STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1753

In the Matter of the Civil Commitment of William C. Beals.

Filed May 31, 2011
Affirmed
Peterson, Judge

St. Louis County District Court
File No. 69-P2-92-600126

William C. Beals, Moose Lake, Minnesota (pro se appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Mark Ruben, St. Louis County Attorney, Patricia I. Shaffer, Assistant County Attorney, Duluth, Minnesota (for respondent St. Louis County)

Considered and decided by Hudson, Presiding Judge; Peterson, Judge; and Toussaint, Judge.

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

PETERSON, Judge

Appellant William C. Beals challenges the district court's order denying his pro se motion to vacate the 1992 judgment that indeterminately committed him as a psychopathic personality, now known as a sexual psychopathic personality (SPP). We affirm.

FACTS

Between 1967 and 1988, appellant committed a number of violent sexual and physical assaults against an infant girl, whom he murdered, two adolescent girls, and three adult women. He threatened to kill one victim, forcibly removed the clothing of at least one victim, struck two of the victims in the head, forced vaginal intercourse on at least three victims, forced a bar of soap into the vagina of one victim, and forced one victim into his car with her hands tied. For these offenses, appellant has been convicted of murder, first-degree criminal sexual assault, third-degree criminal sexual assault, and simple assault, and has served several lengthy sentences. Appellant was paroled or discharged into the community on at least one occasion, but within months committed another sexual assault. In 1992, before his last sentence expired, St. Louis County successfully petitioned to civilly commit appellant as a psychopathic personality. He remains an untreated sex offender and contends that he currently "is not in treatment as the [Minnesota Sex Offender Program] has nothing to offer."

Appellant has challenged his commitment a number of times, including a direct appeal from his indeterminate commitment and an appeal from the judicial appeal panel's denial of a discharge petition. *Beals v. Gomez*, No. C7-96-155 (Minn. App. July 2, 1996), *review denied* (Minn. Sept. 20, 1996); *In re Beals*, No. C9-92-2335 (Minn. App. Mar. 2, 1993), *aff'd*, (Minn. Feb. 4, 1994) (order). He also has filed several other motions and petitions in the district court seeking dismissal, discharge, or a writ of habeas corpus.

In July 2010, appellant filed a pro se motion under Minn. R. Civ. P. 60.02(f), seeking relief from his judgment of commitment. In a September 2010 order, the district court denied the motion, finding that it was untimely, that appellant failed to demonstrate "exceptional circumstances" warranting relief under rule 60.02(f), that the court lacked continuing jurisdiction over appellant's civil commitment, that challenges to the legitimacy or quality of treatment at the Minnesota Sex Offender Program (MSOP) are not proper subjects of a rule 60.02 motion before the committing court, that the court did not have jurisdiction to determine appellant's community-notification risk level, that expiration of appellant's sentences did not change the fact that he had engaged in sexual misconduct for purposes of SPP commitment, and that appellant failed to demonstrate that he had received ineffective assistance of counsel.

D E C I S I O N

Under Minn. R. Civ. P. 60.02(f), the district court may relieve a party from a final judgment for "[a]ny other reason justifying relief from the operation of the judgment." Rule 60.02(f) operates as a residual clause, affording relief only in "exceptional circumstances." *City of Barnum v. Sabri*, 657 N.W.2d 201, 207 (Minn. App. 2003). We "will not overturn a ruling on a motion to vacate unless the district court abused its discretion." *Roehrdanz v. Brill*, 682 N.W.2d 626, 631 (Minn. 2004).

This court recently held that the statutory framework governing indeterminate civil commitments does not authorize constitutional challenges or challenges to the adequacy of treatment by means of a motion to vacate the judgment under rule 60.02. *In re Commitment of Lonergan*, 792 N.W.2d 473, 476-77 (Minn. App. 2011), *review granted*

(Minn. Jan. 31, 2011). Appellant's claims fall within these categories, as constitutional challenges to his continued commitment, because he no longer meets the commitment criteria, and as challenges to the legitimacy and adequacy of his treatment, which he characterizes as punitive, because MSOP has failed to successfully treat anyone and he has no way to gain release. Relief thus is not available to appellant under rule 60.02.

Appellant also argues that his counsel was ineffective. We have considered ineffective-assistance-of-counsel claims raised by civilly committed persons in timely motions for a new trial, timely motions to vacate under rule 60.02, and on direct appeal. *See, e.g.*, *In re Dibley*, 400 N.W.2d 186, 190 (Minn. App. 1987 (direct appeal), *review denied* (Minn. Mar. 25, 1987); *In re Cordie*, 372 N.W.2d 24, 28-29 (Minn. App. 1985) (motion to vacate and hold new trial). But appellant does not explain his 18-year delay in challenging the effectiveness of his attorney, despite many opportunities to do so. Nor does appellant assert specific facts to support his claim, other than asserting in his motion to the district court that counsel failed to "be a vigorous advocate," and asserting in his informal brief to this court that he has made a "prima facie" case and that counsel "did not file an appeal on his behalf," a statement that is patently incorrect.

Finally, appellant argues that the district court erred in denying his motion for appointment of counsel to represent him in bringing this motion under rule 60.02.[1] A civilly committed person has the right to be represented by counsel at any proceedings

[1] But appellant did not request appointment of counsel in the district court. Although the district court exercised its discretion and appointed counsel after this appeal was filed, the court later vacated its order appointing counsel in light of this court's decision in *Lonergan*, 792 N.W.2d at 476-77.

under Minn. Stat. chapter 253B. Minn. Stat. § 253B.07, subd. 2c (2010). Because appellant's rule 60.02 motion is an attempt to seek discharge outside the statutory discharge proceedings, *Lonergan*, 792 N.W.2d at 476-77, he is not entitled to appointment of counsel. Moreover, even if an attorney had been appointed to represent appellant in the district court, that attorney likely would have declined to engage in this rule 60.02 proceeding given the insufficient basis for the action. *See* Minn. Spec. R. Commit. & Treat. Act 9 (stating that counsel not required to file appeal or commence any proceeding if there is insufficient basis for proceeding).

We therefore conclude that the district court did not abuse its discretion in denying appellant's motion for relief under rule 60.02.

Affirmed.