STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1693

In the Matter of the Civil Commitment of:
Leon Onyango Opiacha.

Filed April 13, 2020
Affirmed
Johnson, Judge

Commitment Appeal Panel
File No. AP18-9135

Michael C. Hager, Minneapolis, Minnesota (for appellant Leon Onyango Opiacha)

Michael O. Freeman, Hennepin County Attorney, Jennifer Inz, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County)

Keith Ellison, Attorney General, R.J. Detrick, Assistant Attorney General, St. Paul, Minnesota (for respondent commissioner of human services)

Considered and decided by Johnson, Presiding Judge; Bjorkman, Judge; and Slieter, Judge.

S Y L L A B U S

1. If a person who has been civilly committed as mentally ill and dangerous petitions for discharge and seeks reconsideration of the denial of the petition, and if the person asserts his or her rights under the Due Process Clause, the commitment appeal panel must consider the committed person's due-process rights when ruling on a motion to dismiss pursuant to rule 41.02(b).

2. A person who has been civilly committed as mentally ill and dangerous has a right under the Due Process Clause to be discharged if the person does not have serious difficulty in controlling his or her behavior due to a mental illness or mental abnormality.

O P I N I O N

JOHNSON, Judge

Leon Onyango Opiacha is civilly committed as a mentally ill and dangerous person. He petitioned for a discharge from his commitment, and his petition was denied. He requested reconsideration by the commitment appeal panel. After the first phase of an evidentiary hearing, the commissioner of human services and Hennepin County moved to dismiss his discharge petition, and the commitment appeal panel granted the motion. We conclude that Opiacha did not present a *prima facie* case that he is entitled to a discharge. Therefore, we affirm.

FACTS

Opiacha is a 27-year-old man who has been civilly committed as mentally ill and dangerous. In November 2013, the Hennepin County District Court found that Opiacha was "mentally ill with schizo-affective disorder" of a "bi-polar type, with mood disorder." The district court also found that Opiacha "present[ed] a clear danger to the safety of others" based on numerous incidents of violence or threats of violence. Consequently, the district court ordered him committed to the custody of the Minnesota Security Hospital.

The district court conducted a review hearing in August 2014. The district court thereafter filed an order in which it found that, while at the security hospital, Opiacha had engaged in "aggressive and assaultive behaviors," including an incident in which he punched a staff member six times, causing injuries. The district court reviewed the evidence provided by three mental-health providers. One mental-health provider, a post-doctoral psychology fellow at the security hospital, diagnosed Opiacha with

"schizophrenia, paranoid type, . . . and anti-social personality disorder." Another mental-health provider, the court-appointed examiner, diagnosed Opiacha with "schizoaffective disorder, bipolar type," "poly-substance abuse, in a controlled environment," and "anti-social personality disorder." The third mental-health provider, a psychiatrist at the security hospital, testified that Opiacha was not suffering from a major mental illness because he was not suffering delusions or exhibiting disorganized speech, two necessary features of a psychotic condition. The third mental-health provider agreed with the other two that Opiacha had an anti-social personality disorder. All three mental-health providers agreed that Opiacha was dangerous. The district court found that Opiacha had "improved since being hospitalized" and that he was "exhibiting few symptoms of his mental illness." But the district court concluded that Opiacha "continues to be a person mentally ill and dangerous to the public, as defined in Minn. Stat. § 253B.02, subd. 17." Accordingly, the district court committed Opiacha for an indeterminate period of time.

In 2015, Opiacha assaulted two members of the staff of the security hospital. He pushed one staff member down a staircase and stabbed another staff member in the head with a pen. In January 2017, Opiacha pleaded guilty in the Nicollet County District Court to two counts of fourth-degree assault. Pursuant to a plea agreement, the state dismissed nine additional charges alleging assaults against security-hospital staff. Opiacha was sentenced to 27 months of imprisonment. In September 2017, he was released from prison and re-admitted to the security hospital.

Seven months later, in April 2018, Opiacha petitioned the special review board for a transfer to a transitional facility, a provisional discharge, or a full discharge. The special

review board conducted a hearing and recommended that the petition be denied. The commissioner of human services adopted the recommendation and denied Opiacha's petition.

