STATE OF MINNESOTA DISTRICT COURT

COUNTY OF WINONA THIRD JUDICIAL DISTRICT

In the Matter of the Civil Commitment of: Court File No: 85-PR-24-46

David Austin Russell,

Respondent.

COMMITMENT HEARING
JARVIS HEARING

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for hearing before the Honorable Carmaine Sturino, Judge of District Court, on Monday, January 22, 2024, at 11:02 a.m. via Zoom for Government.

A P P E A R A N C E S

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

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

ALSO PRESENT: Amy Engel, Winona County Health and Human Services.

I N D E X

EXHIBITS

(Whereupon, the following proceedings were held:)

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THE COURT: We're here on a civil commitment matter, Court File 85-PR-24-46. This is the matter of the civil commitment of David Austin Russell.

David Russell, I see you. Are you able to see and hear me all right? If there's staff in the room with Mr. Russell, he is on mute.

THE RESPONDENT: I can hear you as best as possible on crappy technology, but this is a complete forced trial. I've had no contact with the lawyer. The lawyer that you have appointed clearly has not my interests in mind. I have not been allowed to testify on my behalf at any of the hearings. I have not been allowed to present my own witnesses or evidence.

THE COURT: Okay. Very good. What I'm going to do is I'm going to go around the room. I'm going to introduce people. We're going to have a hearing. And if you want to testify at the end, you absolutely can. So until then, I'm going to put you back on mute.

THE RESPONDENT: Can I question the witnesses myself?

THE COURT: We will address that once we have testimony. Okay? So we're going to put you on mute now until then. Thank you, Mr. Russell.

All right. David Jones is here for his client.

Mr. Ellison is here from the county attorney's office. We do have our first examiner here, Dr. Tomford. Am I saying that correctly?

THE WITNESS: Yes, Your Honor.

THE COURT: All right. Ms. Engel is here from social services. Ms. Dannehy is here from Catholic charities. We have an observer. Any objection to the observer from the social work program, Mr. Jones?

MR. JONES: No objection, Your Honor.

THE COURT: All right. Mr. Jones, is there anything you would like to put on the record before we begin?

MR. JONES: Your Honor, the respondent indicated he had a desire to ask questions on his own. The appellate court has addressed this issue in the *Benson* decision, which was issued June 5th of 2023. Committed people and individuals facing commitment are not allowed to represent themselves. That is also consistent with Rule 9 of the special commitment rules which indicates that the respondent shall be represented at all times. So the respondent's request to ask questions directly is not appropriate at this proceeding.

THE COURT: Thank you, Mr. Jones. I always appreciate your preparedness for these matters.

Mr. Ellison, anything you would like to put on the record this morning?

MR. ELLISON: Not at this point, Your Honor.

THE COURT: All right. So I have a petition for

judicial commitment on the basis of a mental illness. I also have a petition for the authorization of neuroleptic medications. Are you proceeding on both of those here today, Mr. Ellison?

MR. ELLISON: That's correct, Your Honor.

THE COURT: Have the parties stipulated to any exhibits?

MR. ELLISON: Your Honor, I believe that we're -- I don't know if it's a stipulation, but I believe we have agreed that Dr. Tomford's report will come in, and then on the 18th and 19th Winona County filed records from Horizon Homes, Mayo Clinic, and then from Prairie St. John's; and I would offer those documents as exhibits at today's hearing. I believe there's no objection, but I'll let Mr. Jones speak to that.

THE COURT: Mr. Jones.

MR. JONES: Your Honor, I've received each of those four items. I've reviewed them. There is no objection to the Court receiving those into evidence. I would also note on the Zoom screen that my client appears to have voluntarily waived his right to appear.

THE COURT: All right. Thank you.

In looking at the filings, which I don't believe were in MNDES, I do have the examiner report. I also have the examiner present, but it's my understanding that his report is not objected to. I'll be marking that, then, as Exhibit 1. And I -- January 19th is the Prairie St. John's. I'm going to mark that as

Exhibit 2. And I have January 18th a 26-page record. I believe that is from Mayo Clinic. That will be Exhibit 3. And then I have a 27-page record from Horizon Homes, which will be 4.

Any objection to that, Mr. Ellison?

MR. ELLISON: No objection from me, Your Honor. That makes sense.

THE COURT: Mr. Jones?

MR. JONES: No objection.

