STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0975

In the Matter of the Civil Commitment of:
Arthur Dale Senty-Haugen.

Filed October 7, 2013
Affirmed
Bjorkman, Judge

Ramsey County District Court
File No. 62-P0-94-000473

Rick E. Mattox, Prior Lake, Minnesota (for appellant)

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

John J. Choi, Ramsey County Attorney, Beth Gessner Sullivan, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Peterson, Judge; and Stoneburner, Judge.

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

BJORKMAN, Judge

Appellant challenges the district court's denial of his motion under Minn. R. Civ. P. 60.02(e) to vacate his civil-commitment judgment based on inadequate treatment. We affirm.

FACTS

In 1996, appellant Arthur Dale Senty-Haugen was indeterminately civilly committed to the Minnesota Sex Offender Program (MSOP) as a sexually dangerous person (SDP) and as a sexual psychopathic personality (SPP). His commitment was affirmed on appeal. *In re Senty-Haugen*, 583 N.W.2d 266, 267, 269-70 (Minn. 1998). In 2010, he petitioned the special review board for transfer or discharge, which was denied. Senty-Haugen sought reconsideration of that decision, which was also denied.

On November 26, 2012, Senty-Haugen filed a pro se motion to vacate his commitment under rule 60.02. He moved for appointment of counsel, which the district court granted. Counsel submitted a new rule 60.02(e) motion, expressly withdrawing Senty-Haugen's pro se arguments. The motion asked the district court to: vacate Senty-Haugen's commitment because MSOP was not providing adequate treatment; conduct an evidentiary hearing; and appoint two experts to evaluate his treatment at MSOP and provide an individualized treatment program. The district court denied the motion and this appeal follows.

D E C I S I O N

Rule 60.02(e) permits a district court to relieve a party from a final judgment and order a new trial or other appropriate relief if "it is no longer equitable that the judgment should have prospective application." The rule "represents the historic power of the court of equity to modify its decree in light of changed circumstances." *City of Barnum v. Sabri*, 657 N.W.2d 201, 205 (Minn. App. 2003). We review a district court's decision on a rule 60.02 motion for abuse of discretion. *Kosloski v. Jones*, 295 Minn. 177, 180, 203

N.W.2d 401, 403 (1973). A district court abuses its discretion when its decision is "based on an erroneous view of the law" or is "against the facts in the record." *City of N. Oaks v. Sarpal*, 797 N.W.2d 18, 24 (Minn. 2011).

Senty-Haugen argues the inadequacy of the treatment provided by MSOP constitutes a changed circumstance that entitles him to relief under rule 60.02(e). We disagree. To vacate a commitment under rule 60.02(e), an SDP must show that the new circumstance would provide a legally valid reason for denying the commitment petition. *In re Civil Commitment of Moen*, ___ N.W.2d ___, ___, 2013 WL 3968801, at *7 (Minn. App. Aug. 5, 2013), *pet. for review filed* (Minn. Aug. 29, 2013). Because adequacy of treatment is not a factor in the initial commitment decision, inadequate treatment is insufficient as a matter of law to establish the change in circumstances required for relief under rule 60.02(e). *Id.* Because Senty-Haugen failed to establish a basis for relief under rule 60.02, the district court did not abuse its discretion in denying his motion to vacate.[1]

Senty-Haugen's next two arguments fail for the same reason. He asserts that the district court abused its discretion by declining to conduct an evidentiary hearing to decide his rule 60.02 motion and "determine the appropriate and necessary sex offender treatment." We are not persuaded. An evidentiary hearing is "merely a procedural means by which a district court may determine whether a party is entitled to relief." *Id.* at *5. Because Senty-Haugen's asserted changed circumstance does not permit relief

[1] Senty-Haugen's motion also fails because in essence, he seeks a discharge or transfer, which cannot be obtained under rule 60.02. *In re Civil Commitment of Lonergan*, 811 N.W.2d 635, 642 (Minn. 2012); *Moen*, 2013 WL 3968801, at *5.

under rule 60.02(e), we discern no abuse of discretion related to the lack of an evidentiary hearing.

Senty-Haugen also contends that the district court should have appointed two experts to evaluate him for the purposes of his motion, and/or to provide the district court with an appropriate individualized treatment program. He cites Minn. Stat. § 253B.23 (2012) to support his argument, but this provision, by its terms, only applies to hearings under that chapter, namely, hearings to determine whether a person should be committed. *See generally* Minn. Stat. §§ 253B.01-.24 (2012); *see also* 2013 Minn. Laws ch. 49, §§ 9-22, at 226-31 (to be codified at Minn. Stat. §§ 253D.01-.36 (Supp. 2013)). Because a rule 60.02 motion is not a hearing under the civil-commitment laws, *Moen*, 2013 WL 3968801, at *9, the district court did not abuse its discretion by denying Senty-Haugen's request for court-appointed experts.

For the first time on appeal, Senty-Haugen argues that the district court's refusal to vacate his civil commitment violates his due-process rights and that he should be permitted to seek a less-restrictive alternative to his commitment at MSOP. Because he did not raise these arguments in the district court, we will not consider them. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

Affirmed.