STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1584

Steven Leo Rannow,
Appellant,

vs.

Lucinda Jesson,
Commissioner of Human Services,
Respondent.

Filed December 30, 2013
Affirmed
Hudson, Judge

McLeod County District Court
File No. 43-P4-06-000136

Steven Leo Rannow, St. Peter, Minnesota (pro se appellant)

Lori Swanson, Attorney General, Steven H. Alpert, Mikiesha Renee Mayes, Uzodima Franklin Aba-Onee, Assistant Attorneys General, St. Paul, Minnesota; and

Michael Junge, McLeod County Attorney, Amy Elizabeth Olson, Assistant County Attorney, Glencoe, Minnesota (for respondent)

Considered and decided by Hudson, Presiding Judge; Stoneburner, Judge; and Hooten, Judge.

U N P U B L I S H E D O P I N I O N

HUDSON, Judge

In this pro se appeal, appellant argues that the Judicial Appeal Panel erred in dismissing his petition for a provisional or full discharge from his indeterminate civil commitment as a person who is mentally ill and dangerous. Appellant also claims that several of his constitutional rights were violated. We affirm.

FACTS

In 2006, appellant was serving a 36-month prison sentence for convictions stemming from the stalking and harassment of one female victim over a span of 17 years. Appellant also had pending criminal charges resulting from repeated attempts to contact the same female victim while he was in prison. *See In re Commitment of Rannow*, 749 N.W.2d 393, 395 (Minn. App. 2008), *review denied* (Minn. Aug. 5, 2008). Appellant agreed to stipulate to civil commitment as a person who is mentally ill and dangerous in exchange for McLeod County's agreement to drop the pending criminal charges; appellant remains committed at the Minnesota Security Hospital. *Id*.

Appellant filed a petition in May 2011 for provisional discharge or full discharge from his civil commitment with the Special Review Board, which recommended that the petition be denied. The Commissioner of Human Services issued a final order, based on the recommendation, denying the petition. Appellant petitioned for rehearing and reconsideration before the Judicial Appeal Panel. At the hearing before the panel, appellant was represented by counsel. The only witness was Dr. Mary Kenning, the independent court-appointed psychological examiner. Dr. Kenning did not support

discharge. At the close of appellant's case, the department of human services and the county moved for dismissal of appellant's petition. The panel granted the motion, concluding that appellant did not produce any evidence to avoid judgment as a matter of law. This appeal follows.

D E C I S I O N

Appellant challenges the denial of his petition and the Judicial Appeal Panel's determination that he did not meet the evidentiary burden of production. Because appellant did not provide a transcript of the proceedings before the panel, this court's task is limited to a determination of whether the panel's findings of fact support its conclusions of law. *Am. Family Life Ins. Co. v. Noruk*, 528 N.W.2d 921, 925 (Minn. App. 1995), *review denied* (Minn. Apr. 27, 1995). When going before the appeal panel, "the committed person bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief." *Coker v. Jesson*, 831 N.W.2d 483, 485 (Minn. 2013) (quoting Minn. Stat. § 253B.19, subd. 2(d) (2012)). The panel may not make credibility determinations or weigh evidence and must view the evidence in the light most favorable to the petitioner. *Id.* at 490–91.

Appellant petitioned alternatively for provisional and full discharge. Provisional discharge may not be granted unless the individual is "capable of making an acceptable adjustment to open society." Minn. Stat. § 253B.18, subd. 7 (2012). The panel must consider whether there continues to be a need for treatment in the patient's current setting and whether the provisional discharge plan would reasonably protect the public while

allowing the patient to adjust successfully back into the community. *Id.* Full discharge may only be granted if the individual "is capable of making an acceptable adjustment to open society, is no longer dangerous to the public, and is no longer in need of inpatient treatment and supervision." *Id.*, subd. 15 (2012). The panel must consider "whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the patient in adjusting to the community." *Id.*

The only evidence presented to the panel was the testimony and report of the court-appointed independent examiner, Dr. Mary Kenning. Based on Dr. Kenning's testimony and report, the panel found that appellant had a recent relapse that resulted in appellant's security level being dropped so that he is unable to attend off-ground outings. Because of the relapse, appellant was unstable, uncooperative with treatment, and gave up his job. The panel noted Dr. Kenning's testimony that appellant has not taken responsibility for his behavior towards his victim, blames the victim for his situation, and reports irrational and paranoid beliefs that others are plotting against him. Appellant told Dr. Kenning that he plans to live with his mother upon release, but he did not present a provisional discharge plan to the Special Review Board. Finally, the panel acknowledged that appellant appeared to be doing better in the past several months, but that neither Dr. Kenning nor any of appellant's other treating professionals support his requests for discharge because he has not demonstrated emotional and behavioral stability for a long enough period of time as to warrant a change in treatment. The panel concluded that "[a]ppellant has not produced any competent evidence to meet his initial burden of production to establish a prima facie case for either discharge or provisional discharge,"

and therefore his requests could not be granted. Viewed in the light most favorable to appellant, that conclusion is wholly supported by the panel's findings of fact. *Coker*, 831 N.W.2d at 490–91.

Appellant also argues that several of his constitutional rights were violated and that McLeod County used false allegations to secure a conviction against him. The record does not reflect that these claims were raised before the Special Review Board or the Judicial Appeal Panel, and thus they are not properly before this court. *Thiele v. Stitch*, 425 N.W.2d 580, 582 (Minn. 1988). Even so, we briefly note that these claims are without merit. First, appellant argues that his use of vulgar, offensive, and insulting words is not punishable under the criminal statutes, and thus his First Amendment rights were violated. Appellant's criminal convictions are not at issue on this appeal. There was nothing in the appeal panel record that references inappropriate language; thus, even assuming appellant was referencing his civil commitment rather than his criminal convictions, the claim fails because his petition was not denied on the basis of his speech. Similarly, appellant's Sixth Amendment claim fails because that amendment applies only to criminal prosecutions. U.S. Const. Amend. VI. Appellant's claim that his right to be free from unreasonable searches and seizures was violated fails because he has not identified the basis of the claim, nor is one apparent from the record. The claim that McLeod County used false allegations to secure a conviction against him also fails because, again assuming appellant is referencing his commitment, he does not identify what information presented to the panel was false, nor did he present any testimony or evidence to contradict the report and testimony of the independent court-appointed

examiner. Furthermore, appellant has already had a full opportunity to challenge the merits of his commitment. *See Rannow*, 749 N.W.2d at 399.

Affirmed.