In September 2018, Opiacha requested rehearing and reconsideration of the commissioner's denial of his petition. In June 2019, the commitment appeal panel conducted a hearing. With the assistance of counsel, Opiacha called two witnesses. His first witness was Adam Gierok, Psy.D., a licensed psychologist who was appointed by the panel to serve as a forensic examiner. Dr. Gierok testified that Opiacha does not satisfy any of the three statutory criteria for discharge. Nonetheless, Dr. Gierok testified that Opiacha is entitled to discharge on the ground that he no longer is mentally ill. Dr. Gierok testified that Opiacha has an anti-social personality disorder but that an anti-social personality disorder is not a mental illness. Dr. Gierok testified further that Opiacha's anti-social personality disorder "may affect his mood" by resulting in "more aggressive behaviors [or] more selfish or self-centered attitudes," that Opiacha's "behavior and judgment certainly are impaired by his personality disorder," and that Opiacha has a substantial likelihood of physically harming himself or others because of his personality disorder. Opiacha also introduced into evidence Dr. Gierok's 22-page written report, which is consistent with his testimony.

Opiacha's second witness was his mother. She testified that Opiacha is calmer than he was before he was committed. She acknowledged that, although she works in the health-care sector, she does not have any professional training in psychology or mental illness. She also testified that Opiacha could live with her if he were discharged.

After Opiacha rested his case, Hennepin County moved to dismiss Opiacha's petition, and the commissioner of human services joined in the motion. The commitment appeal panel asked the parties to submit memoranda of law concerning whether Opiacha's anti-social personality disorder justifies his ongoing commitment as a mentally ill and dangerous person. In September 2019, the commitment appeal panel filed a 14-page order in which it denied Opiacha's request for a transfer and granted the motion to dismiss with respect to Opiacha's request for a provisional discharge or a discharge. Opiacha appeals.

ISSUE

Did the commitment appeal panel err by determining that Opiacha did not present a *prima facie* case that he is entitled to discharge from his civil commitment?

ANALYSIS

Opiacha argues that the commitment appeal panel erred by granting the motion to dismiss his petition for discharge from his civil commitment. Specifically, he argues that he presented a *prima facie* case that he is entitled to discharge on the ground that he no longer is mentally ill. More specifically, he contends that he is entitled to discharge because of his constitutional right to due process. He does not challenge the panel's decision with respect to his request for a transfer or a provisional discharge.

A.

We begin by reviewing the statutory framework concerning the discharge of persons who have been civilly committed as mentally ill and dangerous.

A person who has been civilly committed as mentally ill and dangerous may petition for a reduction in custody. Minn. Stat. § 253B.18, subd. 5(a) (2018). A special review

board, which must be composed of persons who are not affiliated with the department of human services, shall hold a hearing on the petition. *Id.*, subds. 4c(a), 5(c). The special review board "shall provide the commissioner [of human services] with written findings of fact and recommendations." *Id.*, subd. 5(b). The commissioner then shall issue a decision on the petition. *Id.* The criteria governing the special review board's recommendation and the commissioner's decision are specified by statute:

> A patient who is mentally ill and dangerous shall not be discharged unless it appears to the satisfaction of the commissioner, after a hearing and a favorable recommendation by a majority of the special review board, that the patient [1] is capable of making an acceptable adjustment to open society, [2] is no longer dangerous to the public, and [3] is no longer in need of treatment and supervision.
>
> In determining whether a discharge shall be recommended, the special review board and commissioner shall consider whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the patient in adjusting to the community. If the desired conditions do not exist, the discharge shall not be granted.

Id., subd. 15 (alterations added).

