STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2013

In the Matter of the Civil Commitment of: Joseph Harju.

Filed June 8, 2026
Affirmed
Harris, Judge

Commitment Appeal Panel
File No. AP23-9061

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Considered and decided by Bond, Presiding Judge; Harris, Judge; and Florey, Judge.*

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this appeal from a commitment appeal panel (CAP) decision granting respondent's petition for discharge from civil commitment under a due-process analysis, appellant argues that the CAP's decision should be reversed because several findings

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

supporting the CAP's conclusion that respondent's mental illness is in remission and that respondent is no longer dangerous are clearly erroneous. We affirm.

FACTS

In 2008, St. Louis County petitioned to civilly commit respondent Joseph Harju as a sexually dangerous person (SDP) after he was convicted of and served sentences for criminal sexual conduct involving six adolescent males ranging from 8 to 15 years old.[1] Harju waived his right to a hearing, stipulated to the civil commitment, and admitted that he was a SDP. In July 2009, a district court found that Harju met the criteria for continued commitment as an SDP and ordered indefinite civil commitment.

Harju has resided at the Minnesota Sex Offender Program (MSOP) since his civil commitment in 2009. At the time this appeal was filed, Harju was 72 years old and was in the second phase of the three-phase treatment program at MSOP. The second phase focuses on the person's offending patterns, along with identifying and resolving the underlying issues and motivations related to offending behaviors. In 2016, Harju stopped attending treatment groups. In 2022, Harju moved to MSOP's assisted living unit because of his deteriorating health and difficulty completing his activities of daily living. He re-engaged in treatment shortly thereafter.

Harju undergoes yearly mental-health assessments (MHAs) while at MSOP. The MSOP providers diagnosed Harju with, among other things, "Other Specified Paraphilic

[1] The evidence supporting the county's petition included that Harju suffered from disorders that prevented him from exercising adequate control over his sexual impulses, Harju had previously been admitted to three sex-offender treatment programs but had not completed treatment, and expert opinions that Harju was highly likely to re-offend.

Disorder, Adolescent Pubescent Males" and "Other Specified Personality Disorder, with Antisocial Features." Dr. Ankarlo, an MSOP treatment psychologist, completed MHAs in 2023 and 2024, which stated that Harju's diagnosis of "Other Specified Paraphilic Disorder, Adolescent Pubescent Males," was "in remission, in a controlled environment."[2] But in the 2025 MHA, Dr. Ankarlo removed the terms "in a controlled environment" and "in remission" from Harju's diagnoses because, according to Dr. Ankarlo, "'in a controlled environment' [did] not meet DSM-5[3] criteria." Dr. Ankarlo also determined that Harju "[did] not meet criteria [for 'in remission'] due to the fact that he has not spent time in the community." The terms "in remission" and "in a controlled environment" are also referred to as "specifiers."

In 2022, Harju filed a petition with the Special Review Board (SRB) for a reduction in custody, including either transfer, provisional discharge, or full discharge from his civil commitment. The SRB recommended that Harju's petition be denied. Harju petitioned for rehearing before the CAP, and the parties appeared for a first-phase hearing in September 2024. After the hearing, the CAP issued an order granting appellant Direct Care and Executive Treatment Executive Board's (the board) motion to dismiss Harju's petition under Minnesota Rule of Civil Procedure 42.02(b) as it related to transfer, provisional discharge, and full discharge under the statutory criteria. But the CAP denied the board's motion to dismiss as it related to discharge under a due-process analysis and set the matter

[2] The 2023 MHA uses the phrase "in sustained remission."

[3] DSM-5 is the abbreviation for the Diagnostic and Statistical Manual fifth edition.

for a second-phase hearing. In reaching this decision, the CAP stated: "Dr. Ankarlo was not called to testify but, taking all inferences in the light most favorable to [Harju] and making no credibility determinations, there is sufficient competent evidence that [Harju's] sexual disorder may be in remission." It added that it was "not making a final determination on whether [Harju's] sexual disorder is in remission and whether [Harju] can be considered dangerous given his extensive health conditions."

