STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0117

In the Matter of the Civil Commitment of: Nicholas Scott Thompson.

Filed September 15, 2025
Affirmed
Schmidt, Judge

Jackson County District Court
File No. 32-PR-20-17

Chris Reisdorfer, Nelson Oyen Torvik P.L.L.P., Montevideo, Minnesota (for appellant Nicholas Scott Thompson)

Keith Ellison, Attorney General, Anthony R. Noss, Assistant Attorney General, St. Paul, Minnesota (for respondent Kelly Jarcho, APRN, CNP)

Considered and decided by Schmidt, Presiding Judge; Connolly, Judge; and Segal, Judge.*

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant Nicholas Scott Thompson challenges a district court's decision authorizing his care providers to administer neuroleptic medication without his consent under Minn. Stat. § 253B.092 (2024). Because the record supports the district court's findings of fact, we affirm.

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

FACTS

Thompson is subject to an indeterminant civil commitment as a person who has a mental illness and is dangerous to the public. He has been diagnosed with delusional disorder—persecutory type. Thompson's civil commitment began after he allegedly killed his mother. The state charged him in September 2018 with second-degree intentional murder and two counts of second-degree unintentional felony murder. The district court initially declared Thompson incompetent to stand trial, but his competency has been a recurring issue in his criminal case and the subject of multiple appeals. *See State v. Thompson*, 988 N.W.2d 149, 151-52 (Minn. App. 2023), *rev. denied* (Jun. 20, 2023). Thompson resides at the St. Peter Regional Treatment Center where he receives care under the forensic mental health program. Respondent Kelly Jarcho is a psychiatric mental health nurse practitioner and is Thompson's psychiatric provider.

Throughout his civil commitment, Thompson has had a history of refusing medication prescribed by his care providers. The district court has, at least twice, authorized Thompson's care providers to administer neuroleptic medication without his consent, which this court affirmed on appeal. *See In re Civ. Commitment of Thompson*, No. A20-1246, 2021 WL 955955 (Minn. App. Mar. 15, 2021) (affirming order authorizing involuntary administration of neuroleptic medication); *In re Commitment of Thompson*, No. A21-0940, 2021 WL 5872661 (Minn. App. Dec. 13, 2021) (same).

In June 2023, an order authorizing administration of neuroleptic medication expired. Afterward, Thompson stopped taking the medication. In November 2023, the district court in Thompson's criminal case deemed him competent to stand trial.

In September 2024, Thompson executed a health-care directive in which he appointed a friend to make decisions on his behalf should he be unable to speak for himself. In the directive, Thompson stated that, if he could not speak for himself, he "would want [t]o remain free from the implication of any treatment not specified by this Directive. No neuroleptic, electro-shock, or experimental treatments."

Thompson's mental-health symptoms grew worse after he stopped taking the medication. In October 2024, Thompson's psychiatric provider petitioned the district court to authorize the administration of neuroleptic medication without Thompson's consent. The court held a *Jarvis* hearing[1] and heard testimony from the psychiatric provider, a forensic examiner, and Thompson.

The psychiatric provider testified that she has been treating Thompson since October 2022 and is familiar with his medical history. Thompson's diagnosis has remained consistent throughout the provider's time treating him. According to the psychiatric provider, Thompson believes that people are conspiring against him and that he is in civil commitment because the state does not have the evidence to convict him on his criminal charges. While Thompson was taking neuroleptic medication, the psychiatric provider "did not see any delusional content, his mood was better[,]" and the provider was able to manage the medication's negative side effects. However, because Thompson did not exhibit symptoms of his disorder while on the medication, the psychiatric provider testified

[1] A "*Jarvis* hearing" is a hearing at which the district court addresses whether it will approve the administration of medication without a patient's consent. *See Jarvis v. Levine*, 418 N.W.2d 139, 150 (Minn. 1988).

that she did not have a strong basis to renew the order requiring Thompson to take the medication. The psychiatric provider wanted clarity as to whether the medication continued to be necessary. Therefore, she permitted the order to expire.