If the commissioner denies the petition for discharge, the committed person may petition for rehearing and reconsideration of the commissioner's decision. Minn. Stat. § 253B.19, subd. 2 (2018). Such a petition is referred to a three-judge commitment appeal panel. *Id.*, subds. 1, 2(a), 2(b). The panel must hold a hearing. *Id.*, subd. 2(a). The panel "shall hear and receive all relevant testimony and evidence and make a record of all proceedings." *Id.*, subd. 2(c). The committed person "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." *Id.* The committed person's burden is a burden of production, which means that he or she has "the obligation . . . to come forward with sufficient evidence to support [the] claim or the relief requested." *Braylock v. Jesson*, 819 N.W.2d 585, 590 (Minn. 2012) (applying Minn. Stat. § 253B.19, subd. 2(d) (2010), renumbered Minn. Stat. § 253B.19, subd. 2(c) (2018)). If the committed person satisfies his or her burden of production, "the party opposing discharge . . . bears the burden of proof by clear and convincing evidence that the discharge . . . should be denied." Minn. Stat. § 253B.19, subd. 2(c). The decision of the majority of the panel "supersede[s]" the decision of the commissioner. *Id.*, subd. 3. "A party aggrieved by an order of the appeal panel may appeal from the decision of the appeal panel to the court of appeals." *Id.*, subd. 5.

The procedures specified by statute may be supplemented by a rule of court. If a party opposing discharge wishes to challenge a committed person's *prima facie* case, the opposing party may move to dismiss the petition pursuant to rule 41.02(b) of the rules of civil procedure. That rule provides, in relevant part: "After the plaintiff has completed the presentation of evidence, the defendant, without waiving the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law, the plaintiff has shown no right to relief." Minn. R. Civ. P. 41.02(b); *see also Coker v. Jesson*, 831 N.W.2d 483, 490-91 (Minn. 2013) (holding that other provisions of rule 41.02(b) do not apply to discharge proceedings due to conflict with section 253B.19, subdivision 2(d)). In considering a motion to dismiss, the commitment appeal panel "may not weigh the evidence or make credibility determinations." *Coker*, 831 N.W.2d at 490.

Rather, the panel is "required to view the evidence produced at the first-phase hearing in a light most favorable to the committed person." *Id.* at 491. This court applies a *de novo* standard of review to a panel's decision to grant a motion to dismiss pursuant to rule 41.02(b). *See Larson v. Jesson*, 847 N.W.2d 531, 534 (Minn. App. 2014).

B.

We continue by reviewing the constitutional law applicable to the discharge of persons who have been civilly committed as mentally ill and dangerous.

The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides, "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. 1, § 7. The Due Process Clause confers rights on persons who are civilly committed because civil commitment "constitutes a significant deprivation of liberty." *Addington v. Texas*, 441 U.S. 418, 425, 99 S. Ct. 1804, 1809 (1979). Accordingly, "there is . . . no constitutional basis for confining [mentally ill persons] if they are dangerous to no one and can live safely in freedom." *O'Connor v. Donaldson*, 422 U.S. 563, 575, 95 S. Ct. 2486, 2493 (1975).

The Due Process Clause also applies to the involuntary commitment of persons who are acquitted of a criminal offense by reason of insanity. A state may commit such a person without the clear and convincing evidence otherwise required by *Addington* because a verdict of not guilty by reason of insanity allows an inference that, at the time of the verdict, the person was mentally ill and was dangerous. *Foucha v. Louisiana*, 504 U.S. 71, 76, 112 S. Ct. 1780, 1783 (1992). But such a person has a due-process right to be released "when he has recovered his sanity or is no longer dangerous." *Jones v. United States*, 463 U.S.

354, 368, 103 S. Ct. 3043, 3052 (1983). Thus, a state may not continue to confine a person who was acquitted of a criminal offense by reason of insanity after the person is determined to not be mentally ill. *Foucha*, 504 U.S. at 78, 112 S. Ct. at 1784. Likewise, if a person charged with a criminal offense was committed as not competent to stand trial, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed." *Jackson v. Indiana*, 406 U.S. 715, 738, 92 S. Ct. 1845, 1858 (1972). Because the committed person in *Jackson* was awaiting trial on criminal charges, he could not be committed beyond "the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future" and could continue to be committed only to the extent that "his continued commitment must be justified by progress toward that goal." *Id.* at 738, 92 S. Ct. at 1858.

