STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0875

In the Matter of the Civil Commitment of:
Renee P. Sharp.

Filed October 28, 2019
Affirmed
Cleary, Chief Judge

Hennepin County District Court
File No. 27-MH-PR-19-513

Renee P. Sharp, Minneapolis, Minnesota (pro se appellant)

Michael O. Freeman, Hennepin County Attorney, Annsara Lovejoy Elasky, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County Medical Center)

Considered and decided by Hooten, Presiding Judge; Cleary, Chief Judge; and Worke, Judge.

U N P U B L I S H E D O P I N I O N

CLEARY, Chief Judge

Appellant challenges the district court's orders committing her as mentally ill and authorizing the involuntary administration of neuroleptic medications. Because the district court's findings are supported by the record and satisfy the relevant statutory criteria, we affirm.

FACTS

Appellant Renee P. Sharp has a history of schizophrenia, alcohol-use disorder, and mental-health hospitalizations. In April 2019, staff with Community Outreach for Psychiatric Emergencies (COPE) brought her to Hennepin County Medical Center (HCMC) after her apartment was deemed uninhabitable and was condemned. Appellant was rendered homeless. She was agitated and delusional and planned to "sleep in the back of a bus."

In May 2019, a social-services supervisor petitioned the district court to commit appellant as mentally ill. A member of appellant's treatment team supplemented the petition with a written statement and a request to permit the involuntary administration of neuroleptic medications.

The district court assigned an examiner, who prepared a report. *See* Minn. Stat. § 253B.07, subd. 3 (2018). The examiner noted that appellant had a well-documented history of schizophrenia, which affected her thoughts, mood, and perception. She concluded that appellant lacked insight into her mental illness and posed a substantial likelihood of harm to herself based upon her inability to care for herself. The examiner also believed that the least restrictive treatment was hospitalization, in part, because appellant "was not taking medications as prescribed." She further concluded that appellant did not have the capacity to make competent decisions on whether to accept antipsychotic medications and did not demonstrate an awareness of her situation.

A district-court referee held a hearing on the petition. Appellant appeared with counsel. The petitioner submitted exhibits into evidence, but offered no testimony. The

exhibits included COPE records, adult-protection records, and appellant's medical records. The parties stipulated to the admission of the examiner's report.

Based on the recommendations of the referee, the district court found that appellant suffered from schizophrenia and posed "a substantial likelihood of causing physical harm" based upon her documented lack of shelter and self-care. The court committed appellant, as a mentally ill person. In a separate order, the court concluded that appellant lacked the capacity to refuse neuroleptic medications and authorized the involuntary administration of several medications. This appeal followed.

D E C I S I O N

I. The record supports the district court's commitment findings, and the evidence is sufficient for commitment.

Appellant asserts that commitment is unnecessary because she is not mentally ill, "complex factors" surrounded her commitment, and she has been voluntarily engaging in psychiatric services. In effect, she argues that she does not meet the statutory requirements for commitment and that less restrictive options are available.

In reviewing a commitment order, we will not reverse a district court's findings of fact unless they are clearly erroneous. *In re McGaughey*, 536 N.W.2d 621, 623 (Minn. 1995). We review de novo whether the evidence is sufficient to meet the standard of commitment. *In re Thulin*, 660 N.W.2d 140, 144 (Minn. App. 2003).

An action to commit an individual as mentally ill is commenced by petition. Minn. Stat. § 253B.07, subd. 2 (2018); *In re Brown*, 640 N.W.2d 919, 922 (Minn. 2002). A district court may not grant the petition unless it is supported by clear and convincing

evidence that the proposed patient is mentally ill, as defined by statute, and no suitable alternative to commitment exists. Minn. Stat. § 253B.09, subd. 1(a) (2018); *Brown*, 640 N.W.2d at 922. When a district court orders commitment, "its findings of fact and conclusions of law must specifically state the proposed patient's conduct that forms the basis for determining that each of the requisites for commitment has been met." *Brown*, 640 N.W.2d at 922.

A "mentally ill" person is defined to include a person with "a substantial psychiatric disorder" which "grossly impairs" behavior or cognition and causes "grossly disturbed behavior or faulty perceptions," so long as the disorder "poses a substantial likelihood of physical harm" to the person or others. Minn. Stat. § 253B.02, subd. 13(a) (2018). A substantial likelihood of harm may be demonstrated by "a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment." *Id.*, subd. 13(a)(1).

