

SUPREME COURT OF NORTH DAKOTA

Weisenburger v. R.S.

2006 ND 253 (2006) · No. 20060318 · Decided December 13, 2006

SUMMARY

The Supreme Court of North Dakota affirmed orders requiring R.S. to undergo involuntary hospitalization for up to 90 days and permitting involuntary medication. The court held that clear and convincing evidence supported the finding that R.S. was mentally ill and posed a serious risk of harm to others if untreated; the chief justice dissented.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Carol Ronning Kapsner; Daniel J. Crothers; Dale V. Sandstrom; Mary Muehlen Maring; Gerald W. VandeWalle
JURISDICTION	North Dakota
DECIDED	December 13, 2006
DOCKET	20060318
DISPOSITION	affirmed
PROCEDURAL POSTURE	R.S. appealed orders requiring his hospitalization at the North Dakota State Hospital for up to 90 days and authorizing involuntary medication during that period.
STANDARD OF REVIEW	The Supreme Court reviews the procedures, findings, and conclusions underlying an involuntary treatment order. The order must be supported by clear and convincing evidence, and the district court's findings are reviewed under a more probing clearly erroneous standard.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	R.S. v. Allan Weisenburger, FNP-C

TOPICS

- health law
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding that R.S. was a person requiring treatment under N.D.C.C. § 25-03.1-02(12).
2. Whether clear and convincing evidence established a reasonable expectation that, if untreated, R.S. posed a serious risk of harm to others.
3. Whether direct evidence of overt violence or an expressed intent to commit violence was required to support an involuntary treatment order.

HOLDINGS

1. An involuntary treatment order must be supported by clear and convincing evidence, and the district court's findings are reviewed under a more probing clearly erroneous standard.
2. The district court did not clearly err in finding that R.S. was a person requiring treatment because clear and convincing evidence established that, if untreated, he posed a serious risk of harm to others.
3. North Dakota law does not require actual violence or an expressed threat of violence before a court may find a serious risk of harm supporting involuntary treatment.

KEY QUOTATIONS

“A finding is clearly erroneous if it is induced by an erroneous view of the law, or if this Court has a definite and firm conviction, based on all the evidence, that it is not supported by clear and convincing evidence.” (¶ 12)

“Direct evidence of overt violence or an expressed intent to commit violence is not required to find that a person poses a serious risk of harm.” (¶ 15)

“North Dakota law allows a court to act on warnings and does not require actual violence or expressed threats.” (¶ 18)

FACTUAL BACKGROUND

R.S. was admitted to the North Dakota State Hospital after behaving erratically and carrying a handgun into a police station while expressing paranoid and delusional beliefs. He was diagnosed with psychotic disorder, and testimony described increasing paranoia, beliefs that others were pursuing him, and other delusions. Although the gun was unloaded and R.S. did not verbally threaten anyone or point the gun at anyone, the treating psychiatrist testified that R.S.'s condition would likely worsen without medication and could lead to harm.

PROCEDURAL HISTORY

After an involuntary commitment hearing, the district court found by clear and convincing evidence that R.S. was mentally ill and was a person requiring treatment because he posed a serious risk of harm to others if untreated. The court ordered hospitalization and involuntary medication. The district court stayed the medication order pending appeal, and the Supreme Court of North Dakota extended the stay until resolution of the appeal.

DISPOSITION

affirmed

CASES CITED

- Interest of L.D., 2003 ND 182, ¶ 5, 671 N.W.2d 791
- Interest of M.M., 2005 ND 219, ¶ 9, 707 N.W.2d 78
- Interest of C.H., 2005 ND 130, ¶¶ 4, 6, 699 N.W.2d 849
- Interest of I.K., 2003 ND 101, ¶¶ 15, 17, 663 N.W.2d 197
- Interest of D.Z., 2002 ND 132, ¶ 9, 649 N.W.2d 231
- In the Interest of D.P., 2001 ND 203, ¶ 9, 636 N.W.2d 921
- In the Interest of M.S., 1999 ND 117, ¶ 8, 594 N.W.2d 924

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