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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0126**

In the Matter of the Civil Commitment of:
William Clement Beals, f/k/a William Edward Shatto

**Filed June 10, 2013
Affirmed
Cleary, Judge**

St. Louis County District Court
File No. 69-P9-92-600126

William C. Beals, Moose Lake, Minnesota (pro se appellant)

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

Mark S. Rubin, St. Louis County Attorney, Benjamin M. Stromberg, Assistant County Attorney, Duluth, Minnesota (for respondent St. Louis County)

Considered and decided by Kalitowski, Presiding Judge; Cleary, Judge; and
Hooten, Judge.

UNPUBLISHED OPINION

CLEARY, Judge

Appellant challenges the district court's denial of his motion for relief under Minn. R. Civ. P. 60.02. He argues that he is being denied adequate treatment while civilly committed to the Minnesota Sex Offender Program (MSOP). Because the district court did not abuse its discretion by denying appellant's motion, we affirm.

FACTS

Appellant has been civilly committed to the MSOP as a sexual psychopathic personality since 1992. In January 2013, appellant filed a motion for relief under Minn. R. Civ. P. 60.02(d)–(f). He claimed that he has no mental illness to justify his civil commitment; that his period of commitment had been satisfied; that the MSOP does not provide adequate treatment; and that he should be transferred to a veterans hospital for treatment for posttraumatic-stress disorder. To support his claim that the MSOP fails to provide adequate treatment, he cited a March 2011 report by the Minnesota Office of the Legislative Auditor that was issued following an evaluation of the MSOP and Minnesota’s civil-commitment process.¹ In his prayer for relief, appellant requested a ruling that his civil commitment “is no longer permissible” or an amendment to his civil-commitment order due to “fraud.” In the alternative, appellant requested that he be transferred to an alternative sex-offender-treatment facility or a veterans hospital.

In response to appellant’s motion, the state submitted a letter brief asking that the motion be dismissed or summarily denied because appellant’s requests were for a discharge from civil commitment or transfer to another facility, and such requests must be brought before a civil commitment special review board rather than a court. Appellant then submitted a reply in which he amended his prayer for relief to “whatever relief deemed appropriate” by the court. He again argued that his treatment was inadequate, citing the report from the MSOP evaluation.

¹ See generally Minn. Off. of the Legis. Auditor, *Evaluation Report: Civil Commitment of Sex Offenders* (Mar. 2011), <http://www.auditor.leg.state.mn.us/ped/pedrep/ccso.pdf>.

The district court subsequently issued an order denying appellant's motion. The court held that appellant was "obviously requesting the [c]ourt to release or transfer him from his current commitment," and that such a request must be addressed to a special review board rather than the courts. This appeal follows.

D E C I S I O N

On appeal, appellant raises only his claim of inadequate treatment in the MSOP. He does not address the other claims raised in his motion, and thus those claims have been waived. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (stating that issues not briefed on appeal are waived).

Appellant challenges the district court's denial of his motion for relief under Minn. R. Civ. P. 60.02(d)–(f), which states:

On motion and upon such terms as are just, the court may relieve a party . . . from a final judgment[,] . . . order, or proceeding and may order a new trial or grant such other relief as may be just for the following reasons:

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- (d) The judgment is void;
 - (e) The judgment has been satisfied, released, or discharged . . . or it is no longer equitable that the judgment should have prospective application; or
 - (f) Any other reason justifying relief from the operation of the judgment.

A district court has "discretionary power to grant relief" under rule 60.02. *Charson v. Temple Israel*, 419 N.W.2d 488, 490 (Minn. 1988). A district court's decision on a rule 60.02 motion should not be reversed unless the court abused its discretion. *Kosloski v. Jones*, 295 Minn. 177, 180, 203 N.W.2d 401, 403 (1973). A 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 North Oaks v. Sarpal*, 797 N.W.2d 18, 24 (Minn. 2011).

In *In re Commitment of Lonergan*, the Minnesota Supreme Court addressed the ability of a patient who has been civilly committed as a sexually dangerous person or sexual psychopathic personality to bring a rule 60.02 motion for relief. 811 N.W.2d 635, 639–43 (Minn. 2012). The court held that, if the patient is seeking a discharge or transfer to another facility, the patient must follow certain statutory procedures that include petition to a special review board and review by a judicial appeal panel, rather than turning to the courts. *Id.* at 640–43 (citing Minn. Stat. § 253B.185, subds. 1(e), 9 (2010)). But, the court stated, if the patient raises a “nontransfer, nondischarge claim,” the patient may bring a rule 60.02 motion as long as it does not “distinctly conflict” with the Minnesota Commitment and Treatment Act or “frustrate a patient’s rehabilitation or the protection of the public.” *Id.* at 642–43. As examples of the “narrow category” of claims that may be raised in court under rule 60.02, the supreme court listed “ineffective assistance of counsel,” “lack of subject matter jurisdiction,” and an attempt to cure “a procedural or jurisdictional defect during the commitment process.” *Id.*

Appellant argued in his motion that the MSOP does not provide an adequate standard of treatment. To support his argument, he cited the report from the MSOP evaluation. He did not identify any aspects of the MSOP or his treatment that he believes are flawed, discuss how any alleged flaws impact him, propose remedies for any alleged flaws, or point to any particular portion of the lengthy report. On appeal, appellant identifies numerous alleged inadequacies in the MSOP, including that no patients have

yet been fully discharged from the program; that the program lacks needed resources and staffing; that the substance of the treatment program and the number of treatment hours provided are insufficient; and that the treatment facilities and environment are counter-therapeutic. These concerns were raised in the evaluation report. But appellant has not attempted to explain how any of these concerns relate to him and his treatment, nor has he offered any suggestions as to how his individual treatment may be improved. As the district court determined, it is clear that appellant is seeking either a discharge from commitment or transfer to an alternative facility based simply on the results of the MSOP evaluation. He is not seeking a remedy for any specific inadequacy in his individual treatment. Pursuant to *Loneragan*, appellant must direct his request to a special review board. *See id.* at 640–43 (citing Minn. Stat. § 253B.185, subds. 1(e), 9 (2010)).

On appeal, appellant does raise two concerns regarding his individual treatment. First, he argues that he is not being provided time-limited treatment goals as required by Minn. R. 2955.0110, subp. 3 (2011). However, chapter 2955 of the Minnesota Rules relates to juvenile sex-offender treatment, not to treatment for adult patients who have been civilly committed, and therefore the rule’s requirement of time-limited treatment goals does not apply to appellant. *See* Minn. R. 2955.0010, subp. 2 (2011) (stating that chapter 2955 sets forth sex-offender-treatment standards that apply to and provide a framework for residential juvenile sex-offender-treatment programs). Second, appellant states that he has had to restart his treatment programs due to staffing and program changes. Appellant does not allege that his treatment is inadequate for this reason, but

only explains that his treatment programs have been changed, and thus it is unclear how this concern relates to his claim of inadequate treatment.

The district court did not abuse its discretion by denying appellant's motion for relief under rule 60.02. Appellant, consistent with the applicable statutory procedures, may direct his treatment concerns to a special review board.

Affirmed.