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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0288**

Terrance Friend,
Appellant,

vs.

Jodi Harpstead, et al.,
Respondents.

**Filed August 3, 2020
Affirmed
Kirk, Judge***

Carlton County District Court
File No. 09-CV-19-1931

Terrance J. Friend, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Ali P. Afsharjavan, Assistant Attorney General, St. Paul,
Minnesota (for respondents)

Considered and decided by Connolly, Presiding Judge; Segal, Chief Judge; and
Kirk, Judge.

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

UNPUBLISHED OPINION

KIRK, Judge

On appeal from the district court's denial of his petition for habeas corpus, appellant Terrance J. Friend argues that: (1) he is entitled to a hearing on his petition; (2) his due-process and equal-protection rights are being violated; (3) constitutionally, he can no longer be confined because he is not mentally ill; and (4) he is a "client" instead of a patient and is not receiving adequate psychiatric treatment. We affirm.

FACTS

In 1996, appellant was civilly committed indefinitely to the Minnesota Sex Offender Program as a sexually dangerous person and sexual psychopathic personality.

In 2013, appellant filed a habeas corpus petition, which the district court denied without an evidentiary hearing. This court affirmed and the supreme court denied review. *Friend v. Jesson*, A13-2098, (Minn. App. 2014), *review denied* (Minn. Sept. 16, 2014).

Appellant filed two more habeas corpus petitions in 2016 and 2017 in state and federal district court. Both petitions were denied without evidentiary hearings after both courts concluded that appellant's claims were barred by res judicata because they were raised and addressed in 2013. *Friend v. Jesson*, No A16-1699, at *2 (Minn. App. Mar. 14, 2017) (order op.); *Friend v. Piper*, No. 17-CV-4356 (SRN/HB) (D. Minn. Aug. 22, 2018).

In 2019, appellant again filed a habeas corpus petition in district court. The district court denied the petition without an evidentiary hearing, concluding that appellant's claims were barred by res judicata.

This appeal followed.

DECISION

Appellant challenges the district court's denial of his 2019 habeas corpus petition without a hearing. Appellant argues that: (1) he is entitled to a hearing on his petition; (2) his due-process and equal-protection rights are being violated; (3) constitutionally, he can no longer be confined because he is not mentally ill; and (4) he is a "client" instead of a patient and is not receiving adequate psychiatric treatment.¹

A writ of habeas corpus is a statutory civil remedy by which a person can obtain relief from unlawful restraint or imprisonment. *See* Minn. Stat. §§ 589.01-.35 (2018). A petitioner bears the burden of showing the illegality of his detention. *Case v. Pung*, 413 N.W.2d 261, 262 (Minn. App. 1987), *review denied* (Minn. Nov. 24, 1987). "On review, the district court's findings in support of a denial of a petition for a writ of habeas corpus are entitled to great weight and will be upheld if reasonably supported by the evidence." *Bedell v. Roy*, 853 N.W.2d 827, 829 (Minn. App. 2014) (quotation omitted). However, questions of law are reviewed de novo. *Id.* In a habeas corpus action, a "petitioner does not have the right to appear and be heard as a matter of course." *State ex rel. Dinneen v. Tahash*, 136 N.W.2d 847, 852 (Minn. 1965). An evidentiary hearing is only necessary when "material facts are in dispute that have not been resolved in the proceedings resulting

¹ Appellant additionally argues that his civil commitment is unconstitutional because it constitutes a bill of attainder, violates the separation-of-powers doctrine, and violates the First Amendment. However, appellant did not present these arguments to the district court. We therefore decline to address these issues. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (holding that reviewing courts may only consider "issues that the record shows were presented and considered by the trial court.").

in [commitment] and that must be resolved in order to determine the issues raised on the merits.” *Hodgson v. State*, 540 N.W.2d 515, 517 (Minn. 1995).

The doctrine of res judicata “applies to all claims actually litigated as well as to all claims that could have been litigated in the earlier proceeding.” *State v. Joseph*, 636 N.W.2d 322, 327 (Minn. 2001). Res judicata bars subsequent claims when “(1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was a final judgment on the merits; [and] (4) the estopped party had a full and fair opportunity to litigate the matter.” *Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004).

Here, appellant’s claims either were raised or could have been raised in 2013, involve the same factual circumstances, the same parties, received a final adjudication on the merits, and were fully and fairly litigated. The district court did not err in concluding that these claims are barred by res judicata and in denying appellant’s request for an evidentiary hearing. *See Thompson v. Wood*, 272 N.W.2d 357, 358 (Minn. 1978) (applying res judicata to bar subsequent habeas corpus claim).

Affirmed.