STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1051

In the Matter of the Civil Commitment of: Michael Andrew Seys.

Filed November 25, 2024
Affirmed
Reyes, Judge

Nicollet County District Court
File No. 52-PR-23-732

Steven D. Winkler, Brandt & Winkler, PA, St. Peter, Minnesota (for appellant Michael Andrew Seys)

Michelle M. Zehnder Fischer, Nicollet County Attorney, Bryan C. Jarvis, Assistant County Attorney, St. Peter, Minnesota (for respondent Nicollet County)

Considered and decided by Wheelock, Presiding Judge; Reyes, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges his indeterminate commitment as a person who has a mental illness and is dangerous to the public (MI&D), arguing that the district court erred by (1) failing to make factual findings and credibility assessments to allow effective appellate review; (2) determining that there was a substantial likelihood that appellant would engage in acts capable of inflicting serious physical harm and continues to be a danger; and (3) determining that no less-restrictive alternative to commitment existed. We affirm.

FACTS

On October 7, 2023, appellant Michael Andrew Seys was arrested and later charged with arson and property damage for a fire at his parents' home. The district court ordered Dr. Robin Ballina to conduct a rule 20 evaluation of appellant.

In November 2023, respondent Nicollet County (the county) petitioned for the civil commitment of appellant as MI&D. As evidence of appellant's mental illness and capacity for dangerousness, the county noted the following, relying heavily on Dr. Ballina's report: (1) appellant's diagnosis of schizoaffective disorder, depressive type and substance-related disorder for cannabis and alcohol; (2) appellant's past criminal behavior including pending charges for second-degree arson, fleeing a peace officer in a motor vehicle, second-degree assault, and first-degree property damage; (3) appellant's most recent criminal charges; (4) appellant's 40 placements at various hospitals and mental-health facilities and several commitments for mental illness; (5) appellant's belief that he is not mentally ill; and (6) appellant's pattern of refusing to take prescribed medication.

The district court appointed Dr. Paul Reitman as the first court-appointed examiner and granted appellant's request to appoint Dr. Benjamin Otopalik as the second court-appointed examiner. Both examiners filed reports opining that appellant was MI&D and that no less-restrictive alternative to commitment existed.

The district court held a commitment hearing on January 16, 2024. The district court heard testimony from both examiners and received six exhibits: the examiners' reports, appellant's medical records, and three criminal complaints.

On January 18, 2024, the district court filed an order determining that appellant (1) met the statutory criteria for civil commitment; (2) is a person who poses a risk of harm due to a mental illness and is dangerous to the public under Minn. Stat. §§ 253B.02, subd. 17, .18 (2022); and (3) engaged in overt acts causing or attempting to cause serious physical harm to another, and there is a substantial probability that appellant will engage in acts capable of inflicting serious physical harm on another. The district court also determined that appellant needed treatment for his mental illness and that no suitable alternative to commitment exists.

Following the district court's decision on the preliminary proceedings, Dr. Diandra Sigurdsson conducted a 60-day evaluation of appellant. Dr. Sigurdsson opined that no less-restrictive alternative to commitment met appellant's needs that would protect the public. In March 2024, the district court held a 60-day review hearing, in compliance with Minn. Stat. § 253B.18, subd. 2 (2022). The district court heard testimony from Dr. Sigurdsson and Meghan Ceynowa, appellant's treating psychiatric nurse practitioner at St. Luke's Hospital. The district court received seven exhibits, which included Dr. Sigurdsson's report and appellant's medical records.

On May 2, 2024, the district court filed an order determining that appellant (1) meets the statutory criteria for civil commitment; (2) poses a risk of harm because he is MI&D under Minn. Stat. §§ 253B.02, subd. 17, .18; and (3) presents a clear danger to others. The district court determined that no suitable less-restrictive alternative than commitment exists.

This appeal follows.

DECISION

Appellant argues that the district court erred by (1) failing to make sufficient factual findings and credibility assessments to allow effective appellate review; (2) determining that there was a substantial likelihood that appellant would continue to engage in acts capable of inflicting serious physical harm; and (3) determining that no less-restrictive alternative to commitment existed. We address each issue in turn.

I. The district court's findings were sufficient to allow effective appellate review.

Appellant argues that the district court's factual findings and credibility determinations were insufficient to enable effective review by this court and that inconsistencies in the experts' reports make the district court's findings internally inconsistent.[1] We disagree.

In actions tried without a jury, district courts must "find the facts specially and state separately its conclusions of law." Minn. R. Civ. P. 52.01. "Findings of fact . . . shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the [district] court to judge the credibility of the witnesses." *Id*.

