

SUPREME COURT OF NORTH DAKOTA

In the Matter of A.M.

766 N.W.2d 437 (N.D. 2009) · No. No. 20080204 · Decided June 17, 2009

SUMMARY

The Supreme Court of North Dakota reviewed the denial of A.M.'s petition for discharge from commitment as a sexually dangerous individual. The court held that the district court did not clearly err because the State presented clear and convincing evidence that A.M. remained sexually dangerous, and it affirmed the order.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of North Dakota                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | SANDSTROM, Justice; Gerald W. Vande Walle, C.J.; Daniel J. Crothers; Mary Muehlen Maring; Carol Ronning Kapsner; Sandstrom, Justice                                                                                                            |
| JURISDICTION          | North Dakota                                                                                                                                                                                                                                   |
| DECIDED               | June 17, 2009                                                                                                                                                                                                                                  |
| DOCKET                | No. 20080204                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | A.M. appealed a district court order denying his petition for discharge from civil commitment as a sexually dangerous individual.                                                                                                              |
| STANDARD OF REVIEW    | Modified clearly erroneous standard: the Supreme Court will affirm unless the district court's order was induced by an erroneous view of the law or the Court is firmly convinced the order is not supported by clear and convincing evidence. |
| PRECEDENTIAL VALUE    | Published opinion; precedential                                                                                                                                                                                                                |
| PARTIES               | A.M. v. Cynthia M. Feland, Assistant Burleigh County State's Attorney                                                                                                                                                                          |

TOPICS

- appellate procedure
- standard of review
- health law

PRACTICE AREAS

- appellate procedure
- civil commitment
- sexually dangerous persons
- mental health law

## QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding by clear and convincing evidence that A.M. remained a sexually dangerous individual.
2. Whether the evidence established the required nexus between A.M.'s disorder and dangerousness, including serious difficulty controlling his behavior.

## HOLDINGS

1. The district court did not clearly err in finding by clear and convincing evidence that A.M. remained a sexually dangerous individual and in denying his petition for discharge.
2. Actuarial test results indicating less than a high risk of reoffending do not preclude a finding that an individual remains sexually dangerous.

## KEY QUOTATIONS

*“This Court applies a modified clearly erroneous standard of review and will affirm a district court order denying a petition for discharge from commitment as a sexually dangerous individual “unless it is induced by an erroneous view of the law or we are firmly convinced it is not supported by clear and convincing evidence.”” (¶ 8)*

*“we construe the definition of a “sexually dangerous individual” to require a “nexus between the disorder and dangerousness, proof of which encompasses evidence showing the individual has serious difficulty in controlling his behavior, which suffices to distinguish a sexually dangerous individual from other dangerous persons.”” (¶ 9)*

*“We affirm the district court order denying A.M.’s petition for discharge from his commitment as a sexually dangerous individual.” (¶ 22)*

## FACTUAL BACKGROUND

A.M. was found to be a sexually dangerous individual in 1999 and committed to the North Dakota State Hospital for treatment. At his 2008 discharge hearing, the State's psychologist opined that he remained sexually dangerous and had made little treatment progress, while A.M.'s independent evaluator assessed him as presenting a moderate risk of reoffending. The evidence also showed that A.M. continued to have deviant and sometimes violent sexual fantasies, had inappropriately touched a female staff member, and had difficulty controlling his behavior even in the hospital setting.

## PROCEDURAL HISTORY

A.M. was civilly committed to the North Dakota State Hospital in 1999. After requesting a discharge hearing in August 2007, he received a hearing in June 2008 at which two psychologists gave conflicting opinions regarding whether he remained sexually dangerous. The district court found by clear and convincing evidence that A.M. remained a sexually dangerous individual and denied his petition; the North Dakota Supreme Court affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- Matter of G.R.H., 2008 ND 222, ¶ 7, 758 N.W.2d 719
- Matter of E.W.F., 2008 ND 130, ¶¶ 8, 10, 751 N.W.2d 686
- Interest of M.B.K., 2002 ND 25, ¶ 18, 639 N.W.2d 473
- Kansas v. Crane, 534 U.S. 407, 413, 122 S. Ct. 867, 151 L. Ed. 2d 856 (2002)
- Interest of P.F., 2006 ND 82, ¶ 20, 712 N.W.2d 610
- Matter of Hehn, 2008 ND 36, ¶¶ 21, 23, 745 N.W.2d 631
- Matter of M.D., 2008 ND 208, ¶¶ 10-11, 757 N.W.2d 559
- Matter of Barrera, 2008 ND 25, ¶ 13, 744 N.W.2d 744