STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0340

In the Matter of the Civil Commitment of: Ryan Lee Hoyt.

Filed August 31, 2020
Affirmed
Florey, Judge

Hennepin County District Court
File No. 27-MH-PR-19-603

Daniel P. Repka, Repka Law, LLC, South St. Paul, Minnesota (for appellant Ryan Lee Hoyt)

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

Considered and decided by Florey, Presiding Judge; Reilly, Judge; and Smith, Tracy M., Judge.

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

FLOREY, Judge

Appellant challenges the district court's order committing him to the Minnesota Security Hospital for an indefinite period as mentally ill and dangerous, arguing that the court should have committed him to a less-restrictive institution and program.

FACTS

In May 2019, appellant Ryan Hoyt assaulted his father and caused an injury that required six stitches. At the time of the assault, he was on provisional release from a prior

civil commitment as mentally ill. Subsequently, a representative of the Hennepin County Department of Human Services and Public Health Department (respondent) petitioned the district court to civilly commit Hoyt as mentally ill and dangerous (MI&D) to the Minnesota Security Hospital (MSH). On September 30, following a hearing which included 57 exhibits, the testimony of two court-appointed examiners, and Hoyt's own testimony; the district court granted the petition and issued an order initially committing Hoyt as MI&D.

Pursuant to applicable statutory provisions, within 60 days of the initial commitment, Dr. Martin Lloyd of MSH filed a report with the district court which contained the results of Hoyt's evaluation and his prognosis. Dr. Lloyd also testified at the hearing following the filing of the 60-day report. The court ordered Hoyt's indeterminate commitment at MSH following the hearing. Hoyt appealed, arguing that his commitment must be reversed because there were less-restrictive alternatives available, that the respondent failed to meet its burden, and that the district court erred in not selecting them for commitment.

D E C I S I O N

Civil commitments are governed by statute, and "[o]n appeal, this court is limited to an examination of the trial court's compliance with the statute, and the commitment must be justified by findings based upon evidence at the hearing." *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995); *accord* Minn. Stat. § 253B.18 (2018) (outlining review and procedure for commitment of mentally ill and dangerous persons). We will not set aside factual findings unless they are clearly erroneous, "and due regard shall be given to the

opportunity of the trial court to judge the credibility of the witness." *Knops*, 536 N.W.2d at 620. "Where the findings of fact rest almost entirely on expert testimony, the trial court's evaluation of credibility is of particular significance." *Id.* However, where the question presented to the reviewing court is whether the facts found satisfy the mandates of the commitment statutes, as the parties agree is the case here, the issue is a legal one we review de novo. *In re Civil Commitment of Stone*, 711 N.W.2d 831, 836 (Minn. App. 2006).

If after the first hearing on a petition for commitment the district court concludes that the individual at issue is MI&D,

> [the court] shall [initially] commit the person to a secure treatment facility or to a treatment facility willing to accept the patient under commitment. The court shall commit the patient to a secure treatment facility unless the patient establishes by clear and convincing evidence that a less restrictive treatment program is available that is consistent with the patient's treatment needs and the requirements of public safety.

Minn. Stat. § 253B.18, subd. 1(a). After the initial commitment, if all procedural requirements are satisfied, the district court makes "a final determination as to whether the person should remain committed as a person who is mentally ill and dangerous to the public." *Id.*, subd. 2(a). In addition to dismissing the commitment altogether, the district court may deem the person either mentally ill or mentally ill *and* dangerous. *Id.*, subd. 2-3. Hoyt does not challenge the district court's determination that he is MI&D, so we turn to those procedural requirements.