THE COURT: All right. Exhibits 1 through 4 are received. And the parties can proceed knowing they're in the record for purposes of their examination today.

(Exhibit Nos. 1-4 received into evidence.)

THE COURT: Mr. Ellison, anything else that we can do for you?

MR. ELLISON: Other than I can present testimony when the Court's ready. Otherwise, nothing from me at this time.

THE COURT: All right. You may call your first witness.

MR. ELLISON: I guess maybe I should have said first, Your Honor, is there anybody else in the waiting room? I thought that Dr. Schock from Prairie St. John's would be present. But if not, I can proceed with Dr. Tomford.

COURT CLERK: There is nobody in the waiting room, Mr. Ellison.

MR. ELLISON: Thank you. Then the petitioner will

call Dr. Travis Tomford.

THE COURT: When he arrives, do you want him to remain in the waiting room?

MR. ELLISON: It's Dr. Lisa Schock, Your Honor. I would -- that's fine. I can check when the hearing's done with Dr. Tomford. She can remain in the waiting room. I can check to see if she's arrived at that point.

THE COURT: I'll have the court clerk message you if any of your witnesses arrive. Okay?

MR. ELLISON: Thank you, Your Honor.

THE COURT: All right. Dr. Tomford, if you could raise your right hand and be sworn in.

COURT CLERK: Do you swear the testimony you're about to give here today is the truth and nothing but the truth, so help you God?

THE WITNESS: I do.

COURT CLERK: Thank you. You can put your hand down.

THE COURT: Go ahead, Mr. Ellison.

MR. ELLISON: Thank you, Your Honor.

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TRAVIS TOMFORD, Psy.D, L.P.,

called on behalf of the Petitioner, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q. Dr. Tomford, are you the court examiner in this matter?

A. Yes.

Q. And you prepared a court report; is that correct?

A. I did, yes.

Q. Is the information in that report true and accurate to the best of your knowledge?

A. It is.

Q. Did you conduct an evaluation of David Russell?

A. Yes. And to be more clear, a review of records. I attempted to interview him. I did briefly speak with him as noted in my report, but that -- that encounter was terminated just given his level of agitation.

Q. Is there anything in addition to the agitation that caused you to terminate that interview early?

A. Well, certainly I didn't want to create a safety-related concern in the sense he does have a well-documented history of dysregulated behaviors. And he was not only becoming elevated but accusatory and, quite frankly, very inappropriate. So it was -- it wasn't going to be a productive conversation so I did make the decision to terminate it.

Q. Do you believe you have enough information in the records you reviewed to render an opinion in this matter?

A. Yes.

Q. Have you rendered a diagnosis for Mr. Russell?

A. I have. I diagnosed him with schizophrenia. That's based off the documented review of -- he's got a clear history of psychotic symptoms. He's historically carried a diagnosis for schizophrenia. I would agree with that diagnosis.

Q. In addition to the psychotic symptoms or -- sorry. Let me rephrase that.

When you say psychotic symptoms, are there particular behaviors or symptoms within that category?

A. He certainly ascribes to paranoid delusional beliefs, underlying themes of suspiciousness that he's perhaps being maliciously maligned, certain mood lability, irritability and agitation, which is often common features associated with a schizophrenia disorder diagnosis; but I would also say poor insight into his illness and psychiatric symptoms, particularly when he's undertreated and not medicated, which is currently the situation as well.

Q. To your knowledge, has Mr. Russell made threats towards any parties?

A. Yes. Yes. There was -- so his current hospitalization was preceded by him -- he stopped taking his medications, all of his medications, in early December. As expected, he experienced pretty abrupt psychiatric decompensation; threatening, hostile behaviors at his board and lodge facility. He was brought to the hospital. Remains opposed to medications and has made homicidal

statements in the sense of desire to kill others on the unit as well. So certainly that is concerning.

Q. Has Mr. Russell made any references to suicidal ideation or self-harm?

A. Not that I'm aware of recently. It's more so been outwards violence, outwards statements directed towards others, but no self-directed violence or harm.

Q. When you briefly spoke with Mr. Russell, did he make any statements about medications?

A. He did, yes. Bottom line is he made it very clear that he would be opposed to any form of scheduled medications, particularly antipsychotic medications. He referred to it repeatedly it as chemical lobotomy and noted not only that he perceives that he would not benefit from the medications but certainly that he would prefer not to take them.