Here, the district court found that appellant suffered from schizophrenia, which affected her "capacity to recognize reality." The court found that appellant appeared delusional at the time of her eviction, displayed irrational paranoia at the time of her hospitalization, and "continues to exhibit paranoid and disorganized thoughts." The record supports these findings.

The district court found that appellant posed a substantial likelihood of causing physical harm because she was homeless and had limited plans for obtaining shelter; for example, she planned to "sleep in the back of a bus." The court found that, at the time of hospitalization, appellant was distressed; disheveled; poorly groomed; and wearing inappropriate, torn, and severely soiled clothing. The court found that appellant had a

"fairly large and new abrasion on the bridge of her nose from a recent fall." The record supports these findings.

Clear and convincing evidence supports the commitment. Appellant has a substantial psychiatric disorder affecting her thought and causing faulty perceptions, and there is a substantial risk of physical harm due to her disorder. Appellant lost her apartment because she failed to maintain its livability, she failed to obtain shelter or make adequate plans following the condemnation, and she lacks the ability to care for herself while homeless. *See id.*

The district court found that a less restrictive placement was not appropriate. The court specifically found that appellant's illness could not be adequately treated by dismissal of the petition, voluntary care, the appointment of a guardian, or a conditional release. Appellant argues that she has been voluntarily engaging in psychiatric services. The examiner stated, in her report, that appellant was not taking medications as prescribed and that hospitalization was the least restrictive, appropriate treatment. Additional evidence indicates that appellant "is incapable of independently meeting her basic needs." The record supports the district court's finding that no suitable alternative to commitment exists.

II. The district court did not err by authorizing the involuntary administration of neuroleptic medications. The district court's findings are supported by the record and sufficiently address the relevant statutory criteria.

Appellant challenges the district court's order permitting the involuntary administration of neuroleptic medications. She argues that the order is unnecessary because she has been "going to the [c]linic every two weeks for injections." In Minnesota,

the administration of neuroleptic medication is governed by Minn. Stat. § 253B.092 (2018). The statute rests upon a body of caselaw addressing the invasion-of-privacy considerations inherent in the nonconsensual, nonemergency administration of such medicine. *See, e.g.*, *In re Schmidt*, 443 N.W.2d 824, 827 (Minn. 1989); *Jarvis v. Levine*, 418 N.W.2d 139, 144 (Minn. 1988).

"Court approval is required to administer neuroleptic medication to a person who refuses it." *Thulin*, 660 N.W.2d at 145 (citing Minn. Stat. § 253B.092, subd. 8(a)). "A patient is presumed to have capacity to make decisions regarding administration of neuroleptic medication." Minn. Stat. § 253B.092, subd. 5(a). To determine whether a patient has the capacity to refuse, a district court must consider:

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

Id., subd. 5(b). With exceptions not relevant here, if the district court finds that the patient lacks capacity, it must decide whether to permit administration of the medication by determining what a "reasonable person would do," with consideration of:

> (1) the person'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., subds. 7(c), 8(e).

The district court found that appellant lacked capacity because she "does not admit that she is mentally ill" and "does not have the ability to understand and use information about her mental illness, its symptoms, and treatment." The court noted evidence in the record supporting this finding, such as the examiner's report, which stated both that appellant had intentionally gone off her medications or failed to take them as prescribed, and that appellant lacked the capacity to make competent decisions about her medication. The record supports the district court's findings.[1] The district court sufficiently considered appellant's awareness of her situation, her understanding of the treatment, and whether she made a reasoned choice to refuse medication. *See id.*, subd. 5(b).

The district court also considered what a reasonable person in appellant's position would do when faced with a decision whether to refuse neuroleptic medications. *See id.*, subds. 7(c), 8(e). The court made numerous findings on the risks and benefits from allowing administration of the medication, and found that appellant had "experienced no known significant side effects from the use of neuroleptic medications in the past." The court found that appellant would gain increased benefits from her other treatment if she

[1] Respondent HCMC argues that the standard of proof regarding incapacity is a preponderance of the evidence. This is consistent with Minn. Stat. § 253B.092, subd. 6(d). In *Thulin*, this court suggested that a clear and convincing standard is applicable. 660 N.W.2d at 145 ("The record provides clear and convincing evidence to support the district court's finding that appellant lacked the capacity to make determinations concerning neuroleptic medications."). While we apply a preponderance-of-the-evidence standard, we note that, even under a clear-and-convincing standard, the evidence here is sufficient.

was medication compliant. The district court did not err by authorizing the involuntary administration of neuroleptic medications.

Affirmed.