This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0595

In the Matter of the Civil Commitment of: Kaylis L. Bellaphant.

Filed September 13, 2021
Affirmed
Florey, Judge

Commitment Appeal Panel
File No. AP19-9075

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Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

On appeal from a commitment appeal panel's denial of his motion for a discharge from his civil commitment as a person who has a mental illness and is dangerous to the public, appellant argues that the panel erred in ruling that it did not need to identify his mental illness and that he was deprived of due process of law. We affirm.

FACTS

Appellant Kaylis Bellaphant appeals the decision of the Commitment Appeal Panel (CAP) denying his petition for full discharge from his civil commitment as a person who has a mental illness and is dangerous to the public. Bellaphant has a long and complicated history of mental-health issues, substance abuse, and behavioral problems. Bellaphant's civil commitment was finalized in August 2016, and he currently resides at the Minnesota Security Hospital (MSH) in the pre-transition unit.

In April 2019, the matter came before the Special Review Board (SRB) on a three-year review to determine if Bellaphant met the statutory criteria for a reduction in custody including transfer, provisional discharge, or full discharge from his civil commitment. The SRB recommended that Bellaphant be discharged.

CAP conducted a discharge hearing per Bellaphant's petition in December 2019. At the discharge hearing, CAP heard from nine witnesses, including Bellaphant.

Dr. Kathy Madrid, a clinical psychologist, testified that she saw no evidence of psychosis in Bellaphant and that his "history of psychosis may have been drug-induced." Although Madrid recommended that Bellaphant be discharged, she acknowledged that a more gradual process would be beneficial, he would require "treatment and supervision," and he "benefits from the structure and supervision at MSH." Bellaphant had "difficulty controlling his rule-breaking behavior." She was uncertain whether he would be able to control himself in the community.

Dr. Kimberly Turner completed three risk assessments of Bellaphant. Turner opined that Bellaphant is a risk for future violence but that the risk does not appear to be

caused by mental illness, noting that "it is unclear whether Bellaphant ever had genuine psychotic symptoms" or a "genuine psychotic illness" and concluding that his current needs were not being met at MSH. Turner diagnosed Bellaphant with antisocial personality disorder. She based her conclusions on the fact that Bellaphant had been off psychotropic medications for approximately six months, and his treatment team did not observe any "overt psychotic symptoms" during that time. She concluded that Bellaphant's diagnosis combined with his limited cognitive function created a "very significant risk of future impulsive, and likely violent behavior." Turner left the decision of whether Bellaphant met the statutory criteria for commitment to CAP and declined to offer any specific opinion.

At the hearing, Turner testified that Bellaphant's symptoms are primarily caused by his antisocial-personality disorder and cognitive impairments, not "the type of mental illness that the commitment statute is meant for." She questioned whether MSH is the best place for Bellaphant but stated that he remained a "significant risk to the public," would have difficulty adjusting to society if discharged, and would not seek out treatment without supervision.

Dr. Peter Johansen, Bellaphant's primary therapist for 34 months preceding the hearings, testified that Bellaphant does not have a major mental illness, but rather suffers from a personality disorder, cognitive limitation, and a history of drug use. While Johansen stated that Bellaphant could benefit from treatment as MSH, he supported Bellaphant's full discharge because he did not have a mental illness as required for treatment at MSH.

Dr. Dawn Peuschold, the court-appointed examiner, testified that Bellaphant had a family history of bipolar disorder and schizophrenia, and a lengthy history of psychotic symptoms. Peuschold stated that while Bellaphant may have exaggerated some mental-health symptoms to avoid jail time, he began to experience psychotic symptoms prior to any criminal charges. Peuschold further testified that Bellaphant had displayed psychotic symptoms since discontinuing psychotropic medications: Bellaphant's behavior worsened while being weaned off his medication, and included behavior consistent with mental illness, behavior instability, verbal abuse of peers and staff, destruction of property, and reports of sexual harassment. She stated that the symptoms she observed in Bellaphant were consistent with mood and thought disorders.

Peuschold concluded that Bellaphant's current symptoms constituted a "substantial psychiatric disorder," that if he was released without supervision, he would likely continue to abuse substances and be violent, and that he had no coping skills or insight into his mental illness, risk, or chemical-dependence issues. She further concluded that Bellaphant was incapable of making an acceptable adjustment to society, remained a danger to the public, and continued to require treatment and supervision at MSH.