Q. Does Mr. Russell have a significant history of mental health treatment?

A. Yes. He's been not only hospitalized on numerous occasions at state facilities, he's been civilly committed on many occasions. I want to say it was 11 since -- I can't recall the exact time frame, but there's been 11 prior commitments.

Q. If Mr. Russell's not committed here today, do you believe he would follow through with any mental health treatment?

A. No. It's very clear he will not.

Q. And what is Mr. Russell's prognosis if he does not

receive further treatment?

A. I would characterize it as extremely poor. I would be very concerned regarding his and other's safety if he remains undertreated and unsupervised, certainly until you achieve some several of psychiatric stability. I -- he needs to be in a structured supervised setting.

Q. And you may have partially just answered my next question, but does Mr. Russell impose a substantial likelihood of harm to himself or others?

A. Yes, for the reasons noted before and given that he remains undertreated from a mental health standpoint.

Q. In your opinion, is commitment the least restrictive alternative that's available at this time?

A. Yes.

Q. Does Mr. Russell have the capacity to consent to treatment with neuroleptic medications?

A. No, he is does not have sufficient insight into why he's hospitalized. He would voice his disagreement with regards to his current placement. This is, again, based off a record review. He has not taken medications. Medications would be the first-line preferred treatment of choice for his mental illness. Overall, I would characterize, again, his insight is extremely poor. For those reasons, no, I do not believe he has the capacity to consent to treatment.

Q. Is Mr. Russell able to make any reasoned decisions in

regards to different forms of treatment at this point?

A. Not in his current state, no.

Q. In your opinion, does Mr. Russell meet the criteria for a Jarvis order?

A. Yes.

Q. From your review of the records, did you come across any particular religious or social values that would impact Mr. Russell taking medications?

A. No. He's historically been on antipsychotic medications. He's been on long-acting injectables and has been able to reside in a less restrictive setting when taking those medications. But, again, he stopped taking those. And, no, to answer your question, I have not reviewed any, like, religious objections about taking the medications.

Q. And based on your statement, have the medications that Mr. Russell's previously taken been effective?

A. They have.

Q. Thank you. I have no further questions.

THE COURT: Mr. Jones, any questions for this witness?

CROSS-EXAMINATION

BY MR. JONES:

Q. Doctor, does my client have a substantial psychiatric disorder?

A. Yes. Schizophrenia would be -- would categorize as

such, yes.

Q. Some of the records seem to indicate as well psychotic symptoms as well as paranoia. Would those be aspects of the schizophrenia?

A. Yes, they would be.

Q. Could you give some examples from your work and review of the documents and records which show psychosis as well as paranoia?

A. Yes. Certainly with regards to the chemical lobotomy, that on its own has an undertone of paranoia and suspiciousness. I want to say he's eluded to being human trafficked on numerous occasions even during my encounter talking about repeated human trafficking. I don't get -- I wasn't able to clarify who he is referring to, but I suspect he's referring to the mental health system and some of the care and treatment that he's been required to attend as a result.

When we're seeing some of that provocative behaviors when he's at the board and lodge facility, it does not believe that he's able to trust anybody when he is undermedicated and undertreated and he is more prone to respond in an offensive or at times violent matter. And I think that's what we consistently see throughout his history.

Q. And does this mental illness impair or affect his ability to obtain food, clothing, shelter, or medical care?

A. My understanding is -- I -- I don't believe he has been

evicted from his -- the residence where he was at. If that is the case, I'm not aware of it. But certainly if his behaviors continued, I would imagine that there would be concerns regarding housing and stability. But I'm not aware of any recent concerns in that regard.

Q. With respect to medical care, would the symptoms or the manifestation of this mental illness impair or affect his ability to maintain medical care for himself?

A. Yes. His poor insight and inability to fully appreciate the chronic nature and severity of his symptoms would be of concern and serve as a barrier, yes.

Q. And to be fair, the manifestation of these symptoms would potentially or likely jeopardize his housing situation?

A. I agree with that if undertreated, yes, absolutely.

Q. From all of the review of the records, do the impairments then cause there to be a substantial likelihood of physical harm to himself or others?

A. Yes. And that is clear through the records. Again, some of his delusional, paranoid beliefs led to him engaging in some hostile, dysregulated behaviors prior to admission. And again, there's been clear threats, clear endorsement of homicidal thoughts during his current admission, which, in my opinion, clearly meets that threshold for commitment.