When making the final determination, if the district court finds "that the patient continues to be a person who is mentally ill and dangerous . . . the court shall order commitment of the proposed patient for an indeterminate period of time," at which point

subdivisions 4a-15 of section 253B.18 govern any further discharges, transfers, or changes in commitment. *Id.*, subd. 3. Hoyt cites *In re Schauer* for part of his argument that his commitment must be reversed because a less-restrictive alternative to indefinite commitment at MSH existed. 450 N.W.2d 194 (Minn. App. 1990). In *Schauer*, the appellant similarly argued that the district court erred because it did not order the least-restrictive commitment appropriate under the circumstances. *Id.* at 197. However, as Hoyt concedes, the appellant's argument in *Schauer* was based on a provision in the Minnesota Rules of Civil Commitment that no longer exists. *Id.* at 198. That provision was Minn. R. Civ. Commit. 12.06, and it mandated that when a person is committed indefinitely as MI&D, as opposed to initially committed as such, the proponent of the commitment was required to show by clear and convincing evidence that no less-restrictive alternative commitment that serves the needs of the patient and community under the particular circumstances exists. *Id.* at 197-98.

Despite rule 12.06 no longer being in effect, Hoyt argues that an existing provision of the rules of civil commitment—rule 23(e)—applies here. Rule 23(e) states that (1) when making the final determination on commitment, the district court must consider "all competent evidence relevant to" the question of the patient's continued need for commitment and (2) the proponent of continued/indeterminate commitment bears the burden of demonstrating, with clear and convincing evidence, that the requirements for commitment in section 253B remain satisfied. Minn. Spec. R. Civ. Commit. & Treat. Act 23(e). Hoyt asserts that this rule, in tandem with subdivision 1(a) section 253B, compels

the district court and respondent to address less-restrictive alternatives, and he asserts there was competent and relevant evidence that there were less-restrictive alternatives available.

Hoyt seems to be referring to subdivision 1(a) of section 253B.18, which states that, during the initial hearing, the court must commit an MI&D person to a secure facility unless that person "establishes by clear and convincing evidence that a less restrictive treatment program is available that is consistent with the patient's treatment needs and the requirements of public safety." Minn. Stat. § 253B.18, subd. 1(a). Hoyt argues that the district court was presented with evidence of less-restrictive alternatives in the report and testimony from Dr. Lloyd. Dr. Lloyd listed the services Hoyt would need from commitment and indicated that MSH had the capacity to provide them, but noted several times in his submissions that MSH also provided services and a level of security that were greater than necessary in Hoyt's particular case. Dr. Lloyd opined that there were "any number of group facilities throughout Minnesota" that had the capacity to provide the necessary services and lacked some of the unnecessary ones. Hoyt points to the fact that Dr. Lloyd's statements were uncontested at the hearing, that he made them repeatedly, and that no other witnesses were called to testify on the issue. He argues that respondent therefore failed to carry its burden of demonstrating that all statutory requirements remain satisfied under rule 23(e).

We disagree with Hoyt's reading of the statute and rule. The statute clearly places the burden of showing the availability of a lesser-restrictive alternative on the proposed patient, and the record shows that Hoyt did not attempt to make such a showing before the district court. Nevertheless, Hoyt suggests that this burden is on respondent because rule

23(e) indicates that respondent bears the burden of demonstrating "the statutory requirements for commitment . . . [are] met," and that because the "less restrictive alternative" provision is in the statute, the proponent bears the burden of demonstrating that there are no such alternatives. Here too, we disagree with Hoyt's reading. Not only would such a reading blatantly contradict the clear language in subdivision 1(a) that the burden of showing a less-restrictive alternative by clear and convincing evidence falls on the patient, but that provision is not a "statutory requirement for commitment"—it is a showing the patient may attempt to make to change or improve the terms of the commitment in the event the proponent does meet its burden of showing that the statutory requirements for commitment are met. Furthermore, while we need not and therefore do not answer the question here, we observe that even if Hoyt were correct with respect to the operation of the law and relative burdens, it is unlikely that Dr. Lloyd's mere opinion that there exists less-restrictive alternative facilities—without any further specificity—would be sufficient to satisfy the showing required by subdivision 1(a).

Affirmed.