Dr. Colt Blunt, a member of the Forensic Review Panel that reviewed Bellaphant's civil commitment, filed a letter from the panel stating that the panel does not believe that Bellaphant is mentally ill but rather suffers from antisocial-personality disorder combined with "sub-average cognitive functioning" and substance-abuse disorder. The letter stated that the panel does not believe that Bellaphant's placement at MSH is appropriate because it is designed to treat the mentally ill, not for the "management of criminalistic behavior

occurring independent of mental illness diagnosis." Blunt also testified that Bellaphant's antisocial-personality disorder significantly influences his current behavior and that a less-restrictive placement would be inappropriate. Blunt did not offer an opinion on the statutory criteria for discharge.

Bellaphant testified that he faked delusions to avoid jail time and to get away from gang members in jail. He stated that he had no mental-health symptoms prior to his commitment and that he deserves freedom. He acknowledged his chemical-dependency issues and said that he would work with probation and attend AA meetings. He testified that he had never had any auditory or visual hallucinations nor experienced any changes to his mood since discontinuing use of psychotropic medications. He maintained that he has no mental illness and is not a safety risk to the community.

Scott Axtell, a security counselor at MSH, testified that while Bellaphant is occasionally loud and argumentative, he has not observed any physically aggressive behavior from him. Axtell is not involved in Bellaphant's treatment and was not qualified to offer an opinion on discharge.

Abdul Noor, Bellaphant's probation officer, testified that Bellaphant would be under probation supervision until 2031. Noor stated that he had never met Bellaphant and was only recently assigned to his probation file.

Theresa Mayfield, Bellaphant's aunt, testified that Bellaphant could live with her upon his release, and that she would help him go back to school and find a job. Mayfield stated that she did not believe Bellaphant needed chemical-dependency treatment and that he never spent time with gang members in the past.

CAP found that Bellaphant presented a prima facie case showing that he was entitled to discharge, but ultimately denied his petition, concluding that the county and commissioner met their burden of proof of showing that Bellaphant "continue[d] to require treatment and supervision at his current setting, continue[d] to be dangerous to the public, and [was] not capable of making an acceptable adjustment to society." Bellaphant appeals.

DECISION

I. CAP did not err by failing to find that Bellaphant was mentally ill or had a specific mental-illness diagnosis.

Bellaphant argues that while "deference is given to a trial court in making credibility determinations, the same deference is not provided when determining if evidence meets the clear and convincing evidentiary burden." But this court has clarified that CAP decisions are reviewed "for clear error, examining the record to determine whether the evidence as a whole sustains the CAP's findings." *In re Civil Commitment of Edwards*, 933 N.W.2d 796, 803 (Minn. App. 2019), *review denied* (Minn. Oct. 15, 2019). This court does "not reweigh the evidence as if trying the matter do novo." *Matter of Commitment of Kenney*, A20-1007, 2021 WL 3641450, at *5 (Minn. Aug. 18, 2021). If the evidence in the record sustains CAP's findings, "it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* at *6.

Bellaphant next argues that the evidence in this case was not "unequivocal and uncontroverted," and lists evidence he believes supports a finding that he is not mentally ill. This evidence includes the following: the decision of the SRB and the forensic review panel, testimony from Bellaphant's treatment team and his current and former psychiatrists,

Bellaphant's lack of prescriptions for psychotropic medications, and testimony and findings of fact that he had exhibited "no signs of psychosis or serious and persistent mental illness for 20 months while being free of psychotropic medication."

Much of the testimony and arguments in the record concern Bellaphant's mental-health diagnoses and whether he continued to require treatment. However, it is not necessary for the committing court to determine the individual's precise mental-health diagnosis as long as the court finds the person meets the statutory criteria. *See* Minn. Stat. § 253B.02, subd. 17a (2020); *see also In re Civil Commitment of Opiacha*, 943 N.W.2d 220, 228 (Minn. App. 2020). Furthermore, 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. *See* Minn. Stat. § 253B.18, subd. 15 (2020); *Opiacha*, 943 N.W.2d at 227-28. Rather, the facts must be 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.