About a year later, the parties appeared for the second-phase hearing. The board presented testimony from Dr. Ankarlo; the MSOP Clinical Court Services Director (MSOP director); and Dr. Scharf, a forensic evaluator for the board. Harju presented testimony from Dr. Evenson, a psychologist; Dr. Vietanen, a psychologist and independent examiner for the state; and himself. After the hearing, the CAP issued an order granting Harju's petition for a full discharge, concluding that "the board did not show by clear and convincing evidence that [Harju] continues to have the requisite mental illness or abnormality and dangerousness to support continued civil commitment."

The board appeals.

DECISION

The board challenges the CAP's decision granting Harju's petition for full discharge from his indeterminate civil commitment.

We review the CAP's findings supporting its decision to grant a discharge from civil commitment for clear error. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021). 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." *Id.* at 221 (quotation

omitted). When reviewing factual findings for clear error, "we view the evidence in a light favorable to the findings" and "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." *Id.* (quotations and citation omitted). We do not find our own facts, reweigh the evidence, or reconcile conflicts in the evidence. *Id.* at 221-22.

We also "need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [CAP]." *Id.* at 222 (quotation omitted). "Rather, because the factfinder has the primary responsibility of determining the fact issues . . . an appellate court's duty is fully performed after it has fairly considered all the evidence and has determined that the evidence reasonably supports the decision." *Id.* (quotation omitted). In short, "[w]hen 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); *see In re Civ. Commitment of Fugelseth*, 907 N.W.2d 248, 256 (Minn. App. 2018) (stating that the "question is *not* whether the record could support a finding that [the civilly committed person] is still dangerous to the public; the question is whether the [CAP] clearly erred by finding that [the civilly committed person] is no longer dangerous to the public."), *rev. denied* (Minn. Apr. 17, 2018).

A person who is civilly committed as a SDP may seek a reduction in custody by petitioning the SRB for transfer, provisional discharge, or full discharge. Minn. Stat. §§ 253D.27, subd. 2, .29-.31 (2024). After the SRB issues its findings and recommendation, the person committed, the county attorney, or the executive board "may

petition the [CAP] . . . for a rehearing and reconsideration" of the SRB's decision. Minn. Stat. § 253D.28, subd. 1(a) (2024). "The petitioning party . . . bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief." Minn. Stat. § 253D.28, subd. 2(d) (2024). "The proceeding in which a committed person produces evidence is commonly referred to as a 'first-phase hearing.'" *Coker v. Jesson*, 831 N.W.2d 483, 486 (Minn. 2013).

After the first-phase hearing, the party opposing the petition may move to dismiss the petition under Minnesota Rule of Civil Procedure 41.02(b) by arguing that, when viewing the evidence in the light most favorable to the petitioner, the petitioner did not meet their burden. *Id.* at 489. Here, the CAP granted the board's motion dismiss as it related to transfer, provisional discharge, and discharge under the statutory criteria. But the CAP denied the board's motion to dismiss and scheduled a second-phase hearing as it related to discharge under a due-process analysis.

The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1; *see also* Minn. Const. art. I, § 7. "The Due Process Clause confers rights on persons who are civilly committed because civil commitment 'constitutes a significant deprivation of liberty.'" *In re Civ. Commitment of Opiacha*, 943 N.W.2d 220, 226 (Minn. App. 2020) (quoting *Addington v. Texas*, 441 U.S. 418, 425 (1979)).

A committed person is entitled to discharge from civil commitment under the Due Process Clause if they are "no longer mentally ill or is no longer a danger to himself" and if "the nature and duration of commitment [do not] bear some reasonable relation to the purpose for which the individual [was] committed." *Lidberg v. Steffen*, 514 N.W.2d 779, 783 (Minn. 1994) (quotation omitted); *see also O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975) ("[T]here is . . . no constitutional basis for confining [mentally ill persons] involuntarily if they are dangerous to no one and can live safely in freedom.").

