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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0453**

In the Matter of the Civil Commitment of Michael Leroy Deyo.

**Filed August 24, 2026
Affirmed
Reyes, Judge**

Ramsey County District Court
File No. 62-MH-PR-24-766

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Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges the district court's determinations that clear and convincing evidence supported his indeterminate civil commitment as a sexually dangerous person (SDP) and as a person with a sexual psychopathic personality (SPP). We affirm.

FACTS

Appellant Michael Leroy Deyo was born in March 1963 and is now 63 years old. Appellant has had three convictions relevant to his commitment, two of which he received in his twenties. First, based on his 1983 sexual assault of a stranger, the district court

convicted appellant of fourth-degree criminal sexual conduct under Minnesota Statutes section 609.345(c) (1982), and sentenced him to five years of probation. Second, based on his 1988 sexual assault of another stranger, the district court convicted appellant of terroristic threats under Minnesota Statutes section 609.713, subdivision 1 (1986), and sentenced him to five years of probation. Third, based on his 2016 sexual assault of a coworker, the district court convicted appellant of first-degree criminal sexual conduct under Minnesota Statutes section 609.342, subdivision 1(e)(i) (2016), and sentenced him to 86 months in prison.

While in prison for his third conviction, appellant received a recommendation to complete a prison-based, sex-offender treatment program. The program rejected him because, during his interview, appellant “would not disclose behaviors related to his [criminal-sexual-conduct] conviction.”

After almost five years in prison, appellant entered supervised release in the community. The conditions of his release required him to (1) “comply with sex offender programming as directed by the [supervising] agent,” (2) “refrain from the use or possession of mood altering substances including alcohol,” (3) “refrain from purchasing, possessing, accessing, or controlling any type of . . . dangerous weapon,” and (4) “refrain from engaging in any . . . harassing, stalking, or threatening behavior.”

While on supervised release, appellant’s supervising agent referred appellant to a sex-offender treatment program in the community. The program conducted an initial assessment and noted that appellant “presented with low motivation for treatment.” After

attending the program for two months, appellant was arrested for violating his supervised-release conditions, and the program terminated his participation.

Following his arrest, the Minnesota Department of Corrections' Hearings and Release Unit held a hearing and found that appellant committed four violations of his supervised-release conditions: (1) failing to comply with sex-offender programming; (2) consuming alcohol; (3) purchasing and possessing stun guns and pepper sprays; and (4) engaging in harassing behaviors toward two women. The commissioner of corrections revoked appellant's conditional release and executed the remainder of appellant's 86-month sentence. Appellant completed his sentence the following month, at which point he left custody.

Shortly before the completion of his sentence, an end-of-confinement review committee referred appellant's case to respondent Ramsey County "for consideration of civil commitment." The county later petitioned for appellant's indeterminate commitment as both an SDP and an SPP.

The district court held a hearing on the petition, at which the state introduced testimony and written examinations from two court-appointed examiners, Dr. Michael Thompson and Dr. Andrea Lovett, in support of appellant's commitment. The district court granted the county's petition and ordered appellant's indeterminate commitment as both an SDP and an SPP.

This appeal follows.

DECISION

Appellant challenges the district court's determinations that clear and convincing evidence supported his commitment as (1) an SDP and (2) an SPP. We address each argument in turn.

“[W]hether the facts found by the district court satisfy the statutory criteria for commitment” is a question of law that we review de novo. *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 807 (Minn. App. 2014). When reviewing the findings of fact themselves, however, “this court applies a clear-error standard of review . . . and reviews the record in the light most favorable to” those findings. *Id.* Under clear-error review, appellate courts do not reweigh evidence, reconcile conflicting evidence, or engage in fact-finding. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021). We defer to the district court's credibility determinations, *see In re Civ. Commitment of Stone*, 711 N.W.2d 831, 839 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006), and “need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the [factual] findings,” *Kenney*, 963 N.W.2d at 222 (quotation omitted).