When a district court fails to make findings supporting its conclusions, it becomes "literally impossible" for this court to determine that the district court's disposition was not clearly erroneous. *In re Welfare of C.K.*, 426 N.W.2d 842, 849 (Minn. 1988). There are several ways in which a district court's findings can be insufficient. Applicable here, a

[1] The county asserts that appellant raised this issue for the first time on appeal, but this is permitted under Minn. R. Civ. P. 52.01, which states that "[r]equests for findings are not necessary for purposes of review."

district court's findings are insufficient when they merely recite or summarize testimony from witnesses "without commenting independently upon their opinions or the foundation for their opinions or the relative credibility of the various witnesses." *In re Welfare of M.M.*, 452 N.W.2d 236, 239 (Minn. 1990). Findings are equally insufficient when the district court relies on the testimony of experts who reach inconsistent conclusions. *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 809 (Minn. App. 2014).

Here, the district court's findings in its January 18, 2024 order based on the preliminary proceedings are mostly summaries of the testimony and reports of the examiners. For example, the district court found "both Dr. Reitman and Dr. Otopalik's testimony credible and adopt[ed] . . . [their] testimony as facts"; both doctors "testified that [appellant] has a major mental illness and that [appellant] has engaged in overt acts causing or attempting to cause serious physical harm to another"; and both doctors "testified that there is a substantial likelihood that [appellant] will engage in acts capable of inflicting serious physical harm in the future." The district court's January 18 preliminary findings are slim at best.

The district court's findings in its May 2, 2024, order, which also include summaries of witness testimony and exhibits, are more robust. Findings 21 through 25 of the district court's order are sufficient to enable appellate review.[2] They include findings that appellant's "mental health is reasonably stable and he does not commit crimes when he is properly medicated and treated"; that appellant "decompensates, resumes substance use,

[2] We strongly encourage district courts to detail their findings and analysis as to why the record, including witnesses, statements, and documents, supports their conclusions.

and commits acts that [are] dangerous to the safety of other people"; and that appellant "requires a program that ensures long-term and full compliance with his medication regiment and with mental health and chemical use services."

Appellant's argument that Dr. Reitman and Dr. Otopalik's testimonies and reports are inconsistent with each other, and therefore the district court's findings are internally inconsistent, is unpersuasive. Both experts diagnosed appellant with schizoaffective order, depressive type and substance use disorder; noted that appellant has difficulty complying with medication when unsupervised; and opined that appellant should be committed as MI&D. The experts' testimonies and reports were not inconsistent; therefore, the district court's findings adopting the experts' testimonies and reports are not internally inconsistent.

We conclude that the district court's findings were sufficient to enable review by this court.

II. Clear and convincing evidence supports the district court's determination that appellant posed a risk of future harm.

Appellant next argues that the district court erred by determining that he is dangerous and presents a continued risk of harm to others because, at the time of the 60-day review hearing, he "no longer pose[d] the same level of dangerousness as when he was initially assessed" and that he "had stabilized to the point [at which] he was no longer" MI&D. We are not convinced.[3]

[3] In support of its argument, the county cites to this court's nonprecedential decision in *In re Civ. Commitment of Farrar*, No. A05-2220, 2006 WL 998197 (Minn. App. 2006), *rev. denied* (Minn. June 28, 2006). While *Farrar* is not binding, it is persuasive because of the

A person who has a mental illness and is dangerous to the public is one:

> (1) who 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, and is manifested by instances of grossly disturbed behavior or faulty perceptions; and
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> (2) *who as a result of that impairment presents a clear danger to the safety of others as demonstrated by the facts that* (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) *there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another*.

Minn. Stat. § 253B.02, subd. 17 (emphases added).

Appellant challenges only the determination of substantial likelihood of harm to others. "The question of dangerousness is a factual determination for the [district] court, which should not be disturbed on appeal unless it is clearly erroneous." *In re Welfare of Hofmaster*, 434 N.W.2d 279, 282 (Minn. App. 1989). A finding is clearly erroneous if it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (internal quotations omitted). "We review de novo whether there is clear and convincing evidence in the record to support the district court's determinations that

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factual similarities. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) ("Nonprecedential opinions . . . are not binding authority [but] . . . may be cited as persuasive authority.). In *Farrar*, like here, the appellant was diagnosed with schizoaffective disorder and cannabis abuse and had several past hospitalizations; all expert witnesses testified that Farrar satisfied the future-dangerous-conduct requirement; and although Farrar's behavior stabilized during treatment, she had a history of medication noncompliance. *Id*. at *2, *6.

appellant meets the standards for commitment." *In re Thulin*, 660 N.W.2d 140, 144 (Minn. App. 2003).

