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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-0335**

In the Matter of the
Civil Commitment of:
Daniel Jacob Lunsford.

**Filed September 1, 2009
Affirmed
Klaphake, Judge**

Ramsey County District Court
File No. 62-MH-PR-08-42

Daniel Jacob Lunsford, 111 Highway 73, Moose Lake, MN 55767 (pro se appellant)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul,
MN 55101-2134; and

Susan Gaertner, Ramsey County Attorney, Elizabeth Chase Henry, Assistant County
Attorney, 50 West Kellogg Blvd., Suite 315, St. Paul, MN 55102 (for respondent State of
Minnesota)

Considered and decided by Klaphake, Presiding Judge; Stauber, Judge; and
Harten, Judge.*

UNPUBLISHED OPINION

KLAPHAKE, Judge

Pro se appellant Daniel Lunsford seeks review of several orders pertinent to his
civil commitment as a sexually dangerous person under Minn. Stat. §§ 253B.01 to .23

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

(2008). On appeal, he raises an issue of subject-matter jurisdiction and alleges three due process violations, including that the district court refused to (1) construe his postconviction motion as a motion for a new trial based on newly discovered evidence; (2) hear arguments on the unfair and punitive conditions of his confinement; and (3) hear his dismissal motion that raised a jurisdictional challenge. We affirm because we conclude that the district court had subject-matter jurisdiction to decide this case and because appellant's due process claims are untimely and without merit.

D E C I S I O N

By statute, a person meets the definition of a “sexually dangerous person” (SDP) if he has (1) engaged in a course of harmful sexual conduct; (2) has a sexual, personality, or other mental disorder; and (3) as a result of the disorder, is likely to engage in future acts of harmful sexual conduct. Minn. Stat. § 253.01, subd. 18c. Specific types of conduct, including first-degree criminal sexual conduct, are presumed to create a substantial likelihood of serious physical or emotional harm. *Id.*, subd. 7a. The state must prove that a person meets the criteria for civil commitment as an SDP by clear and convincing evidence. Minn. Stat. § 253B.18, subd. 1.

1. Subject-Matter Jurisdiction

Appellant appears to claim that the district court did not have subject-matter jurisdiction to preside over his civil commitment proceedings. “Subject-matter jurisdiction is defined as a court’s authority to hear and determine either a particular class of actions or questions the court assumes to decide.” *In re the Civil Commitment of Beaulieu*, 737 N.W.2d 231, 237 (Minn. App. 2007).

Appellant's argument lacks merit. "As a general rule, state courts have subject-matter jurisdiction over civil commitments." *Id.*; see *In re Ivey*, 687 N.W.2d 666, 669 (Minn. App. 2004) ("The district court has subject matter jurisdiction over judicial commitments, including commitments of a person as a . . . a sexually dangerous person"), *review denied* (Minn. Dec. 22, 2004). Because the commitment petition was filed as required by statute in Ramsey County, the district court had jurisdiction to hear appellant's case. See Minn. Stat. § 253B.185, subd. 1 ("The petition is to be . . . filed with the committing court of the county in which the patient has a settlement or is present").

2. *Due Process Claims*

Appellant claims that the district court denied him due process by refusing to consider three issues he raised in his motion to dismiss the commitment petition. Specifically, he claims that the district court (1) failed to liberally construe his pro se motion for a new trial; (2) refused to consider his argument that the Minnesota Sex Offender Program is unconstitutional; and (3) refused to consider his subject-matter jurisdictional challenge.

The district court denied appellant's motion to dismiss because it concluded that his failure to timely raise any defenses to the commitment petition resulted in waiver of those defenses. In denying appellant's motion, the court also stated that appellant had not claimed that the court lacked subject-matter jurisdiction. Because the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act do not address computation of time for appellant's motion, the rules of civil procedure

apply. Minn. Spec. R. Commitment & Treatment Act 2 (stating that “the Minnesota Rules of Civil Procedure govern the computation of any time periods prescribed by Minn. Stat. ch. 253B” except as provided by special commitment rules). As noted by the district court, pertinent to the issues raised by appellant, Minn. R. Civ. P. 12.01 required appellant to raise all defenses, with the exception of subject-matter jurisdiction, within 20 days after initiation of the commitment proceedings. *Id.* (“Defendant shall serve an answer within 20 days after service of the summons upon that defendant”). Further, Minn. R. Civ. P. 12.02 required that “[e]very defense . . . shall be asserted in the responsive pleading”). By failing to raise his defenses to the commitment petition until after a full hearing and decision on the matter, appellant waived any defenses he may have had. *See St. Cloud Aviation, Inc. v. Pulos*, 375 N.W.2d 543, 545 (Minn. App. 1985) (stating that party’s failure to raise affirmative defense in pleading constitutes waiver of defense). Thus, as to the non-jurisdictional issues, the district court properly denied appellant’s motion.

On the merits, we also conclude that appellant’s due process claims are legally groundless. He argues that the district court should have construed his motion as a motion for a new trial, but he offers no evidence to substantiate this claim. *See* Minn. R. Civ. P. 60.02 (requiring party who seeks new trial for newly discovered evidence to offer new evidence and establish that such evidence could not have been discovered in time to move for a new trial). Further, while appellant claims that his conditions of confinement are punitive, rather than rehabilitative, this argument has been considered and rejected by the supreme court, which held that the SDP law “does not involve retribution” and is

remedial in nature. *In re Linehan*, 594 N.W.2d 867, 871-72 (Minn. 1999); *see Call v. Gomez*, 535 N.W.2d 312, 319-20 (Minn. 1995) (stating that civil commitment law is remedial and not for preventative detention); *In re Blodgett*, 510 N.W.2d 910, 916 (Minn. 1994) (noting that purpose of civil commitment is to provide treatment and commitment is not “equivalent to life-long preventive detention”).

Appellant finally contends that the district court violated his due process rights by failing to consider his subject-matter jurisdiction claim on the merits. The court declined to consider appellant’s argument because it concluded that his dismissal motion was untimely. “Because subject-matter jurisdiction goes to the authority of the court to hear a particular class of actions, lack of subject-matter jurisdiction may be raised at any time.” *Irwin v. Goodno*, 686 N.W.2d 878, 880 (Minn. App. 2004) (quotation omitted). Because the district court had subject-matter jurisdiction over appellant’s commitment proceedings, however, appellant was not prejudiced by the court’s failure to reach this issue.

Affirmed.