Q. In your review of the records, has there been a history of perhaps less dysfunction when he has been on neuroleptic

medication?

A. Yes, residing in a board and lodge facility. Again, there's a good temporal of that relationship when he's taking his medications. He exhibits less impulse control, increased behavioral regulation where he is able to reside, you know, not in an independent environment but certainly in some type of less restrictive environment where there's some adjunctive services like nursing staff, some supervision provided.

Q. Is involuntary civil commitment the least restrictive alternative which is appropriate for the respondent at this time?

A. Yes. Certainly a stay won't work and you couldn't pursue guardianship in this sense because the guardianship's not going to be able to impose medications, which is going to be needed to address his symptoms.

Q. Well, actually, that's my next question. There is a guardianship in place in this matter. And in some situations the guardianship is deemed to be a less restrictive alternative. Is a guardianship in any way sufficient to meet the needs of this respondent?

A. No, for the reasons stated. Medication management is going to be necessary and he's -- he's made it quite clear. He's not going to take medications without a Jarvis order in place, and a guardianship can't impose a medication.

MR. JONES: No further questions, Your Honor.

THE COURT: Mr. Ellison, anything else for you?

MR. ELLISON: I think just one or two follow-up questions, Your Honor.

THE COURT: Go ahead.

REDIRECT EXAMINATION

BY MR. ELLISON:

Q. Dr. Tomford, if Mr. Russell were not to receive further treatment, would that increase the likelihood that he would fail to meet his basic needs?

A. Yes, it would.

Q. And would that include the different needs that Mr. Jones asked you about?

A. Yes. I agree with that.

Q. Thank you. I have no further questions.

THE COURT: Any follow-up questions, Mr. Jones?

MR. JONES: No follow-up, Your Honor.

THE COURT: Thank you, Doctor. You are welcome to stay or you are free to go on with your day's business if you need to.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right. Mr. Ellison, any other witnesses?

MR. ELLISON: Yes, Your Honor. I believe from court staff that Dr. Schock is in the waiting room. I call Dr. Lisa Schock for testimony.

THE COURT: I also want to indicate. I messaged

the Court clerk and asked her to message the staff present for Mr. Russell to make sure that we are aware if David Russell returns to the room and move the camera. And so that is the communication I wanted to share with you during the last witness.

All right. Dr. Schock, can you raise your right hand and be sworn in, please.

COURT CLERK: Do you swear the testimony you're about to give here today is the truth and nothing but the truth, so help you God?

THE WITNESS: I do.

COURT CLERK: Thank you.

THE COURT: All right. Whenever you're ready, Mr. Ellison.

MR. ELLISON: Thank you, Your Honor.

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LISA J. SCHOCK, M.D.

called on behalf of the Petitioner, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q. Dr. Schock, first of all, am I pronouncing your name correctly?

A. Schock.

Q. Doctor, where are you currently employed?

A. Prairie St. John's Hospital in Fargo.

Q. What is your position at Prairie St. John's?
A. I'm a general psychiatrist.
Q. Can you please briefly describe your educational background?
A. I completed medical school at the University of North Dakota School of Medicine as well as four years of general residency training at UND. I am board certified in general psychiatry and licensed to practice in Minnesota and North Dakota.
Q. Are you familiar with David Russell?
A. I am.
Q. How do you know Mr. Russell?
A. He has been admitted to our hospital since the 3rd of January, and I have been his treating psychiatrist since he's been here.
Q. What was the basis for Mr. Russell's admission to your facility?
A. He was demonstrating increasingly psychotic and paranoid behavior as well as agitation.
Q. Have you rendered a diagnosis for Mr. Russell?
A. I have.
Q. What is that diagnosis?
A. I have diagnosed him as Bipolar Type I, current episode manic, severe with psychosis.
Q. I'm sorry. Could you repeat that one more time. I couldn't --

A. Bipolar I disorder, current episode manic, severe with psychotic features.

Q. I believe historically Mr. Russell's been diagnosed with schizophrenia, schizoaffective disorder. How does -- is there a diagnosis similar to those, or how do those relate?

A. It is. I don't have a lot of collateral on him due to his lack of cooperation with his assessment, limited records, and his guardian had some limited information about his history. I could only really go based off what I was seeing in the hospital. Certainly, if he has demonstrated in the past a period of two weeks or more where he has demonstrated psychosis without a mood component to his illness, he would then meet criteria for schizoaffective disorder. So they are on the same spectrum of illnesses. It's just some details in terms of what I'm able to observe and what information I'm able to gather in the moment about him.