The psychiatric provider testified that Thompson has not progressed in his treatment since he stopped taking the neuroleptic medication. Thompson's symptoms grew worse without the medicaton, despite the availability of mental health groups and therapy. Without neuroleptic medication, the psychiatric provider believed that Thompson's prognosis was poor and that he would not progress in his treatment. By comparison, with neuroleptic medication, she expected him to benefit greatly. She testified that there are no viable less-intrusive treatments that would stabilize Thompson and that she was unaware of any family, community, religious, or social value-reason that would prevent Thompson from taking the medication. Although the psychiatric provider was aware of Thompson's health care directive, she testified that Thompson lacks insight into his mental illness and is incapable of rationally weighing the benefits and risks of neuroleptic medication.

The forensic examiner testified and agreed with Thompson's diagnosis for delusional disorder. The examiner testified that Thompson has "a strong sense of persecution and unfair . . . treatment by others" and his rationale for refusing neuroleptic treatment does not align with reality. The examiner agreed that neuroleptic medication is in Thompson's best interests and is the only way for him to progress in a hospital setting.

Thompson testified last and explained that he named a friend as his agent on the health care directive and that he discussed his feelings about neuroleptic medication with her. Thompson stated that he objected to taking the neuroleptic medication because "the

vast majority of . . . the claims made against me are . . . unaffirmable," and asserted that he had only "negative physical side effects[]" when he took the medication in the past.

In November 2024, the district court filed an order in which it authorized the administration of neuroleptic medication without Thompson's consent. The district court found that Thompson lacked capacity to make decisions about neuroleptic medication because he: (1) lacks awareness about "the possible consequences of refusing treatment with neuroleptic medication"; (2) "cannot state the benefits of medication"; and (3) "[h]is decision regarding his treatment with neuroleptic medication is affected by and clouded by his lack of insight into his mental illness."

The district court also found that "it is both reasonable and necessary that Thompson be treated with neuroleptic medication at this time." The court stated that "[w]ithout neuroleptic medication it is unlikely that Thompson would ever be able to move forward to a less restrictive environment[,]" and "the benefits of treatment with neuroleptic medication clearly outweigh the risks and intrusiveness of treatment." The district court found "there is no less restrictive alternative treatment." Finally, the district court noted that "Thompson's objection to the medication is based on his belief that he is not mentally ill. There is no evidence that he is objecting based on moral, religious, or social values."

After the district court filed its order, Thompson filed a motion to reconsider, which the district court denied. Thompson appeals from the district court's order authorizing the administration of neuroleptic medication without his consent.[2]

[2] Thompson does not contest the district court's decision to deny his motion to reconsider.

DECISION

Upon request, and after a hearing, a district court may file an order permitting a treatment facility to administer neuroleptic medication to a civil-commitment patient without the patient's consent. Minn. Stat. § 253B.092, subd. 8. A district court may grant such authorization "[i]f the court finds that the patient lacks capacity to decide whether to take neuroleptic medication and has applied the standards set forth in subdivision 7." *Id.*, subd. 8(e). Under subdivision 7, the district court must consider whether the patient—while having capacity—clearly expressed any wishes regarding neuroleptic medication and whether administering neuroleptic medication is reasonable. *Id.*, subd. 7; *In re Civ. Commitment of Breault*, 942 N.W.2d 368, 377-79 (Minn. App. 2020).

When a district court authorizes the administration of neuroleptic medication without a patient's consent, "we review the record in the light most favorable to the district court's decision." *In re Civ. Commitment of Raboin*, 704 N.W.2d 767, 769 (Minn. App. 2005). "We will affirm the district court's findings unless they are clearly erroneous." *Id.* Our clear error standard of review requires that we (1) view the evidence in the light most favorable to the district court's findings, (2) do not find our own facts, (3) do not reweigh the evidence, and (4) do not "reconcile conflicting evidence." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (quotation omitted).

On appeal, Thompson argues that the district court (1) clearly erred in finding that he lacked capacity to make decisions regarding neuroleptic medication; (2) failed to consider his wishes from the healthcare directive; and (3) clearly erred in finding that neuroleptic medication is reasonable and necessary. We address each argument in turn.