Opiacha's commitment did not arise out of a criminal proceeding. But the Minnesota Supreme Court has applied the above-described body of federal constitutional caselaw to a discharge petition filed by a mentally ill and dangerous person. In *Lidberg v. Steffen*, 514 N.W.2d 779 (Minn. 1994), the committed person argued that he had a due-process right to be released because he no longer was dangerous. *Id.* at 782-83. The supreme court stated, "A state may deprive a person who is mentally ill and dangerous of his or her liberty by confinement to a mental institution without violating due process until such time as that person is no longer mentally ill or is no longer a danger to himself." *Id.* at 783 (citing *Addington*, 441 U.S. at 425, 99 S. Ct. at 1809, and *Jones*, 463 U.S. at 370, 103 S. Ct. at 3052). The supreme court also stated, "Due process requires 'that the nature

and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.'" *Id.* at 783 (quoting *Jackson*, 406 U.S. at 738, 92 S. Ct. at 1858). The supreme court concluded that Lidberg was "still mentally ill and that he [was] a danger to himself." *Id.* The supreme court further concluded that "requiring [Lidberg] to utilize the discharge provisions of Minn. Stat. § 253B.18, subd. 15, bears a reasonable relationship to his original commitment as" mentally ill and dangerous. *Id.* The reasonable-relationship requirement is satisfied if a committed person "is confined for only so long as he or she continues both to need further inpatient treatment and supervision for his . . . disorder and to pose a danger to the public." *Call v. Gomez*, 535 N.W.2d 312, 319 (Minn. 1995).

C.

To summarize, if a mentally ill and dangerous person petitions for discharge, the commitment appeal panel must grant the petition if the committed person is entitled to discharge under the statute or is entitled to discharge under the Due Process Clause. Conversely, the panel must deny the petition if the committed person is not entitled to discharge under the statute and is not entitled to discharge under the Due Process Clause.

A mentally ill and dangerous person is entitled to discharge under the statute if he or she makes a *prima facie* case for discharge and if the party or parties opposing discharge have not proved by clear and convincing evidence that the committed person does not satisfy the statutory criteria for discharge. Minn. Stat. § 253B.19, subd. 2(c). The three primary statutory criteria for discharge are that the committed person "[1] is capable of making an acceptable adjustment to open society, [2] is no longer dangerous to the public, and [3] is no longer in need of treatment and supervision." Minn. Stat. § 253B.18, subd. 15.

In addition, the commitment appeal panel "shall consider whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the patient in adjusting to the community" and shall not grant discharge if "the desired conditions do not exist." *Id.*

A mentally ill and dangerous person is entitled to discharge under the Due Process Clause if he or she "is no longer mentally ill or is no longer a danger to himself" or herself or if "the nature and duration of commitment [do not] bear some reasonable relation to the purpose for which the individual [was] committed." *Lidberg*, 514 N.W.2d at 783 (citing *Addington*, 441 U.S. at 425, 99 S. Ct. at 1809; *Jones*, 463 U.S. at 370, 103 S. Ct. at 3052). If a committed person seeks discharge under the Due Process Clause, the commitment appeal panel must consider the committed person's due-process rights when ruling on a motion to dismiss pursuant to rule 41.02(b). *See Foucha*, 504 U.S. at 77-80, 112 S. Ct. at 1783-85; *Call*, 535 N.W.2d at 319.

D.

Opiacha argues that the commitment appeal panel erred on the ground that he presented a *prima facie* case for discharge by introducing evidence that he is not mentally ill. He refers to the evidence provided by Dr. Gierok, who testified that Opiacha has an anti-social personality disorder but presently is not mentally ill. For two reasons, we construe Opiacha's brief to make an argument that he is entitled to discharge under the Due Process Clause. First, Opiacha's argument conforms to the supreme court's statement that a mentally ill and dangerous person may be civilly committed "without violating due process until such time as that person is no longer mentally ill or is no longer a danger to

himself." *Lidberg*, 514 N.W.2d at 783. Second, Dr. Gierok's written report and oral testimony are based to a significant extent on a legal analysis of Opiacha's constitutional rights.