Q. What types of mental health symptoms that you observed that -- or has your facility observed that influenced your diagnosis here?

A. He has demonstrated significant agitation, his thought process has been tangential and at times disorganized, he has significant paranoid delusions, he poorly tolerates any type of challenge to those delusions, he has no insight into his illness, as well as poor judgment in terms of being able to participate in assessments or be open to --

THE COURT: I'm trying to write. We do have a court reporter and I'm trying to write some of this down. And you're doing a phenomenal job, but these are really big words and you're going really fast. If you could just take a breath, that would help me and my court reporter.

THE WITNESS: Sure.

THE COURT: Didn't mean to interrupt your flow. I just need you to take a pause.

THE WITNESS: That's all right. So again, he has had significant psychosis, delusions, poor insight into those delusions, as well as significant irritable mood where he's not able to tolerate a discussion about his mental health symptoms.

BY MR. ELLISON:

Q. You mentioned paranoid delusions. Are you able to provide any examples?

A. His belief that people in the hospital are sexually assaulting other patients; his delusions against staff having some kind of thing against him to where they're trying to illegally hold him in the hospital and inject poisonous medications against his will; that this diagnosis of a schizophrenia or schizophrenia spectrum illness is not true. He will get some interesting fixations on various staff believing that, you know, the shoes that a nurse is wearing, for example, means something, and he has interpreted that as being something against him.

Q. To your knowledge, has Mr. Russell expressed any threat

towards other people at the hospital?

A. He has. He has made threats to kill peers as well as threats to harm staff at times throughout his hospitalization.

Q. For the threats towards staff, do you know if there's a particular threat such as punch or any type of physical injury?

A. He has spat on staff.

Q. Has Mr. Russell been placed on a particular floor or unit at Prairie St. John's?

A. He is currently on our high acuity floor for patients who are struggling to function in the milieu of a less acute environment, has a higher staff-to-patient ratio.

Q. Has Mr. Russell been cooperative at all with treatment at your facility?

A. He has not.

Q. Has Prairie St. John's prescribed medications for Mr. Russell?

A. They have been offered to him, yes.

Q. In regards to psychiatric medications, has Mr. Russell been willing to take any of those medications?

A. He has not.

Q. Has he provided you with any rationale for why he's refusing those medications?

A. He does not believe that he is mentally ill and does not believe that he needs the medications.

Q. Are you aware if Mr. Russell was taking any medications

prior to being admitted to your facility?

A. According to the collateral that I have from his guardian, he has been on psychotropic medications in the past. There were a couple of examples of specific medications that he had been on, although, like I said, the collateral was a little bit unclear in terms of the spectrum of the medications or treatments that he has previously tried.

Q. Is Mr. Russell able to rationally participate in discussions about treatment options?

A. He is not.

Q. At the current time does Mr. Russell remain symptomatic?

A. He does.

Q. In your opinion, does Mr. Russell require further mental health treatment?

A. Yes.

Q. What types of treatment, in your opinion, does he require?

A. I'm recommending an inpatient level of care as well as psychotropic medications to treat his mood and his psychosis symptoms.

Q. If Mr. Russell does not receive the treatment, what would his prognosis be?

A. Poor. He has not demonstrated any significant improvements in his mental status throughout the hospitalization he's had so far. Also, in the instance where he has been acutely

threatening to staff and has received medications on emergent bases, he has demonstrated some improvement in his behavior and mood after receiving those medications.

Q. In your opinion, does Mr. Russell impose a substantial likelihood of harm to himself or others?

A. Yes.

Q. Please describe the basis for your opinion.

A. Again, with his level of disinhibition, irritability, the threats that he has made toward peers and staff, his lack of insight into his illness, and the decisions that he's making based off of psychotic thoughts, I believe that that presents a threat.

Q. Does Mr. Russell's mental illness impair his ability to meet his basic needs?

A. Yes.

Q. In what ways does it impair those -- his ability to acquire basic needs?

A. Given his current level of agitation and interactions with people, I don't see him being able to maintain housing or be able to stay in an environment around other people. His paranoia is so significant against, you know, group homes and things like that that I don't see him being able to cooperate enough to maintain that level of function right now.

