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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1497**

In the Matter of the Civil Commitment of:
Charles Jeremy Epperson.

**Filed April 20, 2020
Reversed; motion denied
Segal, Judge**

Crow Wing County District Court
File No. 18-PR-19-509

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Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Segal, Judge.

UNPUBLISHED OPINION

SEGAL, Judge

Appellant Commissioner of the Minnesota Department of Human Services (commissioner) challenges the district court's denial of her motion for misjoinder or to dismiss her as a party for failure to state a claim. Appellant argues that the district court

erred by sua sponte joining her as an indispensable party in this civil-commitment proceeding. We reverse.

FACTS

On February 5, 2019, respondent Charles Jeremy Epperson was civilly committed as a chemically dependent person. The district court committed Epperson to appellant commissioner for placement at an appropriate treatment facility. Epperson was transported to the Clay County Detox Center pending placement. On April 3, 2019, respondent Crow Wing County filed a 60- to 90-day commitment report. The report indicated that Epperson remained at the detox center and had not “completed any of the treatment that had been recommended for him” because the commissioner had failed to secure an appropriate placement for him in a treatment facility. As of a second review hearing held on May 1, the situation had not changed and Epperson was still housed at the detox center with no treatment and no placement.

On May 2, 2019, noting that Epperson had been confined for 91 days in the detox facility without treatment or even a plan to secure a placement for him in a treatment facility, the district court issued an order sua sponte joining the commissioner as an indispensable party to the civil-commitment proceedings. The district court determined that, without the commissioner being added as a party, “complete relief cannot be accorded among those already parties” and that Epperson was “likely to continue to have his legal right to treatment under Minnesota law violated.” The commissioner was served with the order joining her as a party through the Minnesota Office of the Attorney General the following day.

On May 10, the commissioner filed a change of status report indicating that Epperson had been provisionally discharged to a treatment facility in Rochester, with responsibility for his care transferred to the county. The commissioner then moved the district court for misjoinder or to dismiss her as a party for failure to state a claim. Neither Epperson nor the Crow Wing County Attorney opposed the motion. Before the district court ruled on the motion, Epperson's commitment expired as of August 6, 2019. Approximately two weeks later, the district court issued an order denying the commissioner's motion for misjoinder or to dismiss. The commissioner appeals.¹

D E C I S I O N

The commissioner argues that the district court erred by sua sponte joining her as an indispensable party to this civil-commitment proceeding. We recognize that the district court was understandably frustrated by the fact that Epperson was committed for the purposes of treatment for his chemical dependency and was confined for 91 days in a facility with no treatment and no plan for securing him placement in an appropriate treatment facility, and joined the commissioner as a party to the proceeding to compel the commissioner to provide treatment. The district court, however, lacked authority to join

¹ After briefing of this appeal was complete, the commissioner moved to strike the county's brief and addendum, arguing that it raised issues that were not raised below and considered by the district court. But the county expressly did not take a position on the commissioner's motion to dismiss, either before the district court or on appeal, and did not raise any legal issues in its brief. In the same motion, the commissioner moved to supplement her addendum to include documents from a prior civil-commitment proceeding. The documents are publicly available and we may take notice and consider them if doing so is critical to understanding the questions presented in this case. *See Rigwald v. Rigwald*, 423 N.W.2d 701, 704 n.5 (Minn. App. 1988). We therefore deny the motion as unnecessary.

the commissioner under the statutory rubric of the civil-commitment statute. We therefore reverse the denial of the commissioner's motion for misjoinder and/or dismissal as a party.

We apply an abuse-of-discretion standard of review to joinder orders. *Hoyt Props., Inc. v. Prod. Res. Group, L.L.C.*, 716 N.W.2d 366, 377 (Minn. App. 2006), *aff'd*, 736 N.W.2d 313 (Minn. 2007). The improper application of a rule of civil procedure is an abuse of discretion. *Whitaker v. 3M Co.*, 764 N.W.2d 631, 636, 640 (Minn. App. 2009), *review denied* (Minn. July 22, 2009).

The commissioner argues that the district court erred by finding that she was an indispensable party subject to joinder under Minn. R. Civ. P. 19.01, which provides:

A person who is subject to service of process shall be joined as a party in the action if (a) in the person's absence complete relief cannot be accorded among those already parties, or (b) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (1) as a practical matter impair or impede the person's ability to protect that interest or (2) leave any one already a party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the person's claimed interest.

In this case, the district court relied on clause (a) of rule 19.01, and joined the commissioner as an indispensable party after determining that without joinder, "complete relief cannot be accorded among those already parties." We disagree.

This case involves a civil commitment pursuant to the Minnesota Commitment and Treatment Act, Minn. Stat. §§ 253B.01-.24 (2018). The act creates a comprehensive statutory scheme governing civil-commitment proceedings that neither contemplates nor requires the participation of the commissioner as a party. A civil-commitment proceeding

is initiated by the filing of a petition by an “interested person” as provided in Minn. Stat. § 253B.07, subd. 2(a). In this case, the petitioner was the Becker County² Department of Human Services.³ After the filing of the petition, notice and an opportunity to present and rebut evidence is provided to the county attorney and the respondent, in this case the Crow Wing County Attorney and Epperson, in accordance with Minn. Stat. § 253B.08, subd. 5a. There is no provision for the commissioner to be added as a party under the statutory scheme for civil commitments. Minn. Stat. §§ 253B.001-.24.