To determine whether a committed person must be discharged from civil commitment on the ground that he or she no longer is mentally ill, it is appropriate first to apply state law and then to determine whether the application of state law is consistent with the Due Process Clause. *See Kansas v. Hendricks*, 521 U.S. 346, 350-60, 117 S. Ct. 2072, 2076-81 (1997). In Minnesota, the existence of a mental illness is a prerequisite to the initial commitment of a mentally ill and dangerous person: a district court must "find[] by clear and convincing evidence that the proposed patient is a person who is mentally ill and dangerous to the public." Minn. Stat. § 253B.18, subd. 1(a). The terms "person who is mentally ill" and "person who is mentally ill and dangerous" are defined by statute. *See* Minn. Stat. § 253B.02, subd. 13; *see also* Minn. Stat. § 253B.02, subd. 17(a) (defining "person who is mentally ill and dangerous"). But, as a matter of statutory law, the existence or non-existence of a mental illness is not relevant to the resolution of a petition for discharge from civil commitment. Rather, the only facts that are relevant to a discharge petition are the facts that are relevant to the statutory discharge criteria: that the committed person "[1] is capable of making an acceptable adjustment to open society, [2] is no longer dangerous to the public, and [3] is no longer in need of treatment and supervision." Minn. Stat. § 253B.18, subd. 15; *see also Enebak v. Noot*, 353 N.W.2d 544, 547 (Minn. 1984); *Drewes v. Levine*, 366 N.W.2d 719, 720-21 (Minn. App. 1985), *review denied* (Minn. July 11, 1985); *Reome v. Levine*, 363 N.W.2d 107, 107-08 (Minn. App. 1985), *review denied*

(Minn. Apr. 18, 1985). Nonetheless, the "application of the statutory criteria" must "comport[] with the basic constitutional requirement that 'the nature of commitment bear some reasonable relation to the purpose for which the individual [was originally] committed.'" *Call*, 535 N.W.2d at 318 (quoting *Foucha*, 504 U.S. at 79, 112 S. Ct. at 1785) (citing *Jackson*, 406 U.S. at 738, 92 S. Ct. at 1858; *Lidberg*, 514 N.W.2d at 783). This part of the *Call* opinion is expressed in terms of the application of a statute, but it is, in essence, "a matter of constitutional law." *In re Commitment of Fugelseth*, 907 N.W.2d 248, 255 (Minn. App. 2018), *review denied* (Minn. Apr. 17, 2018).

Accordingly, a person civilly committed in Minnesota as mentally ill and dangerous may have a due-process right to be discharged on the ground that he or she no longer is mentally ill. *See Foucha*, 504 U.S. at 77-80, 112 S. Ct. at 1783-85. In applying the Due Process Clause in the context of civil commitment, the United States Supreme Court has not required any particular mental condition as a prerequisite for a person's ongoing civil commitment. To the contrary, the Supreme Court has rejected the argument that "a finding of 'mental illness' [is] a prerequisite for civil commitment," explaining that "the term 'mental illness' is devoid of any talismanic significance." *Hendricks*, 521 U.S. at 358-59, 117 S. Ct. at 2080. The Court explained further:

> [W]e have never required state legislatures to adopt any particular nomenclature in drafting civil commitment statutes. Rather, we have traditionally left to legislators the task of defining terms of a medical nature that have legal significance. *Cf. Jones v. United States*, 463 U.S. 354, 365, n.13, 103 S. Ct. 3043, 3050, n.13 (1983). As a consequence, the States have, over the years, developed numerous specialized terms to define mental health concepts. Often, those definitions do not fit precisely with the definitions employed by the medical

> community. The legal definitions of "insanity" and "competency," for example, vary substantially from their psychiatric counterparts. *See, e.g.*, Gerard, *The Usefulness of the Medical Model to the Legal System*, 39 Rutgers L. Rev. 377, 391-94 (1987) (discussing differing purposes of legal system and the medical profession in recognizing mental illness). Legal definitions, however, which must "take into account such issues as individual responsibility . . . and competency," need not mirror those advanced by the medical profession. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* xxiii, xxvii (4th ed. 1994).

Id. at 359, 117 S. Ct. at 2081.