In determining that appellant continued to be dangerous because there was a substantial likelihood that he would engage in future acts capable of inflicting serious harm, the district court considered the testimony and reports from Drs. Reitman and Otopalik, medical reports, criminal complaints, Dr. Sigurdsson's "credible and persuasive" testimony and 60-day evaluation of appellant, and Ceynowa's testimony on appellant's progress at St. Luke's Hospital.

Dr. Reitman testified that appellant meets all of the prongs of the MI&D statute. Dr. Otopalik testified that there is an "extremely high" likelihood that appellant would engage in future acts of harm to others if he were not committed as MI&D. Dr. Sigurdsson testified that there is a substantial likelihood that appellant will engage in future acts capable of inflicting serious physical harm on others if he is not committed as MI&D. The district court found the testimony and reports of the examiners credible and adopted them as facts. In contrast, Ceynowa testified that appellant is now a lowest-level safety concern, "requires less monitoring," and "know[s] that he has a mental illness." Because the district court made explicit findings on the experts' testimony as credible, we can infer that the district court implicitly found Ceynowa not credible. The district court determined that appellant "presents a clear danger to the safety of others," as demonstrated by three separate arsons and assaults at a hospital.

In its May 2 order, the district court acknowledged that appellant's "mental health is reasonably stable and he does not commit crimes when he is properly medicated and

treated"; however, when untreated, he "decompensates, resumes substance use, and commits acts that [are] dangerous to the safety of other people." The district court determined that appellant "presents a clear danger to the safety of others" under Minn. Stat. § 253B.02, subd. 17, as a result of his mental illness because he "has engaged in overt acts causing or attempting to cause serious physical harm to another" and "there is a substantial probability that [he] will engage in acts capable of inflicting serious physical harm on another."

We conclude that the district court appropriately determined that clear and convincing evidence supports that appellant meets the criteria of a person who is MI&D under Minn. Stat. § 253B.02, subd. 17.

III. Clear and convincing evidence supports the district court's determination that no less-restrictive alternative to judicial commitment existed.

Appellant argues that the district court erred by determining that no less-restrictive alternative to commitment existed under Minn. Stat. § 253B.09, subd. 1 (2022), relying on Ceynowa's testimony that an alternative exists. We are not persuaded.

A district court must make findings of fact to support its determination that no less-restrictive program exists that could meet the needs of the committed person. *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 26 (Minn. 2014). A district court's decision on a less-restrictive alternative will not be reversed unless clearly erroneous. *In re Dirks*, 530 N.W.2d 207, 211-12 (Minn. App. 1995).

Once a district court determines "by clear and convincing evidence" that a person is MI&D, "[it] shall commit the patient to a secure treatment facility unless . . . [appellant

shows by] clear and convincing evidence that a less restrictive state-operated treatment program or treatment facility is available" that is "consistent with the patient's treatment needs and the requirements of public safety." Minn. Stat. § 253B.18, subd. 1(a).

In determining that there was no less-restrictive alternative to commitment, the district court considered the three experts' testimony and reports, medical reports, criminal complaints, and Ceynowa's testimony. The three examiners opined that no less-restrictive alternative to commitment existed. Dr. Sigurdsson's report stated that "there is no less restrictive setting that would sufficiently safeguard the public and meet [appellant's] . . . needs"; Dr. Otopalik's report stated that "my [] clinical recommendation is that [appellant] receive long-term care in a secured setting such as the Minnesota Security Hospital"; and Dr. Reitman's report stated that "there is no question that [appellant] requires a secure, locked facility where his particular psychopathy . . . can be monitored by trained staff." The district court found the experts' testimonies and reports credible.

Appellant relies on Ceynowa's testimony that, if she could, she would discharge appellant to an intensive residential-treatment-services facility, which is less restrictive than commitment. However, Ceynowa could not testify to appellant's history of medication noncompliance or appellant's other risk factors because she does not follow patients' progress after discharge and interacts with them only in a supervised setting in which their medication compliance is monitored. Therefore, the district court determined that Ceynowa's testimony was not particularly helpful or relevant to the district court's ultimate determination that "[t]here is no less restrictive alternative to judicial commitment, and committing [appellant] to the FMHP as a person who poses a risk of harm due to a

mental illness and is dangerous to the public is the least restrictive available treatment" under Minn. Stat. § 253B.09, subd. 1.

For these reasons, we conclude that the district court appropriately determined that clear and convincing evidence supports that there is no less-restrictive alternative to commitment.

Affirmed.