Here, CAP found that Bellaphant (1) has difficulty controlling his behavior even in his current highly secure, structured environment; (2) requires supervision and continuing treatment for mental illness, personality disorder, and severe substance-abuse disorder; (3) has significant treatment needs in the areas of impulsivity, coping skills, and insight into his mental illness and risk for violence; (4) is incapable of making an acceptable adjustment to society; (5) is a significant risk for future violence and continues to be dangerous to the public; and (6) continues to require treatment and supervision at his

current setting. These reasons are supported by the record and sufficient to sustain CAP's finding that Bellaphant failed to present evidence that satisfied the statutory criteria for discharge. *See* Minn. Stat. § 253B.18, subd. 15. Therefore, CAP did not err because it failed to find that Bellaphant was mentally ill or to identify a specific mental-illness diagnosis before denying his petition for release.[1]

II. Constitutional protections do not require Bellaphant's discharge.

Bellaphant argues that constitutional protections require his release. The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides that 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] involuntarily 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). CAP "must deny the petition if the committed person is not entitled to discharge

[1] Bellaphant argues that CAP fundamentally erred by "comparing individuals committed as mentally ill and dangerous, psychopathic personalities and sexually dangerous persons." However, review of the record shows that CAP discussed the standard for allowing a person to be committed as a sexually dangerous person to show that case law focuses less on a petitioner's specific diagnosis and more on his or her ability to control him or herself in order to explain by analogy that it did not need to find that Bellaphant suffered from a specific mental illness in order to deny his petition for release.

under the statute and is not entitled to discharge under the Due Process Clause." *Opiacha*, 943 N.W.2d at 227.

A person who has a mental illness and is dangerous to the public 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" and if "the nature and duration of commitment [do not] bear some reasonable relation to the purpose for which the individual [was] committed." *Lidberg v. Steffen*, 514 N.W.2d 779, 783 (Minn. 1994) (quotation omitted). 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. *Kansas v. Crane*, 534 U.S. 407, 411-14, 122 S. Ct. 867, 870-71 (2002); *see also Opiacha*, 943 N.W.2d at 229 (explaining that 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).

In *Opiacha*, a civilly committed petitioner appealed CAP's denial of his request for transfer to a transitional facility. 943 N.W.2d at 222. There, three experts disagreed on petitioner's mental-illness diagnosis but agreed that he had an antisocial-personality disorder and was dangerous. *Id*. at 223-24. Petitioner made a due-process argument for release, contending that he is not mentally ill and only has an antisocial-personality disorder. *Id*. at 227-30. In addition, he argued he had control over his actions. *Id*. at 229. However, CAP found 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." *Id*. We affirmed CAP's denial, concluding that "Opiacha's

evidence compels the conclusion that he has serious difficulty in controlling his behavior." *Id*. (quotation omitted). We did not expressly address whether Opiacha had a mental-illness diagnosis, which the experts disputed, but rather focused on the antisocial-personality-disorder diagnosis on which the experts agreed combined with a lack of control to defeat Opiacha's due-process claim. *Id*. at 229.

Here, CAP found Dr. Peuschold's testimony credible and stated that Bellaphant continues to suffer from a "'substantial psychiatric disorder' which grossly impairs his judgment and ability to control his behavior and 'is manifested by instances of grossly disturbed behavior or faulty perceptions.'" CAP further found that Bellaphant's "mental illness, personality disorders, and drug use cause significant impulsivity and an inability to control his violent and harmful behavior" even in his current highly structured setting. CAP also found that Bellaphant "has made almost no progress treating the mental health symptoms that caused his initial commitment in 2015," and "has chosen not to take advantage of treatment opportunities at his current location that could help him with his mental health symptoms and mitigate his risk for future violence." Under the applicable standard of review, this alone could support CAP's finding.

The record shows there was substantial disagreement among the experts regarding Bellaphant's specific mental-health diagnosis. Even so, they all agreed that Bellaphant has a significant personality disorder, lacks the ability to control his behavior, and is a risk for future violence. This is clear and convincing evidence that Bellaphant has "serious difficulty in controlling his behavior." *Opiacha*, 943 N.W.2d at 229 (quotation omitted); *see also In re Martinelli*, 649 N.W.2d 886, 890 (Minn. App. 2002) (affirming finding of

"lack of adequate control" due to diagnosis of hebephilia and anti-social personality disorder), *review denied* (Minn. Oct. 29, 2002). This evidence further establishes that Bellaphant's commitment continues to bear a reasonable relation to the purpose for which he is committed. *See Lidberg*, 514 N.W.2d at 783. Therefore, Bellaphant has failed to show he is entitled to release under the Due Process Clause.

Affirmed.