This court has previously held that the commissioner is not a proper party to civil-commitment proceedings. *In re Bowers*, 456 N.W.2d 734, 736-37 (Minn. App. 1990). In that case, we held that, because “the Commissioner did not receive notice of the hearings or the claim for costs, and she did not participate,” the commissioner was not a party to the civil-commitment proceedings. *Id.* at 736. The district court’s order requiring the commissioner to pay costs was thus held to be void. *Id.* at 737-38.

The district court in this case, however, joined the commissioner as an indispensable party under Minn. R. Civ. P. 19.01. While not directly addressed in our decision in *Bowers*, we conclude that the joinder did not cure the underlying defect identified in that opinion. The basic fact remains that the relief contemplated by the district court was outside the court’s authority under the commitment statute.

² Venue was later transferred to Crow Wing County.

³ The petitioner is a department of the county, separate and distinct from the Minnesota Department of Human Services, which is a department of the state.

The purpose of adding the commissioner was to require the commissioner to provide the ordered relief—an appropriate treatment placement. But the mere fact that the commissioner had a statutory duty to place Epperson in an appropriate treatment facility is not, without more, sufficient to establish that the district court can exercise jurisdiction over her. *See Seaway Port Auth. v. Midland Ins. Co.*, 430 N.W.2d 242, 250 n.2 (Minn. App. 1988) (stating that while a nonparty insurance company may have been obligated by state law to pay amounts owed to a party, the district court does not have personal jurisdiction over a nonparty insurance company to order such payment by the nonparty).

This court’s decision in the case of *In re Wicks* is instructive. 364 N.W.2d 844 (Minn. App. 1985), *review denied* (Minn. May 31, 1985). In *Wicks*, an individual was civilly committed after the district court determined that he was incapable of caring for himself. *Id.* at 845-46. The district court committed Wicks to the state hospital, but determined that the least-restrictive ultimate placement for Wicks is a community facility and ordered the county to file a treatment plan which emphasized “progress made toward community placement.” *Id.* at 846. The district court further ordered that “if no such placement is available within a reasonable time after [Wicks] is capable of accepting the placement, [the county] is able and obligated to initiate procedures to create an available placement.” *Id.* On appeal, this court reversed the district court’s order that the county was obligated to create an appropriate community placement. We stated that, “[a]lthough we sympathize with the [district] court’s frustration at the lack of resources for Wicks,” the treatment of patients is not properly before the committing court. *Id.* at 847. We further acknowledged that “[t]here is no statutory authority for ordering [the county] to *create* a

community placement when all community placements are currently full, or will not accept Wicks.” *Id.* at 848.

Similarly in this case, the failure to provide treatment was based on the lack of placements available in an appropriate facility. The county initially attempted to secure a placement for Epperson, but was unable to do so because the facilities refused to accept him because he had “burned a lot of bridges with a lot of treatment facilities throughout the state” and was on a “no take” list for a number of detox facilities. The commissioner explained that it was unable to secure a placement for Epperson because there are a limited number of placements available in state-funded programs, and those on the waitlist are assigned a priority based on federal regulations. The commissioner was therefore unable to place him based on his low-priority ranking. Under our holding in *Wicks*, it was not proper for the district court to join the commissioner for the purpose of ordering her to, in essence, create or force a placement.

The district court also determined that it was necessary to join the commissioner as an indispensable party because without joinder Epperson “is likely to continue to have his legal right to treatment” violated. But we have previously recognized that “the commitment process is not the proper avenue for asserting a right-to-treatment argument” and that “a committed person has adequate avenues outside the commitment process for asserting a right-to-treatment issue.” *In re Civil Commitment of Navratil*, 799 N.W.2d 643, 651 (Minn. App. 2011), *review denied* (Minn. Aug. 24, 2011). Because the district court lacks the authority to order the commissioner to create a placement and a committed

individual can assert a right-to-treatment claim outside of the commitment process, the commissioner does not qualify as an indispensable party under Minn. R. Civ. P. 19.01.

As in *Wicks*, we sympathize with the district court's frustration with committing individuals, who lack the ability to care for themselves, for the purpose of providing treatment only to face lengthy delays and a lack of available placements. But, nevertheless, we conclude that the proper path for resolving this issue is not through joinder of the commissioner in a proceeding under the civil-commitment statute and that the district court lacked authority to join the commissioner as an indispensable party.⁴

The commissioner is not a proper party under chapter 253B to civil-commitment proceedings for the purpose of requiring the commissioner to provide a treatment placement. The district court therefore erred in denying the commissioner's motion for misjoinder or to dismiss.

Reversed; motion denied.

⁴ Because the determination that the commissioner is not an indispensable party is dispositive, we decline to rule on the commissioner's argument that the district court erred by denying her motion on the grounds of failure to state a claim.