicted his disclosures about this event in the past and made a finding that Snook digitally penetrated his female cousin based on his testimony.

On September 4, 2000, 12-year-old Snook sexually assaulted 5-year-old S.D. On the day of the assault, Snook brought S.D. to a secluded area near her home where he partially undressed her and told her to take her clothes off. When S.D. refused, Snook threatened to choke her if she did not undress. S.D. then undressed but did not take off her underpants. Snook became angry and left the area, leaving S.D. undressed and alone. The state charged Snook with fifth-degree assault for the offense.

In 2001, 12-year-old Snook sexually abused 7-year-old C.W. Snook approached C.W. at a swimming pool, took her aside, and vaginally penetrated her. Snook warned C.W. that if she told anyone about the assault, he would chain her to the back of a vehicle and kill her. C.W. stated that on at least one other occasion, Snook forced C.W. to engage in oral sex with him. The state charged Snook as a juvenile with first-degree criminal sexual conduct for these offenses. A rule 20 evaluation showed Snook to be incompetent and the district court suspended prosecution.

Over the next seven years Snook continued to sexually assault more children and women. When Snook was still 12 years old, he forced 9-year-old S.W. to have sexual intercourse. That time, Snook made S.W. get into the back of a vehicle and he pulled her pants down while she screamed and kicked. A year later when he was 13, Snook had sexual contact with 12-year-old T.F. Snook maintains that the sexual contact was consensual and that they were playing a game. When he was 15, Snook forced 26-year-old K.S. to have sexual intercourse with him by threatening to kill her. Snook later tried to force K.S. to engage in oral sex with him. Both incidents of sexual misconduct with K.S. occurred while Snook was attending a sex offender treatment program at the Upper Mississippi Mental Health Center. Also while attending this treatment program, 16-year-old Snook persuaded a 13-year-old boy to engage in oral sex by promising him Hot Wheels toys.

In March 2008, 19-year-old Snook had sexual intercourse with 15-year-old J.B. Snook and his friend brought J.B. to Snook's grandparents' house where Snook had sexual intercourse with her. He then invited his friend into the room to have sex with J.B. while Snook watched. J.B. testified that "she did not feel like she had a choice." Snook was

charged with third-degree criminal sexual conduct and pleaded guilty to the offense, receiving a stayed sentence of 36 months in prison.

Snook has been either in prison or a secured care facility almost continuously since 2003. From June to November 2003, Snook was placed in Harbor House and Lakes Area Counseling. During that time, Snook was caught engaging in oral sex with a younger resident and another resident reported that Snook touched him on his genitals. Snook was moved to a group home where he was discharged because of “aggressive behaviors.” From 2004 to 2006 Snook participated in sex offender treatment and chemical health groups at Mille Lacs Academy. During this treatment program, Snook made “significant disclosures related to his sex offending” and general therapy reports found Snook was beginning to show signs of improvement.

In 2008, shortly after Snook entered Residential Living Services, he was arrested for a probation violation. From 2008 to 2009, Snook spent several months in jail, including time in isolation or restraints because of his behavior. When Snook was not incarcerated, he was returned to the care of Residential Living Services where staff caught him viewing pornography and often having violent outbursts. While some reports said that Snook showed improvement, Residential Living Services discharged Snook as unsuccessful because “his behavior created a risk of emotional and physical danger to the health and safety of staff and his housemates.”

In 2009, Snook again attempted sex offender treatment. During this time, he talked openly about his past sexual offenses but appeared to have trouble understanding why age was important for consent and struggled with taking responsibility for his actions. From

2010 through 2018, Snook was in and out of prison because of probation violations. While incarcerated, he engaged in sexual acts with another offender and was disciplined for disorderly conduct, assaults, and threats.

In 2018, Snook entered Pearl Lake Crisis Home for sex offender treatment and psychological testing. While in the program, staff found that he possessed pornography and accessed sexually explicit materials on his cellphone. In 2020, the program terminated Snook because of a cellphone violation. Snook returned to prison where he remained incarcerated while the county petitioned to commit Snook as an SDP.

At the commitment hearing, the district court heard testimony from Snook, four sexual assault victims, Snook's aunt, and two court-appointed experts. Dr. James Alsdurf, the first court-appointed examiner, diagnosed Snook with many psychiatric and psychological disorders including Unspecified Paraphilic Disorder. Dr. Alsdurf testified that, in his professional opinion, Snook satisfies the criteria for commitment as an SDP. He also testified that he believed Snook lacked adequate control over his sexually harmful behavior and it would be highly likely that Snook would engage in harmful sexual conduct in the future. Dr. Andrea Lovett, the second court-appointed examiner, offered similar diagnoses as Dr. Alsdurf. Dr. Lovett testified that, in her professional opinion, Snook meets the requirements for commitment as an SDP. She further testified that she believed that, to a reasonable degree of psychological certainty, Snook is highly likely to engage in harmful sexual conduct in the future.