Due process does not require "any particular mental condition as a prerequisite for a person's ongoing civil commitment." *Opiacha*, 943 N.W.2d at 228. But the Due Process Clause allows a state to civilly commit a person only if the person lacks the ability to control his or her behavior. *Kansas v. Crane*, 534 U.S. 407, 411-14, (2002); *see also Opiacha*, 943 N.W.2d at 228-29 (explaining that a person who has been civilly committed as mentally ill and dangerous is entitled to discharge under the Due Process Clause if the person does not have serious difficulty in controlling his or her behavior due to a mental illness or mental abnormality). Minnesota Supreme Court caselaw also suggests that once a person's mental illness is in remission, they are entitled to be discharged from civil commitment. *See In re Blodgett*, 510 N.W.2d 910, 916 (Minn. 1994) (stating that "if there is a remission of [petitioner's] sexual disorder, if his deviant sexual assaultive conduct is brought under control," the petitioner "is entitled to release"). Accordingly, the board, as the party opposing the discharge, had the burden to prove by clear and convincing evidence that Harju's discharge should be denied because he had the requisite mental illness and

dangerousness to support continued civil commitment.[4] Minn. Stat. § 253D.28, subd. 2(d); *Opiacha*, 943 N.W.2d at 227.

The board argues that several of the CAP's findings supporting its decision to grant Harju's discharge under a due-process analysis are clearly erroneous and that the record as a whole does not support the CAP's order. It asserts that the CAP, "simply ignored the record and concluded on its own, with no support, that Mr. Harju does not have a mental illness necessitating his commitment and because of his age and health he does not physically pose a risk to the public." We address each of the board's arguments in turn.

I. The CAP did not clearly err in finding that the board did not meet its burden to show that Harju continues to have a mental illness.

Paraphilic Disorder

First, the board challenges the CAP's determination that the board "did not produce clear and convincing evidence that [Harju's] mental illness is not remitted." The board argues that the CAP "mischaracterized and ignored the entire record showing Mr. Harju's sexual disorder is not in remission," and erroneously concluded that Dr. Ankarlo was "told" to remove the "in remission" specifier from Harju's diagnosis during the 2025 MHA.

In reaching this conclusion, the CAP reasoned that "[n]othing changed factually or with regard to [Harju's] presentation or behaviors between the 2023 and 2024 MHAs," which previously included the "in remission" specifier. The CAP "found it troubling that Dr. Ankarlo was told to remove the specifier, and Dr. Ankarlo testified he now understands

[4] At oral argument in this court the board agreed that it had the burden at trial to prove both that Harju continued to have a mental illness and continued to be dangerous to the public.

he was in error as to his reading of the DSM by including the 'in remission' specifier." The CAP also noted: "Dr. Ankarlo testified that his diagnosis did not change, just the specifier."

The board contends that these findings are clearly erroneous because "[n]owhere does the record even slightly imply that Dr. Ankarlo was 'told' to remove [the remission] specifier." To support this argument, the board points to Dr. Ankarlo's testimony that "he independently changed the specifier after reviewing the applicable DSM criteria," and "specifically testified that no one directed or influenced him to make the change." The board also suggests that Harju's diagnosis is not in remission because Dr. Scharf never included "in remission" with Harju's paraphilic-disorder diagnosis and the MSOP director was unaware of any information suggesting that the diagnosis was in remission. We disagree that the CAP clearly erred in finding that the board did not meet its burden to show that Harju's paraphilic disorder was not in remission.

We acknowledge that Dr. Ankarlo testified about his reasons for removing the "in remission" specifier in the 2025 MHA. The record shows that Dr. Ankarlo removed "in remission" from Harju's diagnosis on his own accord after he reviewed the DSM-5. But the CAP's reasoning "that Dr. Ankarlo was told to remove the specifier" is reasonably supported by Dr. Ankarlo's testimony that, although he ultimately agreed with his supervisor's suggestion, he removed "in remission" from Harju's diagnosis only after receiving feedback from a supervising psychologist.

The CAP's finding that "there was no clear and convincing evidence that [Harju's] paraphilic disorder that was considered remitted has in fact changed," is also reasonably

supported by the record. Dr. Ankarlo authored the 2023, 2024, and 2025 MHAs. In both the 2023 and 2024 MHAs, Dr. Ankarlo diagnosed Harju with "Other Specified Paraphilic Disorder, Adolescent Pubescent Males, In Remission, In a Controlled Environment." "In remission" was "added to reflect that client has not engaged in any deviant sexual activity for an extended period of time." Dr. Ankarlo removed the "in remission" specifier in 2025 because Harju did "not meet the criteria due to the fact that he has not spent time in the community that is required." But, as the CAP concluded, nothing in the 2025 MHA, or the record as a whole, suggests that anything changed factually or with regard to Harju's presentation or behaviors.[5] And it was the board's burden to show that the discharge should be denied. *See* Minn. Stat. § 253D.28, subd. 2(d); *Coker*, 831 N.W.2d at 486.