A person may be civilly committed as an SDP or an SPP if a petitioner proves the associated statutory criteria by clear and convincing evidence. Minn. Stat. § 253D.07, subd. 3 (2024). Clear and convincing evidence is “more than a preponderance of the evidence but less than proof beyond a reasonable doubt.” *In re Civ. Commitment of Kropp*, 895 N.W.2d 647, 654 (Minn. App. 2017) (quotation omitted), *rev. denied* (Minn. June 20, 2017). “The clear-and-convincing-evidence standard is met when the truth of the facts asserted is highly probable.” *Id.*

I. The district court did not err by determining that the county proved appellant meets the statutory criteria for commitment as an SDP by clear and convincing evidence.

Appellant contends that the district court erred by determining that clear and convincing evidence supported his commitment as an SDP, and he challenges the district court's findings on each of the statutory criteria. We are not persuaded.

To commit a person as an SDP, the district court must find that the individual:

- (1) has engaged in a course of harmful sexual conduct as defined in [Minnesota Statutes section 253D.02,] 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.

Minn. Stat. § 253D.02, subd. 16(a) (2024); *see also* Minn. Stat. § 253D.07, subd. 3 (requiring clear and convincing evidence to support SDP determination).

A. The district court did not clearly err by finding that appellant engaged in a course of harmful sexual conduct.

Appellant's sole assertion about the first element of the SDP statute is that his "1983 and 1988 convictions are to[o] remote in time to show a course of conduct." The county correctly points out that, in contrast to appellant's premise, this court has held that "the incidents that establish the course [of harmful sexual conduct] . . . need not be recent." *Stone*, 711 N.W.2d at 837. Because binding caselaw in fact stands for the opposite proposition than appellant's assertion, we conclude that the district court did not clearly err by finding that appellant engaged in a course of harmful sexual conduct.

B. The district court did not clearly err by finding that appellant has a sexual, personality, or mental disorder that does not allow him to control his sexual impulses adequately.

Appellant next argues, regarding the second element of the SDP statute, that (1) he does not have “any sexual, personality or other mental disorder or dysfunction” because his diagnoses “rest on subjective interpretation,” and (2) “[t]here was not a sufficient showing that these diagnos[e]s would cause [him] difficulty in controlling harmful sexual behavior.”

The second element requires proof that the person’s “present disorder or dysfunction does not allow them to adequately control their sexual impulses, making it highly likely that they will engage in harmful sexual acts in the future.” *In re Civ. Commitment of Ramey*, 648 N.W.2d 260, 267-68 (Minn. App. 2002) (quotation omitted), *rev. denied* (Minn. Sept. 17, 2002).

As to appellant’s first argument, the district court determined that both examiners “testified credibly at trial regarding their diagnoses.” Both examiners diagnosed appellant with unspecified paraphilic disorder and a mild intellectual disability, and Dr. Lovett also diagnosed appellant with antisocial personality disorder. Appellant’s first argument therefore fails because we defer to the district court’s credibility determinations. *See Stone*, 711 N.W.2d at 839.

Regarding appellant’s second argument, the district court found credible Dr. Lovett’s opinion that appellant had limited to no control “over his sexual impulses” due to his unspecified paraphilic disorder and antisocial personality disorder. Appellant’s

second argument therefore also fails because we defer to the district court's credibility determinations. *See id.*

C. The district court did not clearly err by finding that appellant is highly likely to engage in acts of harmful sexual conduct.

Regarding the third element of the SDP statute, appellant argues that (1) any evidence that suggests he would reoffend is “speculative”; (2) “[g]roup recidivism rates” are not relevant to individual likelihoods of reoffending; and (3) the examiner opinions resting on “historical conduct” and “actuarial instruments” are “not sufficient to show a current difficulty in controlling behavior.”