I. The district court did not clearly err when it found that Thompson lacked capacity to make decisions regarding neuroleptic medication.

Thompson argues that the district court clearly erred in finding that he lacked capacity to decide whether to take neuroleptic medication. A patient enjoys "a rebuttable presumption that [they have] the capacity to make decisions regarding the administration of neuroleptic medication." Minn. Stat. § 253B.092, subd. 5(a). A patient has capacity if the patient:

> (1) has an awareness of the nature of the patient's situation, including the reasons for hospitalization, and the possible consequences of refusing treatment with neuroleptic medications;
>
> (2) has an understanding of treatment with neuroleptic medications and the risks, benefits, and alternatives; and
>
> (3) communicates verbally or nonverbally a clear choice regarding treatment with neuroleptic medications that is a reasoned one not based on a symptom of the patient's mental illness, even though it may not be in the patient's best interests.

Id., subd. 5(b). A "petitioner has the burden of proving incapacity by a preponderance of the evidence." *Id.*, subd. 6(d); *In re Civ. Commitment of Froehlich*, 961 N.W.2d 248, 252-53 & n.3 (Minn. App. 2021). "A finding of lack of capacity under [section 253B.092] must not be construed to determine the patient's competence for any other purpose." Minn. Stat. § 253B.092, subd. 8(f).

Thompson challenges the district court's finding as to each of the three statutory factors and raises a separate argument related to the competency finding in the criminal case. First, Thompson argues that the district court clearly erred under subdivision 5(b)(1)

when it found that he "does not demonstrate an awareness of the possible consequences of refusing treatment with neuroleptic medication[.]" Thompson points to testimony in which his psychiatric provider described Thompson showing an awareness of his diagnosis by sometimes choosing not to answer questions that might provoke him to express his delusions in front of her. But viewed in the light most favorable to the district court's decision, even if the psychiatric provider's testimony shows that Thompson has some awareness of his diagnosis, the provider also testified that Thompson is unaware that the symptoms of his serious mental illness became worse when he ceased taking the neuroleptic medication.

Thompson also points to testimony in which the examiner described him as "a very bright gentleman [who] has a lot of awareness, and . . . ability to understand things[,]" and is not at risk of harming others. The examiner also testified, however, that Thompson lacks an understanding of the nature of his situation regarding neuroleptic medication. The examiner opined that neuroleptic medication is in Thompson's best interests and is the only way for him to progress in a hospital setting. The import of the examiner's testimony is that Thompson needs neuroleptic medication to treat his mental illness but refuses to take the medication because of the illness itself. The district court's finding under subdivision 5(b)(1) was not clearly erroneous.

Second, Thompson argues that the district court clearly erred under subdivision 5(b)(2) when it found that, although "Thompson can state the risks, . . . he cannot state the benefits of medication." But the record demonstrates that Thompson never entertained the possibility that the medication would benefit him. Instead, Thompson stated that, when he

took the medication before, he had only "negative physical side effects." The psychiatric provider's testimony established that she was able to manage negative side effects when Thompson was on the medication in the past. Taking this evidence in the light most favorable to the district court's decision, the court's finding under subdivision 5(b)(2) was not clearly erroneous.

Third, Thompson argues that the district court clearly erred under subdivision 5(b)(3) when it failed to find that he communicated "a clear choice regarding treatment with neuroleptic medication[]" in his health-care directive. However, the statute requires that a patient's clear choice must be "a reasoned one not based on a symptom of the patient's mental illness." Minn. Stat. § 253B.092, subd. 5(b)(3). Here, the district court's findings are supported by the testimony of the psychiatric provider and the examiner, both of whom testified that Thompson refused medication while suffering from delusions that people were conspiring against him. Accordingly, the district court found that "[h]is decision regarding his treatment with neuroleptic medication is affected and clouded by his lack of insight into his mental illness." The district court's finding under subdivision 5(b)(3) was not clearly erroneous.