Following the hearing, the district court issued an order civilly committing Snook as an SDP, finding that the county proved by clear and convincing evidence that Snook

met the statutory requirements for commitment. The district court found the sexual assault disclosures from the victims to be more credible than any contrary testimony from Snook. The district court also found both examiners to be credible. Snook now appeals.

DECISION

Snook argues that the record does not support the district court's determination that he meets the statutory criteria for commitment as an SDP. A person is sexually dangerous if he:

- (1) has engaged in a course of harmful sexual conduct as defined in subdivision 8;
- (2) has manifested a sexual, personality, or other mental disorder or dysfunction; and
- (3) as a result, is likely to engage in acts of harmful sexual conduct as defined in subdivision 8.

Minn. Stat. § 253D.02, subd. 16(a) (2020). On appeal, this court reviews a district court's factual findings on the elements of the civil commitment statutes for clear error. Minn. R. Civ. P. 52.01; *In re Civ. Commitment of Stone*, 711 N.W.2d 831, 836 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006). Following a review of all the evidence, we will not conclude a fact-finder clearly erred unless “we are left with a definite and firm conviction that a mistake has been committed.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotations omitted). But whether the evidence meets the statutory requirements for commitment is a question of law, which this court reviews *de novo*. *In re Civ. Commitment of Crosby*, 824 N.W.2d 351, 356 (Minn. App. 2013), *rev. denied* (Minn. Mar. 27, 2013).

Snook challenges the district court's determination that the county satisfied its burden of proof related to the second and third statutory criteria: whether he lacks adequate control over his sexual impulses because of his sexual, personality, or other mental disorder or dysfunction and whether he is likely to engage in harmful sexual conduct in the future. We address each argument in turn.

A. Sexual, Personality, or Other Mental Disorder or Dysfunction

The second requirement for commitment as an SDP is that the individual “has manifested a sexual, personality, or other mental disorder or dysfunction.” Minn. Stat. § 253D.02, subd. 16(a)(2). The statute does not require that the individual “has an inability to control the person’s sexual impulses.” *Id.*, subd. 16(b) (2020). Rather, the mental disorder or dysfunction must prevent the individual from exercising adequate control over his sexual impulses. *In re Linehan*, 594 N.W.2d 867, 876-78 (Minn. 1999) (*Linehan IV*).

Here, the district court found that Snook’s disorders cause him to lack control of his sexually harmful behavior. The district court based its findings in large part on the opinions of the court-appointed experts. Dr. Alsdurf diagnosed Snook with “ADHD; Klinefelter’s Syndrome; Persistent Depressive Disorder; Unspecified Anxiety Disorder; Polysubstance Use Disorders (alcohol, inhalants, hallucinogens, benzodiazepines); Unspecified Paraphilic Disorder; Intellectual Disabilities, moderate; and Personality Disorder, with antisocial and borderline traits.” Similarly, Dr. Lovett diagnosed Snook with Paraphilic Disorder, Other Specific Trauma and Stressor Related Disorder, Unspecified Depressive Disorder, Unspecified Neurodevelopmental Disorder, Antisocial Personality Disorder, and Alcohol Use Disorder. Dr. Lovett acknowledged that Snook’s disorders significantly

impacted his sexual behavior. Dr. Alsdurf concluded that Snook's history shows a lack of control over sexual impulses, that he has consistently failed to gain control over his sexual acting out, and that Snook is unable to offer a plan to prevent reoffending. Dr. Alsdurf believed that Snook had not gained a real understanding over his sexual pathology and that he expressed no concern about his accountability in the community. Dr. Alsdurf also noted that, while Snook has started acknowledging his thoughts and actions and he makes assurances that he will get treatment, there is "no data to support that."

Snook argues that the district court erred in relying on the testimony and reports of the court-appointed experts because their opinions are not supported by the record. He also argues he has not had a sexual offense since 2008. But Snook has spent most of the time since then either incarcerated or in secure homes and care facilities. And the record shows that he repeatedly violated his rules of probation from 2004 through 2020 while consistently displaying a pattern of inappropriate sexual behaviors. The district court found that "[i]t is highly pertinent that Snook's most recent revocation stemmed from violations related to dating websites and internet pornography, including pornographic images of bestiality and adolescent (or adolescent appearing) individuals." The district court found that Snook had over a thousand emails and texts related to websites that were sexual in nature and specifically searched for teens. Both findings are amply supported by the record.