The word “likely” in this element “require[s] clear and convincing evidence that the person is ‘highly likely’ to engage in acts of harmful sexual conduct.” *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 22 (Minn. 2014). This likelihood “cannot be defined by a numeric value.” *Id.* at 21. Instead, the supreme court has identified several nonexclusive factors for consideration, known as the *Linehan* factors, which include:

(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)). “No single factor is determinative of this complex issue.” *In re Civ. Commitment of Navratil*, 799 N.W.2d 643, 649 (Minn. App. 2011), *rev. denied* (Minn. Aug. 24, 2011).

The district court here considered a variety of evidence when assessing this element including appellant’s treatment history, “Correctional and Supervision History,” and risk assessments. The district court referenced several actuarial tools administered both historically and recently to assess appellant’s likelihood of reoffending, and described appellant’s most recent results as suggesting an “above average risk” for reoffending. The district court also considered the testimony of both examiners, which referenced the *Linehan* factors. The district court found credible “Dr. Lovett and Dr. Thompson’s conclusion that [appellant] is ‘highly likely’ to engage in acts of harmful sexual conduct in the future if [he] is not committed.” Appellant fails to support his assertion that this evidence is “speculative,” requiring reversal, and we defer to the district court’s credibility determinations. *See Stone*, 711 N.W.2d at 839.

Appellant’s remaining arguments also fail. Group recidivism rates are relevant for the *Linehan* factor “base rate statistics,” which “refers to recidivism rates for a particular class, such as the overall percentage of sex offenders that reoffend.” *Ince*, 847 N.W.2d at 22 n.3. Appellant’s contention that “[g]roup recidivism rates should not be used to predict individual outcomes” suggests that he is advocating for a new rule of law. But we are bound to follow supreme court precedent, and we do not create new law. *See Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987) (stating that “the task of extending

existing law falls to the supreme court or the legislature”), *rev. denied* (Minn. Dec. 18, 1987).

Further, appellant provides no caselaw or legal argument to support his assertion that “historical conduct” and “actuarial instruments” are “not sufficient to show a current difficulty in controlling behavior.” It is also unclear why these factors would need to be “sufficient,” on their own, when the district court here relied on a variety of evidence including but not limited to these permissible factors. *See Linehan*, 518 N.W.2d at 614 (providing three factors requiring historical considerations); *Ince*, 847 N.W.2d at 24 (concluding that actuarial evidence can be “relevant to the determination of whether a person is highly likely to engage in future harmful sexual conduct”). Because appellant provides no briefing explaining his sufficiency arguments, we decline to consider them. *See Kropp*, 895 N.W.2d at 653 (“Minnesota appellate courts decline to reach an issue in the absence of adequate briefing.”).

We therefore conclude that the district court did not clearly err by finding that appellant is highly likely to engage in acts of harmful sexual conduct. And because it is “highly probable” that appellant meets the statutory criteria for commitment as an SDP, *id.* at 654, we conclude that the district court did not err by determining that the county proved appellant meets the statutory criteria for commitment as an SDP by clear and convincing evidence.

II. The district court did not err by determining that the county proved appellant meets the statutory criteria for commitment as an SPP by clear and convincing evidence.

Appellant contends that the district court erred by determining that clear and convincing evidence supported his commitment as an SPP, specifically arguing that the district court's sexual-irresponsibility and lack-of-control findings are clearly erroneous. We disagree.

To commit an individual as an SPP, the district court must make four findings: (1) the individual has a “condition[] of emotional instability, or impulsiveness of behavior, or lack of customary standards of good judgment, or failure to appreciate the consequences of personal acts,” or some combination of these conditions, which make them “irresponsible for personal conduct with respect to sexual matters”; (2) they have engaged in “a habitual course of misconduct in sexual matters”; (3) that misconduct shows “an utter lack of power to control [their] sexual impulses”; and (4) “as a result,” they are “dangerous to other persons.” Minn. Stat. § 253D.02, subd. 15 (2024); *see also* Minn. Stat. § 253D.07, subd. 3 (requiring clear and convincing evidence to support commitment as SPP). Because appellant challenges the first and third findings, we address each in turn.

A. The district court did not clearly err by finding that appellant has conditions that render him irresponsible in sexual matters.