Q. In your opinion, is commitment appropriate for Mr. Russell?

A. Yes.

Q. Are there any less restrictive alternatives that would be appropriate at this time?
A. No.
Q. Your facility -- I believe it was -- did you draft a petition for authorization to administer treatment?
A. Yes.
Q. That petition requests authorizations to administer psychotropic or neuroleptic medications; is that correct?
A. Yes.
Q. Are you familiar with such medications?
A. Yes.
Q. Generally, what is the objective of the use of such medications?
A. To stabilize a person's mood as well as treat the symptoms of psychosis, including delusion, hallucinations, disorganized speech and behavior.
Q. Are such medications generally accepted in the medical community?
A. Yes.
Q. Are they generally accepted for the treatment of Mr. Russell's mental illness?
A. Yes.
Q. Does Mr. Russell understand he's currently hospitalized?
A. He does not.
Q. Is he able to weigh the risks and benefits of treatment

with neuroleptic medications?

A. He is not.

Q. In your opinion, does Mr. Russell have the capacity to consent to administration of neuroleptic or psychotropic medications?

A. No.

Q. You probably already explained, but could you please one more time say why that's your opinion.

A. Right. So he does not have any insight into his illness, and as a result of his delusions, he can't participate in any type of a rational discussion about risks, benefits, and alternatives to medications. Typically, any conversation that I have with him is very short-lived. He storms away very quickly. So even from an, you know, ability to speak with me and tolerate that, we can't have that discussion right now.

Q. The petition lists, I believe, six different formulations of medications. Are there any medications not contained in the petition to administer treatment that you are requesting at this time?

A. No.

Q. Are the medications contained in the petition experimental in any way?

A. They are not.

Q. How will you determine which medication or medications to administer to Mr. Russell?

A. I will try to engage with him in a discussion about which he would prefer to try out of those options and work with him on that first. Based off of previous experiences, if he's unable to select a medication, I will, based off of side effects and previous responses to medications, select one of those medications to trial.

Q. And you just mentioned side effects. Will Mr. Russell be monitored and treated for any side effects?

A. He will.

Q. Earlier you mentioned the lack of collateral information. Are you aware if Mr. Russell has received benefits previously from neuroleptic medications?

A. There is some indication in past records that he has and has had periods of stability while medicated. And, again, just from my observations in the hospital when we've emergently had to medicate him, he does appear to respond.

Q. What is Mr. Russell's prognosis if he does not receive psychotropic or neuroleptic medications?

A. I would expect that he would continue to maintain a level of functioning that he's currently at or potentially deteriorate if he's not medicated.

Q. In your opinion, do the benefits of neuroleptic medications outweigh the risks to Mr. Russell at this time?

A. Yes.

Q. Has Mr. Russell provided you any values such as social

or religious values that would impact his ability to take medications?

A. No.

Q. At this point, based on your knowledge and experience, are there any realistic alternatives to the use of neuroleptic medications?

A. No.

Q. Thank you. I have no further questions.

THE COURT: Mr. Jones.

CROSS-EXAMINATION

BY MR. JONES:

Q. Doctor, this is David Jones. I'm representing the respondent in connection with this proceeding.

Whether the diagnosis is bipolar or schizoaffective, each would be a substantial psychiatric disorder. Would that be correct?

A. Correct.

Q. And so the specific diagnosis is not critical at this point, simply a finding that he has a substantial psychiatric disorder. Would that be correct?

A. Yes.

Q. Going forward with additional time to observe, could then a more definitive diagnosis could perhaps be obtained?

A. Yes. If we can stabilize his mood in the hospital and observe that he is having ongoing psychosis despite significant

mood symptoms being well controlled, that would clarify whether there is a bipolar versus a schizoaffective diagnosis.

Q. There is a guardianship in place.

A. Yes.

Q. Would it be possible for the guardian to sign releases so that you could obtain additional history for my client?

A. Yes.

Q. I believe in your testimony you indicated that there were some occasions when emergency medications were provided to my client at Prairie St. John's; is that correct?

A. Correct.

Q. About how many times were emergency medications provided?

A. At the end of last week there were three instances where that occurred.

Q. What were the circumstances which gave rise to the emergency medications?

A. Patient was threatening towards staff, spitting at staff, threatening to harm peers, threatening to harm staff, was not able to be redirected to his room or to a place to be able to calm down. He had ongoing severe agitation that disrupted the function of the unit and was to the point where we weren't able to redirect him in any other way.

