

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF WINONA

THIRD JUDICIAL DISTRICT

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4 In the Matter of the
Civil Commitment of:

Court File No: 85-PR-24-46

5 David Austin Russell,
6 Respondent.

PRELIMINARY
PROBABLE CAUSE HEARING

7

TRANSCRIPT OF PROCEEDINGS

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9 The above-entitled matter came on for hearing before
10 the Honorable Carmaine Sturino, Judge of District Court, on
11 Wednesday, January 10, 2024, at 8:36 a.m. via Zoom for Government.
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13 **A P P E A R A N C E S**

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15 Paul R. Ellison, Assistant Winona County Attorney,
16 Winona, Minnesota, appeared via Zoom on behalf of the County of
17 Winona.

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19 David J. Jones, Esq., Rochester, Minnesota, appeared
20 via Zoom on behalf of the Respondent, who also appeared via Zoom

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22 ALSO PRESENT: Tessa Loken, Winona County Health and
23 Human Services.

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1 (Whereupon, the following proceedings were held:)

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3 THE COURT: This is in the matter of the civil
4 commitment of David Austin Russell, 85-PR-24-46. We're here for a
5 preliminary hearing. File shows that both a petition for judicial
6 commitment as well as a petition to authorize the imposition of
7 neuroleptic medications has been filed. Today we would only be
8 addressing the petition for judicial commitment.

9 Attorney David Jones is present on behalf of David
10 Russell, Attorney Paul Ellison is here from the county attorney's
11 office, and Winona County Health and Human Services is also
12 represented.

13 Mr. Jones, the Court notes that Mr. Russell has a
14 current guardian. Do you know if we are expecting that guardian
15 to appear today?

16 MR. JONES: I would not expect the guardian to
17 appear today, and the guardian would have no role in this hearing
18 today, Your Honor.

19 THE COURT: All right. Court clerk, I am going to
20 ask that the guardian be notified of future hearings, though, just
21 so that everyone is aware of what's going on.

22 And this is an open hearing, correct, Mr. Jones?

23 MR. JONES: I'm sorry, Your Honor. You cut out
24 there just for a second. You wanted to notify the guardian --

25 THE COURT: This is an open hearing, correct?

1 MR. JONES: This is actually a closed hearing,
2 Your Honor. The respondent can consent to other individuals being
3 present, but this is a closed -- all commitment hearings are
4 closed hearings, Your Honor.

5 THE COURT: Okay. My apologies. Thank you for
6 the clarification.

7 I do think the guardian should be made aware of
8 the proceedings, though, although would not be allowed to attend
9 unless there was consent by Mr. Russell and his attorney.

10 With that, Mr. Jones, have you been able to review
11 the documents in this matter?

12 MR. JONES: Thank you, Your Honor. I have
13 reviewed all of the pleadings in this matter. My office continues
14 to represent the respondent. My office left messages at Prairie
15 St. John's yesterday and did not receive a call back.

16 This morning my office was given an opportunity to
17 have a breakout session with the respondent. Respondent declined
18 in the breakout session to communicate with me. In a situation
19 like this, I would ask the Court to consider the preliminary
20 hearing to be opposed. I would ask the Court to consider the PPS
21 as well as the physician statement and make an independent
22 determination as to whether or not the hold should be continued.

23 THE COURT: Thank you.

24 Mr. Ellison, I'll hear from you.

25 MR. ELLISON: Thank you, Your Honor. I would also

1 ask the Court to consider the documents that Attorney Jones
2 referenced. I believe, especially the examiner's statement and
3 the physician statement references Mr. Russell not be able to be
4 outside of a structured setting due to the severity of his mental
5 illness at this time. So I would ask the Court to continue the
6 hold at Prairie St. John's pending the final hearing in this
7 matter. Thank you.

8 THE COURT: When I reviewed the documents
9 yesterday, I wanted to confirm with you, Mr. Ellison, that he was
10 at Mankato, but now he's in Fargo for hospitalization; is that
11 correct?

12 MR. ELLISON: Correct. He was at Mankato under
13 the guardianship at a group home or a -- maybe that's not the best
14 way to describe it. But a setting at Horizon Homes there in
15 Mankato, and then he was transferred up to Fargo for treatment of
16 mental illness.

17 THE COURT: And when was he transferred?

18 MR. ELLISON: Sorry, Your Honor?

19 THE COURT: Approximately when was he transferred?

20 MR. ELLISON: It was, I believe, last Friday I
21 want to say. Let me double check. I believe it was last Friday.

22 THE COURT: But it was due to emerging conditions
23 of Mr. Russell, correct?

24 MR. ELLISON: That's correct, Your Honor. He was
25 being -- he was living in Mankato, and because of the continuing

1 mental health symptoms, he was then moved up to Fargo for
2 treatment.

3 THE COURT: All right. The record should reflect
4 that Mr. Russell continues to pace in the room he's in, he's
5 catching something in the air as if to juggle an individual
6 object, and periodically he leans in to address the Court,
7 although muted, and I cannot tell the volume of his voice. He
8 appears frustrated or upset with the Court.

9 I will share that I reviewed the petition for
10 judicial commitment, the prepetition screening report, the
11 physician's statement in support of the commitment. I have the
12 benefit now of Mr. Jones and Mr. Ellison. I've been able to
13 observe Mr. Russell. I am going to continue the involuntary hold.
14 I will have the clerk remind us of the court date. I do find this
15 to be the least restrictive placement for Mr. Russell. And I am
16 not going to address the Jarvis today.

17 Mr. Jones, anything else that you think should be
18 on the record?

19 MR. JONES: We don't need to address anything else
20 today aside from the continuation of the hold, Your Honor.

21 THE COURT: Thank you. Mr. Ellison, anything else
22 that you think should be on the record today?

23 MR. ELLISON: No, I don't believe so, Your Honor.
24 Thank you.

25 THE COURT: Court clerk, do you have any questions

1 about my order?

2 COURT CLERK: Not at this time, no.

3 THE COURT: Ms. Loken, is there anything I can do
4 for you during this hearing?

5 MS. LOKEN: Nope. I don't think so, Your Honor.
6 Thank you very much.

7 THE COURT: All right. And again, the need for
8 the involuntary hold is based on my determination that he would be
9 a danger to himself or others at this time if released to
10 something less secure.

11 Mr. Russell, if you want, I will give you an
12 opportunity here to address the Court. If you want to take
13 advantage of that, I will unmute you. Or someone in the room will
14 actually need do that. Mr. Russell, is there anyone in the room
15 with you? No? Are you able to find a staff member?

16 Because the Court did mute him and he's now in
17 there alone, he does not appear to be getting staff so I am going
18 to conclude the hearing at this time. Thank you everyone.

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20 (Whereupon, the proceedings were adjourned at 8:44 a.m.)

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