Several witnesses testified that including the "in remission, in a controlled environment," specifier with a diagnosis like Harju's is not necessarily improper. Dr. Ankarlo himself agreed that the DSM-5 does not preclude the use of remission and/or in a controlled environment when there is no time in the community. The MSOP director, testified that "[t]ypically, you'd want to see an uncontrolled environment around five years of evidence that behaviors have not reoccurred," but he also acknowledged that he had seen the "in remission, in a controlled environment" diagnosis in several cases involving individuals in MSOP. And Dr. Scharf testified that, according to the DSM-5, "in

[5] Harju notes that Dr. Ankarlo was approached by the supervising psychologist about one month after the CAP granted the second-phase hearing, and contends that the only thing that had changed between the 2024 and 2025 MHAs was that the CAP had granted the second-phase hearing. The CAP did not explicitly consider this timing in reaching its decision.

remission" and "in a controlled environment" could be used as specifiers for "other specified paraphilic disorder," but then later explained that she did not "believe that's an appropriate diagnosis to the client."

Dr. Evensen, one of Harju's witnesses, also agreed that, according to the DSM-5, "other specified paraphilic disorders can be specified as in remission and/or occurring in a controlled environment." And lastly, Dr. Vietenen, who the CAP specifically found credible, explained that "the specifier in remission for other specified paraphilic disorder can apply even if someone has not spent time in the community." Dr. Vietenen testified that nothing "forecloses or precludes [Dr. Ankarlo's] use or his application of [other specified paraphilic disorder in remission, in a controlled environment]." She also explained: "In remission means that somebody is making progress towards managing the symptoms of the disorder," and that "[t]he person is not struggling with distress or dysfunction related to the disorder." By contrast, "[f]ull remission means that the symptoms[] [and] the behaviors are no longer apparent."

The record shows that Dr. Ankarlo determined that Harju had not engaged in any deviant sexual activity for an extended period of time. And while he later removed "in remission, in a controlled environment" from Harju's diagnosis because he agreed with a supervising psychologist's feedback about interpreting the DSM-5, Harju's behaviors had not changed. And other experts explained that the specifier "in remission, in a controlled environment" is not improper. The CAP therefore did not clearly err in finding that the board did not meet its burden to show that Harju's mental illness was not in remission.

Personality Disorder

The board also argues that the CAP "ignored the entire record showing Mr. Harju's personality disorder to be reasonably related to his initial commitment." The board maintains that "the documentary evidence and testimony show that [Harju] still has a personality disorder requiring treatment and supervision for such a disorder in his current setting." In its order, the CAP "did not find clear and convincing evidence that [Harju's] personality disorder . . . [is] severe enough to support continued civil commitment." The CAP noted that Harju "does not have a full Antisocial Personality Disorder," and there was not "clear and convincing evidence that [Harju's] personality disorder was so severe and present to satisfy the mental illness or mental abnormality prong for due process." We conclude that this finding is not clearly erroneous.

Dr. Scharf described Harju's personality disorder in a risk assessment as "an enduring maladaptive pattern of behavior and/or inner experience that interferes with his social functioning." For Harju, the personality disorder manifests "as a persistent disregard for rules and laws imposed on him, disregard for the rights of others, and a lack of guilt, remorse, and empathy as manifested by the ability and willingness to manipulate and take advantage of others for personal gain." And, as the board notes, Dr. Scharf testified about how Harju's personality disorder is reasonably related to his sexual offending and opined that Harju still needs treatment and supervision for that disorder.

But there is other evidence in the record supporting the board's finding that Harju's personality disorder is not severe, such that the CAP's finding is not clearly erroneous. While Dr. Scharf agreed that Harju needed treatment and supervision for his personality

disorder, she also testified that "I do think that the other specified paraphilic disorder is the primary diagnosis for which he requires treatment at this time." And Harju's most recent MHA states that Harju has not received any Behavioral Expectation Reports since 2013.[6] The record also shows that Harju engaged in treatment after moving to the assisted living unit, was willing to meet with a primary therapist, and "was described as cooperative and no concerns with rule violations were identified." This evidence demonstrates that while Harju could perhaps benefit from further treatment, he does not have "serious difficulty in controlling [his] behavior" due to his personality disorder. *See Opiacha*, 943 N.W.2d at 229. We therefore conclude that the CAP's findings about Harju's personality disorder were not clearly erroneous.