As for expert testimony, the district court had the advantage of hearing the expert witnesses and we defer to the district court's opportunity to judge witness credibility. *In re Civ. Commitment of Navratil*, 799 N.W.2d 643, 647 (Minn. App. 2011) *rev. denied*

(Minn. Aug. 24, 2011); *see also In re Civ. Commitment of Ince*, 847 N.W.2d 13, 23-24 (Minn. 2014) (“As the trier of fact, the district court will be in the best position . . . to evaluate the credibility of witnesses—a critical function in [commitment] cases that rely so heavily on the opinions of experts.”). No evidence in the record contradicts the expert testimony. Thus, we determine that the facts as applied to the statute satisfy the second requirement for Snook’s commitment as an SDP.

B. Highly Likely to Engage in Future Harmful Sexual Conduct

To satisfy the third requirement for commitment as an SDP, the person must be “highly likely” to engage in acts of harmful sexual conduct in the future. *Ince*, 847 N.W.2d at 20-22. To determine whether a person is highly likely to reoffend, a district court must engage in a “multi-factor analysis.” *Id.* at 23. The multi-factor analysis includes consideration of six factors, commonly known as the *Linehan* factors:

(a) the person’s relevant demographic characteristics (*e.g.*, age, education, etc.); (b) the person’s history of violent behavior (paying particular attention to recency, severity, and frequency of violent acts); (c) the base rate statistics for violent behavior among individuals of this person’s background (*e.g.*, data showing the rate at which rapists recidivate, the correlation between age and criminal sexual activity, etc.); (d) the sources of stress in the environment (cognitive and affective factors which indicate that the person may be predisposed to cope with stress in a violent or nonviolent manner); (e) the similarity of the present or future context to those contexts in which the person has used violence in the past; and (f) the person’s record with respect to sex therapy programs.

Id. at 22 (quoting *In re Linehan*, 518 N.W.2d 609, 614 (Minn. 1994) (*Linehan I*)). The multi-factor analysis may include other relevant evidence and information and includes the actuarial-assessment evidence used by the experts. *Id.* at 24.

Snook argues that the district court erred in finding him highly likely to reoffend because the third *Linehan* factor, the base-rate statistics for violent behavior among individuals with the offender's background, reveals that he is unlikely to reoffend. We disagree. No single factor determines whether an individual is likely to reoffend. *Navratil*, 799 N.W.2d at 649. And the district court's consideration of all six *Linehan* factors, including base-rate statistics, is supported by the record.

The district court made findings on each of the *Linehan* factors. In part, the district court found that while Snook has a more limited history of sexually violent behavior, he has a history of abusing underage boys and girls and has repeatedly threatened victims to kill or seriously harm them if they did not comply with his sexual demands. The district court found that Snook is at a high risk of sexual reoffense because he has not yet completed sex offender treatment, and the various scores used by numerous psychologists and experts show that he is "well-above-average" on the risk range to reoffend. The district court noted that Snook is "predisposed to cope with stress in a sexually harmful manner" and that he would experience similar stressors in the community as he had in the past.

The district court also considered Dr. Alsdurf's opinions, which were based on professional psychological testing and a full analysis of Snook's past. Dr. Alsdurf concluded that, based on Snook's history and mental disorders, it is highly likely that Snook will engage in harmful sexual conduct in the future. Similarly, Dr. Lovett found

that Snook is highly likely to reoffend. The district court specifically credited Dr. Lovett's opinion that Snook is highly likely to reoffend based, in part, on the fact that he has been terminated from sex offender treatment four times since 2009. The district court found their assessments credible and persuasive in concluding that Snook is highly likely to sexually reoffend.

The expert-witness testimony and analysis of the *Linehan* factors provide clear and convincing evidence supporting the district court's findings on those matters, and thus the district court's conclusion that Snook is highly likely to reoffend. The district court made extensive written findings and thoroughly covered the vast record. The district court addressed each *Linehan* factor, commented on its relevance and persuasiveness, and concluded that each factor weighed in favor of finding Snook is highly likely to engage in future harmful sexual conduct. Thus, the district court did not err by making an ultimate finding that Snook is highly likely to engage in acts of harmful sexual conduct in the future if he is not civilly committed.

In sum, the district court did not err by granting the county's petition and civilly committing Snook as an SDP.

Affirmed.