

DA 18-0078

IN THE SUPREME COURT OF THE STATE OF MONTANA

2019 MT 134N

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IN THE MATTER OF:

D.S.,

Respondent and Appellant.

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APPEAL FROM: District Court of the First Judicial District,  
In and For the County of Lewis and Clark, Cause No. CDI 2017-68  
Honorable Kathy Seeley, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Chad Wright, Appellate Defender, Lisa S. Korchinski, Assistant Appellate  
Defender, Helena, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, Katie F. Schulz, Assistant  
Attorney General, Helena, Montana

Leo J. Gallagher, Lewis and Clark County Attorney, Katie Jerstad, Deputy  
County Attorney, Helena, Montana

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Submitted on Briefs: May 15, 2019

Decided: June 4, 2019

Filed:

  
Clerk

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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 D.S. appeals the order of the First Judicial District, Lewis and Clark County, subjecting him to involuntary commitment at the Montana State Hospital (MSH). We affirm.

¶3 On December 6, 2017, the State filed a petition to involuntarily commit D.S. The petition alleged that D.S. suffered from mental illness and consequently was unable to provide for his own basic needs. On December 8, 2017, the District Court conducted a commitment hearing.

¶4 At the commitment hearing, the District Court heard testimony from four witnesses for the State and from D.S. The witnesses for the State included: the property manager of D.S.'s rental property, an adult protection specialist, a crisis response therapist, and D.S.'s mother. Based on the testimony of D.S. and the four witnesses for the State, the District Court orally asserted the following statement of the facts in support of finding D.S. to be suffering from a mental disorder and requiring commitment:

I have heard testimony of the horrible conditions in the apartment, using a sink as a restroom for weeks on end. I have heard that Mom found him in that apartment. Mom is payee. I do not think that he is able to care for himself based beyond a reasonable doubt, in my opinion, as to those elements. And

we have the professional person, Ms. Waples, who testified that he does suffer from schizophrenia; he's not taking his medication, and that he will not improve if he is not taking medication. And that because of that, he is substantially unable to provide for his own basic needs: Food, clothing, shelter, health and safety. I think that's been proven here. I think there's a danger for self-injury, but perhaps we don't have sufficient proof of that. We do know that his needs require medication to treat, and I will order involuntary medication to protect [D.S.], to protect the public, and to facilitate treatment. I think the least restrictive placement is Montana State Hospital because of the need for involuntary medication. And I will order him to be transported to Montana State Hospital by the sheriff's department.

¶5 The District Court issued an initial written order to facilitate transport of D.S. to MSH. Additionally, counsel for D.S. requested a minute entry be made available to the transport officers. Five days later, on December 13, 2017, the District Court issued a second order detailing more thoroughly the supporting evidence, findings of fact, and conclusions of law.

¶6 Whether a district court's civil commitment order contains findings of fact that meet the statutory requirement is a question of law that we review for correctness. *In re L.L.A.*, 2011 MT 285, ¶ 7, 362 Mont. 464, 267 P.3d 1 (citation omitted).

¶7 Section 53-21-126, MCA, requires a district court to first determine whether a respondent is suffering from a mental disorder and then whether commitment is necessary based on § 53-21-126(1), MCA. A district court is also required by § 52-21-127(8)(a), MCA, to provide "a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment."

¶8 In this case, it is undisputed the District Court had sufficient evidence to determine D.S. suffered from a mental disorder and required commitment because he was unable to

provide for his own basic needs. It is only disputed whether the District Court provided a statement of facts sufficient to satisfy § 53-21-127(8), MCA—specifically, the requirement in subsection (8)(a) that “a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment” shall be made.

¶9 This court has held that a district court’s written findings of fact can be taken in conjunction with oral findings made during the hearing in a sufficiency determination under § 53-21-127(8)(a), MCA. *In re M.P.-L*, 2015 MT 338, ¶ 20, 381 Mont 496, 362 P.3d 627.

¶10 As part of the commitment hearing, the District Court orally stated the facts it relied on in concluding D.S. was suffering from a mental disorder and required commitment. Specifically, it found:

1. The professional person, Ms. Waples, uncontrovertedly testified that D.S. suffered from schizophrenia.
2. Ms. Waples uncontrovertedly testified that D.S. is unable to satisfy his basic needs. Specifically, D.S. was going weeks without eating, was using his sink as a toilet, was unable to maintain basic personal hygiene, and was residing in inhuman living conditions.
3. Without his medication, which he was refusing to take, his conditions will not improve.
4. The least restrictive placement is MSH because of the need for involuntary medication.

¶11 The District Court issued an initial written order immediately following the commitment hearing:

A petition was filed alleging that [D.S.] has a mental disorder that requires commitment by the State. This Court found probable cause to have a hearing and held a hearing on December 8, 2017. Upon conclusion of the testimony

this Court determined that [D.S.] was suffering a mental disorder (schizophrenia) which renders him unable to care for his own basic needs of clothing, shelter, food, health and safety. The Court determined that [D.S.] requires treatment at a secure inpatient facility and that the Montana State Hospital, in Warm Springs, Montana, is the least restrictive environment to meet his psychiatric needs. The Court therefore committed [D.S.] to the Montana State Hospital for for [sic] a period not to exceed 90 days. The Court also ordered that the Montana State Hospital shall have authority to administer medications involuntarily.

¶12 We need not address D.S.’s argument that the written order was an unlawful “place holder” for the District Court’s more detailed December 13 Findings of Fact, Conclusions of Law, and Order. Albeit bare-boned and conclusory, the findings of fact in the December 8 commitment order, when taken in conjunction with the oral statement of the facts and rationale made during the commitment hearing, is sufficiently detailed to comply with the requirements of § 53-21-127(8)(a), MCA.

¶13 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.

¶14 Affirmed.

/S/ INGRID GUSTAFSON

We concur:

/S/ MIKE McGRATH  
/S/ BETH BAKER  
/S/ LAURIE McKINNON  
/S/ DIRK M. SANDEFUR