Appellant argues that he does not meet the first element of the SPP statute because (1) he does not have any of the required conditions and (2) the examiners' opinions “are derived primarily from [his] historical conduct rather than his present day condition.”

Regarding appellant's first argument, the district court found credible "Dr. Lovett's opinion that [appellant's] behavior is characterized by emotional instability, impulsiveness of behavior, a lack of customary standards of good judgment and a failure to appreciate the consequences of his personal acts." Further, the record shows that appellant has consistently minimized his impact on others, dismissed his need for treatment, and blamed alcohol and his victims for his actions.

Regarding appellant's second argument, it appears that appellant misunderstands the examiners' opinions, which reference both historical and present-day conduct. Dr. Lovett reported that, at the time of her evaluation, all four of the statutory conditions were present. She explained, for example, that *during her evaluation*, appellant denied that the victim of his 2016 assault "was negatively impacted by his sexual misconduct against her." Appellant also told Dr. Lovett "that he does not require sex offender treatment." Dr. Lovett referenced these statements to support her opinion that appellant fails to appreciate the consequences of his acts.

Because of the substantial support in the record and the deference we owe to the district court's credibility determinations, we conclude that the district court did not clearly err by finding that appellant has conditions that render him irresponsible in sexual matters.

B. The district court did not clearly err by finding that appellant has an utter lack of power to control his sexual impulses.

Appellant argues that he does not meet the third element of the SPP statute because (1) he has only "sometimes failed to control his behavior" and has gone "long periods

without reoffending,” and (2) the county “did not show that [his] impulses were so strong they cannot be controlled.”

In assessing whether a person has the lack of control contemplated in the SPP statute, courts consider several factors, including “the nature and frequency of the sexual assaults, the degree of violence involved,” any relationship between the person and victim(s), “the [person’s] medical and family history, [and] the results of psychological and psychiatric testing and evaluation.” *In re Blodgett*, 510 N.W.2d 910, 915 (Minn. 1994). The SPP statute does not require “a complete lack of ability to control,” but rather at least a “serious difficulty in controlling behavior.” *In re Martinelli*, 649 N.W.2d 886, 890 (Minn. App. 2002) (quotation omitted), *rev. denied* (Minn. Oct. 29, 2002).

Regarding appellant’s first argument, we note that whether a person has avoided reoffending in the past is not in itself sufficient to demonstrate that they can currently control their sexual impulses. *See In re Preston*, 629 N.W.2d 104, 111 (Minn. App. 2001) (rejecting argument that person’s “ability to control his impulses [was] demonstrated by” lack of evidence of reoffending while released on bail). Moreover, both examiners expressly testified that the gap between appellant’s 1988 and 2016 offenses “is not pertinent in terms of his current risk of sexual recidivism.” The gap “does not necessarily indicate that nothing occurred,” and, regardless, appellant ultimately reoffended in 2016 and 2023, supporting the finding that his behavior is not *currently* under control. The district court found the experts’ opinions and Dr. Lovett’s summary about this element to be credible.

Regarding his second argument, it appears that appellant misconstrues the emphasis of this statutory element by focusing on the strength of a person's impulses alone, rather than on the relationship between a person's impulses and their ability to control them. *See id.* (“[I]f a person has the ability to control the sexual impulse, the standard for commitment is not met.” (quotation omitted)). Further, appellant provides no caselaw or legal argument to support his assertion that the county needed to “show that [his] impulses were so strong they cannot be controlled.” We therefore decline to consider this issue as inadequately briefed. *Kropp*, 895 N.W.2d at 653.

Because of the substantial support in the record, and the fact that the district court accurately applied the law, we conclude that the district court did not clearly err by finding that appellant has an utter lack of power to control his sexual impulses. And because it is “highly probable” that appellant meets the statutory criteria for commitment as an SPP, *id.* at 654, we conclude that the district court did not err by determining that the county proved appellant meets the statutory criteria for commitment as an SPP by clear and convincing evidence.

Affirmed.