

DA 16-0536

IN THE SUPREME COURT OF THE STATE OF MONTANA

2018 MT 97N

IN THE MATTER OF:

C.S.-S.,

Respondent and Appellant.

APPEAL FROM: District Court of the Twenty-First Judicial District,
In and For the County of Ravalli, Cause No. DI 16-11
Honorable James A. Haynes, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Chad Wright, Appellate Defender, Kristen L. Peterson, Assistant Appellate
Defender, Helena, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, Micheal S. Wellenstein,
Assistant Attorney General, Helena, Montana

William E. Fulbright, Ravalli County Attorney, Howard F. Recht, Deputy
County Attorney, Hamilton, Montana

Submitted on Briefs: April 11, 2018

Decided: April 24, 2018

Filed:



Clerk

Justice Ingrid Gustafson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 C.S.-S. appeals the written Order of Commitment issued by the District Court on July 19, 2016. We affirm.

¶3 On July 18, 2016, the State petitioned for C.S.-S.'s involuntary commitment based on a report from Sylvia Mahr, a licensed clinical social worker and mental health professional at the Western Montana Mental Health Center. Mahr reported C.S.-S. to be psychotic and delusional and documented examples of his delusions. Mahr noted C.S.-S. to have had increasing legal problems, having been jailed three times in July 2016 and exhibiting delusional behavior while at the jail. She diagnosed C.S.-S. as having bipolar disorder, an alcohol use disorder, a stimulant disorder, and a cannabis use disorder, and expressed that without interventions he would continue to deteriorate and remain a risk of harm to self or others.

¶4 At hearing, Mahr's report was entered into evidence and she testified regarding C.S.-S.'s condition. She found C.S.-S. to be delusional with entrenched delusions and also testified he was "having visual hallucinations of ghosts and demons." She found his judgment, insight, and impulse control to be severely compromised and testified he was unable to meet his daily needs, care for himself, or live on his own. Although she testified

he has had periods of stability when on medication, when he is not taking his medication, as was the case when the petition was filed, he deteriorates and presents an imminent threat of injury to himself and others. Although she initially believed a 14-day diversion to be appropriate, at hearing she testified that finding the right medication to stabilize C.S.-S. was of utmost importance and that Montana State Hospital (MSH) was in the best position to do this.

¶5 At the conclusion of the hearing, the District Court found C.S.-S. suffered from a mental disorder, primarily a bipolar disorder, along with an alcohol use disorder, a stimulant use disorder, a tobacco use disorder, and a cannabis use disorder. The District Court found C.S.-S. to exhibit psychotic behaviors and to have active delusions which in his unmedicated state made him an imminent threat to himself and others such that commitment to MSH was the least restrictive placement to treat him. Following hearing, the District Court issued its Order of Commitment on July 19, 2016. This appeal followed.

¶6 We review a district court's commitment order to determine whether its findings of fact are clearly erroneous and its conclusions of law are correct. A finding of fact is clearly erroneous only if not supported by substantial credible evidence, the district court misapprehended the effect of the evidence, or this Court has a definite and firm conviction upon review of the record that the district court otherwise erred. *In re C.K.*, 2017 MT 69, ¶ 10, 387 Mont. 127, 391 P.3d 735 (citation omitted). We view the evidence in the light most favorable to the prevailing party when determining whether substantial credible evidence supports the district court's findings. *In re C.V.*, 2016 MT 307, ¶ 15, 385 Mont. 429, 384 P.3d 1048 (citation omitted).

¶7 On appeal, C.S.-S. does not contest that: he suffers from a bipolar mental health disorder; he is unable to care for himself or provide for his basic needs; he is an imminent danger to himself or others; and he should be committed. Instead, he asserts commitment at MSH was not the least restrictive commitment setting for his treatment and that he should have instead been committed to a facility such as West House.

¶8 We have reviewed the evidence of record and viewing it in the light most favorable to the State conclude the District Court did not abuse its discretion in finding commitment to MSH to be the least restrictive commitment setting for C.S.-S. to receive treatment to stabilize his mental health condition. We further conclude the District Court's conclusion of law is correct.

¶9 C.S.-S. also asserts a variety of other purported errors of the District Court. First, C.S.-S. asserts the District Court's commitment order contains unsupported or illegal provisions in violation of §§ 53-21-180, -181, and -183, MCA. C.S.-S. confuses the requirements under three different discharge statutes and misapprehends the discharge provisions of the District Court's commitment order. Depending on how the discharge occurs, different requirements exist under §§ 53-21-180, -181, and -183, MCA. The District Court's commitment order was not illegal or inconsistent given the differing discharge provisions provided for in §§ 53-21-180, -181, and -183, MCA, and considering that the statutes do not preclude the District Court from placing additional conditions when an individual is discharged to receive outpatient care. Next, C.S.-S. asserts the District Court erred in including chemical/substance abuse diagnoses as a mental health disorder. While the District Court could have been more specific in separating out C.S.-S.'s bipolar

disorder as a mental disorder pursuant to § 53-21-102, MCA, with co-occurring chemical/substance use disorders, such error is harmless in light of the District Court's oral pronouncement that C.S.-S. suffers from a mental health disorder, "primarily a bipolar diagnosis" along with other chemical/substance use disorders as well as the evidence presented at hearing. C.S.-S. asserts the District Court erred in ordering the involuntary administration of medications, if necessary. As testified to by Mahr, C.S.-S. deteriorates without medication. In its oral findings the District Court determined when C.S.-S. is unmedicated he is an imminent danger to himself and others such that administration of medications, even involuntarily if C.S.-S. fails to cooperate, is appropriate. The District Court's order acknowledges C.S.-S. requires ongoing medication to treat his mental health disorder and he has a history of deterioration when he is not on medication. The District Court's authorization of the chief medical officer at MSH to administer medications if necessary does not authorize administration of medications unnecessarily.

¶10 Finally, C.S.-S. argues the District Court erred in requiring assessment for developmental and cognitive delays. The State concedes there is no evidence to support an assessment for developmental or cognitive delays and the parties agree this requirement has been ignored. Rather than remand to strike this provision and consume additional judicial time to do so, we determine it appropriate for us to strike this provision from the District Court's Order of Commitment of July 19, 2016, and hereby do so.

¶11 We conclude the District Court did not abuse its discretion in committing C.S.-S. to MSH, we strike the requirement contained in the District Court's Order of Commitment

that C.S.-S. obtain assessment for developmental and cognitive delays, and affirm the remaining provisions of the District Court's July 19, 2016 Order.

¶12 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶13 Affirmed as set forth above.

/S/ INGRID GUSTAFSON

We concur:

/S/ MIKE McGRATH
/S/ LAURIE McKINNON
/S/ BETH BAKER
/S/ JIM RICE