

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1270**

In re Civil Commitment of:
Robert Archie Kunshier

**Filed February 15, 2011
Affirmed
Ross, Judge**

Dakota County District Court
File No. 19-P5-88-001302

Robert A. Kunshier, Moose Lake, Minnesota (pro se appellant)

James C. Backstrom, Dakota County Attorney, Karen L. Henke, Assistant County Attorney, Hastings, Minnesota (for respondent)

David A. Jaehne, West St. Paul, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Hudson, Judge; and Schellhas, Judge.

UNPUBLISHED OPINION

ROSS, Judge

Robert A. Kunshier is indeterminately civilly committed as a sexually psychopathic personality. He maintains that the commitment process offers him no way to freedom even though he no longer meets the criteria for commitment. So he challenged the validity of his original civil commitment order, relying on Rule 60.02 of the Minnesota Rules of Civil Procedure. Because the statutory framework governing

commitment of a sexually psychopathic person does not contemplate a rule-60.02 challenge, the district court properly denied Kunshier's challenge and we affirm without addressing the various underlying substantive arguments that Kunshier raises.

FACTS

Robert A. Kunshier was adjudicated as a sexually psychopathic personality (SPP) based on his extensive sexual-offense history dating back to his childhood. In 1979, Kunshier was incarcerated for two sexually violent kidnappings. One month after he was released in 1986, he tried to kidnap a woman and her infant child at knife point so he could rape the woman. He soon avoided being evaluated in an intensive treatment program at the Minnesota Security Hospital in St. Peter because he escaped, stole a car, and, interrupting his high-speed chase, broke into a house and raped a woman inside. He was convicted of first-degree criminal sexual conduct and faced civil commitment.

In 1993, the district court committed Kunshier as an SPP, and in 1994, his commitment became indeterminate. Kunshier appealed, and we remanded for findings related to whether he utterly lacked the power to control his sexual impulses and whether a probability had been shown that his lack of control would result in harm to others. *In the Matter of Kunshier*, 521 N.W.2d 880, 885 (Minn. App. 1994). The district court committed Kunshier on remand. We affirmed. *In re Kunshier*, No. C7-95-1490, 1995 WL 687692 (Minn. App. Nov. 21, 1995).

Kunshier petitioned the Special Review Board (SRB) in 2005 for discharge from civil commitment. The SRB recommended that his petition be denied, and the Commissioner of Human Services adopted that recommendation. Kunshier petitioned

the Judicial Appeal Panel for a rehearing. The panel dismissed Kunshier's petition and we affirmed the panel. *Id.* Kunshier filed a petition for a Writ of Habeas Corpus, which the district court denied in 2009 for lack of any claims supporting a prima facie case of habeas corpus relief.

Later in 2009, Kunshier filed a motion for relief from the original order civilly committing him. This time he relied on rule 60.02(f) of the Minnesota Rules of Civil Procedure. The district court denied Kunshier's motion, concluding that rule 60.02 provides no basis to review his civil commitment order and that even if Kunshier was entitled to seek relief under the rule, his motion was untimely and failed to meet rule 60.02(f) standards. This appeal follows.

DECISION

On appeal from the district court's denial of his motion to vacate his civil commitment, Kunshier contends extraordinary circumstances warrant relief from his original commitment order. We review a district court's decision whether to vacate a judgment for abuse of discretion. *Charson v. Temple Israel*, 419 N.W.2d 488, 490 (Minn. 1988). But whether Kunshier could properly move to vacate his commitment by means of a rule-60.02 motion depends on the interpretation of the commitment statutes, presenting a legal issue that we review de novo. *See Rydberg v. Goodno*, 689 N.W.2d 310, 313 (Minn. App. 2004).

Although a party may generally rely on rule 60.02 to seek relief from a final order for good cause, Minnesota Rules of Civil Procedure 60.02, we recently held that the rule is not the mechanism for relief from an indeterminate civil commitment order. *In re*

Commitment of Lonergan, 792 N.W.2d 473, 476–77 (Minn. App. 2011) (holding that the statutory scheme governing indeterminate commitment of a person as a sexually dangerous person does not authorize a challenge to commitment under Minn. R. Civ. P. 60.02). Rather, the civil-commitment statute explains the procedures by which an indeterminately committed person may seek relief. Minn. Stat. §§ 253B.18, subd. 15; 253B.185, subd. 18 (2010) (establishing guidelines for discharge from commitment). Kunshier, a committed SPP, therefore cannot rely on rule 60.02 to challenge his commitment and must rely instead on the process ordered by statute. *See Lonergan*, 792 N.W.2d at 477.

Because Kunshier cannot obtain relief from civil commitment under rule 60.02, the district court properly denied his motion. We offer no opinion about the merits of his substantive theories for relief.

Affirmed.