Consequently, "the States retain considerable leeway in defining the mental abnormalities and personality disorders" that may justify civil commitment. *Kansas v. Crane*, 534 U.S. 407, 413, 122 S. Ct. 867, 871 (2002). As stated above, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed." *Jackson*, 406 U.S. at 738, 92 S. Ct. at 1858; *see also Lidberg*, 514 N.W.2d at 783. In addition, 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. *Crane*, 534 U.S. at 411-14, 122 S. Ct. at 870-71. Specifically, "there must be proof of serious difficulty in controlling behavior," which, when considered in light of "the nature of the psychiatric diagnosis, and the severity of the mental abnormality itself, must be sufficient to distinguish [the committed person] from the dangerous but typical recidivist convicted in an ordinary criminal case." *Id.* at 413, 122 S. Ct. at 870.

In this case, Opiacha focuses his constitutional argument on the issue of control. The commitment appeal panel stated that Opiacha has "a 'severe' or 'extreme' anti-social

personality disorder that interferes with his ability to control his aggressive behaviors without significant external controls." In his appellate brief, Opiacha contends that "Dr. Gierok reported that Opiacha has presented control over his conduct," and he further contends that "it was not in evidence that Opiacha was completely unable to control his conduct." Opiacha's brief does not specifically identify any evidence that he has the ability to control his conduct. Our review of the evidentiary record does not reveal any such evidence. Dr. Gierok wrote in his report that Opiacha "has not been physically assaultive since his return from the DOC," and he testified that Opiacha's behavior "has certainly been better than when he was regularly or at least recurrently assaulting others." But the lack of assaultive conduct is attributable to the fact that two male staff members accompany Opiacha whenever he leaves his living unit. The most pertinent statement in Dr. Gierok's written report is his statement that Opiacha "*has not demonstrated the ability to control his behavior* within a highly structured, secure environment." (Emphasis added.)

This evidence, when viewed in a light most favorable to Opiacha, does not satisfy his burden of production with respect to the question whether he can control his behavior, which is a necessary predicate to his due-process claim. Rather, Opiacha's evidence compels the conclusion that he has "serious difficulty in controlling [his] behavior." *See Crane*, 534 U.S. at 413, 122 S. Ct. at 870; *see also In re Martinelli*, 649 N.W.2d 886, 89-91 (Minn. App. 2002) (affirming finding of "lack of adequate control" due to diagnosis of hebephilia and anti-social personality disorder), *cert. denied*, 538 U.S. 933 (2003).

Before concluding, we note Opiacha's contention that the commitment appeal panel erred by disregarding the expert evidence provided by Dr. Gierok. The panel stated that

Dr. Gierok "is competent as a forensic psychologist and is capable of providing a psychological opinion" but "is not an attorney." The panel also noted that Dr. Gierok's opinion is based on his "attempt[] to navigate the complex caselaw in this area." Indeed, parts of Dr. Gierok's written report read more like an attorney's memorandum of law than a psychologist's assessment of a person's psychological condition. For example, Dr. Gierok's report reviews and attempts to apply the legal reasoning of the *Foucha* opinion, without discussing other relevant legal authorities. As a panel-appointed examiner, Dr. Gierok testified as an expert witness. *See* Minn. R. Evid. 706. An expert witness's testimony in the form of an opinion is competent evidence only if it is helpful to the factfinder. *See* Minn. R. Evid. 702. But "opinions involving legal analysis . . . are not deemed to be of any use to the trier of fact." Minn. R. Evid. 704, 1977 comm. cmt.; *see also State v. Sontoya*, 324 N.W.2d 227, 230 (Minn. 1982). Thus, the panel appropriately disregarded Dr. Gierok's written report and oral testimony to the extent that they were based on his legal analysis, and his legal analysis permeated his opinion that Opiacha is entitled to discharge.

In sum, Opiacha bore the burden of "presenting a prima facie case with competent evidence to show that [he] is entitled to the requested relief." *See* Minn. Stat. § 253B.19, subd. 2(c). Opiacha did not introduce competent evidence that he is entitled to discharge on the ground that his continued commitment would violate his rights under the Due Process Clause, even when his evidence is viewed in a light most favorable to him. Accordingly, the commitment appeal panel properly determined that Opiacha had "no right to relief." *See* Minn. R. Civ. P. 41.02(b).

D E C I S I O N

Because Opiacha did not present a *prima facia* case for discharge, the commitment appeal panel did not err by granting the motion to dismiss and denying Opiacha's petition for rehearing and reconsideration of his petition for discharge.

Affirmed.