II. The CAP did not clearly err in finding that the board did not meet its burden to show that Harju continues to be dangerous.

Risk Assessment

The board contends that the CAP's finding that Harju is no longer dangerous is clearly erroneous because the finding is manifestly contrary to the weight of the evidence. To support this argument, the board points to Dr. Scharf's testimony about Harju's most recent risk assessment. Dr. Scharf testified that Harju remains dangerous to the public and the risk assessment "suggests that he is in the above average Static risk category compared to others who have sexually offended and also continues to present the dynamic risk factors that are reflective of his event dynamic from the time he was offending."

[6] A Behavioral Expectation Report is a report that is created when a participant violated a behavioral expectation.

The CAP specifically "did not find Dr. Scharf's opinion of continued mental illness persuasive." It concluded that there was not "clear and convincing evidence that [Harju] could physically pose a risk to adolescent males, which were his victim pool." The board maintains that the CAP's findings are inconsistent with the evidence because the CAP ignored Dr. Scharf's risk assessment, erroneously found that Dr. Scharf "did not factor in [Harju's] advanced age and physical condition into her risk analysis," "incorrectly characterized Dr. Scharf's perception of Mr. Harju's age and physical condition," and "incorrectly characterized Mr. Harju's matrix scores as it relates to his sex-offender specific treatment goals." We disagree with the board.

While Dr. Scharf testified that Harju remains dangerous to the public, the CAP "is not bound by the recommendations of the experts, unless the experts' testimony is so positive as to exclude all doubt as to the matter on which they are given and unless based on testimony, which is positive, consistent, unimpeached, and uncontradicted." *Kenney*, 963 N.W.2d at 225 (quotation omitted). And the record shows that the CAP did not ignore the risk assessment but focused on "not whether there was more treatment [Harju] could do but whether there was clear and convincing evidence of mental illness to require continued civil commitment."

The CAP was more concerned with how Harju's physical health and age directly impacted his potential to be dangerous to the community, which Dr. Scharf could not answer as she was focused on unmitigated treatment. And while Dr. Scharf was generally aware of Harju's age and health conditions and accounted for them in a portion of the assessment, she was not familiar with details or names of his health conditions And,

relying on the most recent MSOP treatment progress reports, the CAP disagreed with the opinions in the record that Harju's physical health is stable and well managed and that neither his age nor his health precludes his ability to participate in treatment. The record supports the CAP's findings that Harju needs assisted living care, becomes easily winded, has little involvement outside of his living unit, and spends most of his time in his room. And the record reasonably supports the CAP's conclusion that Harju's "treatment team tends to attribute his lack of participation more to low motivation and less to his physical health, but this was not demonstrated to the [CAP] to be the case." Accordingly, the CAP's findings about Harju's continued dangerousness are not clearly erroneous.

Aftercare

Lastly, the board asserts that the CAP "erred as a matter of law when it relied on section 253D.35 in support of its conclusion that []Harju is not dangerous to the public." We review issues of statutory interpretation and the CAP's application of the law to the facts of a particular case de novo. *Fugelseth*, 907 N.W.2d at 253. Section 253D.35 requires MSOP to "provide the supervision, aftercare, and case management services for *a person under commitment* as a sexually dangerous person." Minn. Stat. § 253D.35, subd. 1 (2024) (emphasis added). The board contends that "section 253D.35 clearly and unambiguously does not obligate the board to provide aftercare service to a client discharged from civil commitment because [the provision] is only applicable to 'a person under commitment.'"

Assuming without deciding that the board's interpretation of section 253D.35 is correct, the board argument is unavailing because the CAP did not rely on section 253D.35 to reach its decision. In its order, the CAP mentions that "it is not ideal to go directly to

full discharge" and cites section 253D.35 for the proposition that MSOP and the county have "mandated aftercare obligations upon discharge from civil commitment." But the CAP ultimately clarified that any aftercare obligations are not relevant, stating: "Although an important consideration, adjustment back to society is not relevant to the due process analysis." We therefore conclude that the CAP did not err as a matter of law by referencing Minnesota Statutes section 253D.35.

Affirmed.