Finally, Thompson argues that the district court's incapacity finding is clearly erroneous because the district court found him competent to stand trial in his criminal case. However, section 253B.092 sets out a unique statutory scheme regarding involuntary administration of neuroleptic medication that is distinct from a competency-inquiry in a criminal case. The statute itself makes clear that a finding of incapacity under section 253B.092 "must not be construed to determine the patient's competence for any other

purpose." Minn. Stat. § 253B.092, subd. 8(f). And Thompson does not cite any authority for the contention that competency to stand trial in a criminal matter requires that a person be ruled competent for purposes of civil commitment.

The district court did not clearly err when it found that Thompson lacked "capacity to make decisions regarding the administration of neuroleptic medication."

II. The district court did not clearly err when it found that Thompson lacked capacity at the time he executed the health care directive.

Thompson argues that the district court failed to consider his clearly expressed wishes regarding neuroleptic medication in his health-care directive. When a nonconsenting patient lacks capacity, a district court must follow the patient's wishes on whether to administer neuroleptic medication "[i]f the patient clearly stated what the patient would choose to do in this situation when the patient had the capacity to make a reasoned decision[.]" Minn. Stat. § 253B.092, subd. 7(b).

The district court found that "Thompson completed a health care directive" and designated a person to "follow his wishe[s] on the use of neuroleptic treatment." The district court also found that Thompson lacked capacity to make decisions regarding neuroleptic medication. In the order denying Thompson's motion for reconsideration, the district court again noted the existence of the health-care directive, but again found "that Thompson lacked the capacity to make a decision regarding the administration of neuroleptic medications." When we view the record in the light most favorable to the district court's decision, we conclude that the court's finding with regard to Thompson's capacity encompassed the time during which Thompson executed the health-care directive.

At the time Thompson executed his health-care directive, the evidence established that he was off his medication and his symptoms were growing worse. Given the breadth of evidence in the record about Thompson's condition, the district court's finding that Thompson lacked capacity with regard to the administration of neuroleptic medications was not clearly erroneous.

III. The district court did not clearly err when it found that neuroleptic medication was reasonable and necessary for Thompson.

Thompson also argues that the district court clearly erred when it found that neuroleptic medication was reasonable and necessary. "If evidence of the patient's wishes regarding the administration of neuroleptic medications is conflicting or lacking, the decision must be based on what a reasonable person would do[.]" Minn. Stat. § 253B.092, subd. 7(c). A district court must consider: "(1) the patient's family, community, moral, religious, and social values; (2) the medical risks, benefits, and alternatives to the proposed treatment; (3) past efficacy and any extenuating circumstances of past use of neuroleptic medications; and (4) any other relevant factors." *Id.* A petitioner must present clear and convincing evidence that neuroleptic medication is necessary and that a reasonable person would consent to taking the medication. *Breault*, 942 N.W.2d at 378. Thompson argues that the district court inadequately considered the second and third factors under Minnesota Statutes section 253B.092, subdivision 7(c).

Regarding the second factor, Thompson argues that there were less-restrictive treatments than neuroleptic medication. The statute does not, however, require a consideration of less-restrictive treatments. Minn. Stat. § 253B.092, subd. 7(c)(2). Instead,

a district court must consider "the medical risks, benefits, and alternatives to the proposed treatment[.]" *Id.* Here, the record evidence established that Thompson's symptoms became worse when he stopped taking the medication. The psychiatric provider testified that there was no viable alternative to neuroleptic medication. Thus, the district court's finding that there is no "alternative treatment[]" was not clearly erroneous.

Regarding the third factor, Thompson argues that his prior use of neuroleptic medication had only negative side effects and that the psychiatric provider's delay in filing the petition after the last order expired suggests that he was doing well without the medication. Again, the record reflects that the psychiatric provider testified that she was able to manage the negative side effects when Thompson was on the medication. She also testified that Thompson's symptoms grew worse without the medication. The district court, therefore, did not clearly err when it found this factor weighs in favor of the determination that the medication was that "[i]t is both reasonable and necessary" for Thompson to receive neuroleptic medication.

Affirmed.