Q. Would it be fair to say that emergency medications were required for both his safety as well as the safety of the staff?

A. Yes.

Q. With respect to the Jarvis petition, there are a variety of drugs and dosages. Are you requesting at this time any changes or modifications to the drugs and dosages contained within the Jarvis petition?

A. I am not.

Q. And the neuroleptic medications that are indicated, you would consider those to be medically necessary at this time?

A. Yes.

Q. Thank you, Doctor.

MR. JONES: No further questions, Your Honor.

THE COURT: Mr. Ellison, any follow-up?

MR. ELLISON: Just one question, Your Honor.

REDIRECT EXAMINATION

BY MR. ELLISON:

Q. Doctor, in the Jarvis petition, just to make sure I'm clear, those are maximum dosages that you would administer; is that correct?

A. Correct.

Q. So you want the whole range from zero up to the maximum you listed?

A. Yes.

Q. Okay. Thank you. I have no further questions.

THE COURT: And just because I don't think it's on the record yet, and I know my pronunciation will be awful, looking

at the Jarvis petition there's a request for Zyprexa, Invega, Risperdal, Abilify. Anything else?

THE WITNESS: Those were the four.

THE COURT: All right. And those are both oral and intervenous, if necessary?

THE WITNESS: Correct.

THE COURT: Or short-term and long-term as necessary or appropriate?

THE WITNESS: Correct.

THE COURT: Any follow-up on that, Mr. Ellison?

MR. ELLISON: No, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: Nothing further, Your Honor.

THE COURT: Okay. Thank you, Dr. Schock. You are welcome to stay or go about your day, however you wish.

Mr. Ellison, anything else for you today?

MR. ELLISON: Nothing else to present, Your Honor. Petitioner rests.

THE COURT: Mr. Jones?

MR. JONES: No documents to offer. I do not know if my client is still present or if he's excused himself. I see Prairie St. John's shaking her head. Could she unmute and advise.

UNKNOWN SPEAKER: He briefly stepped back in the courtroom but then he left again.

MR. JONES: Your Honor, no objection to the Court

making a finding that my client has voluntarily waived his right to appear.

THE COURT: Thank you.

MR. JONES: And with that, the respondent would rest.

THE COURT: Any wish to make any further statements or arguments, Mr. Ellison?

MR. ELLISON: I don't think that's necessary, Your Honor. Your Honor has heard the testimony and has handled these type of cases before, so I don't need to make extensive argument. I'll leave that to Your Honor. Thank you.

THE COURT: Mr. Jones?

MR. JONES: I would ask the Court to make an independent determination based on the testimony and exhibits as to whether the criteria for commitment and Jarvis have been met. Thank you.

THE COURT: Thank you.

All right. The Court has had the benefit of Exhibits 1 through 4, testimony from Dr. Tomford and testimony from Dr. Schock. The Court also had the benefit of Mr. Russell being present this morning. He did leave shortly after the hearing commenced. I do find that he has waived his right to appear and testify.

I would note for the record that Mr. Russell on his own made a motion to the Court to examine witnesses on his

own. The Court heard from counsel, and the Court denies his request to examine counsel on his own.

The medical records were introduced on January 18th and 19th -- or were filed with the Court. He is currently at Prairie St. John's. I do find that all parties had proper notice of the hearing. I do find that Mr. Russell was, in fact, represented by counsel, who was very thorough and well experienced in this area of law.

I do find that Mr. Russell's commitment is based out of Winona County. I do find that there's clear and convincing evidence that he poses a risk of harm due to mental illness and that he does meet the criteria for statutory -- statutory criteria for civil commitment.

In addition to the testimony, when I look at Exhibit 1, which is Dr. Tomford's report, he refers there again to -- we've heard of Mr. Russell's concerns and opposition to a chemical lobotomy. Mr. Russell makes statements to the effect of, "I'd like to report I was trafficked by J.T., the chief justice of Winona County." Mr. Russell, also in that report, is recorded to have said, "I have telepathic stuff going on and I get messages throughout the country. I can also send messages and see two different people."

The Court has also carefully reviewed Exhibit 2. This would be in addition to the testimony from Dr. Schock and Prairie St. John's. It indicates that Mr. Russell does not

understand why he's there. He also believes that nobody believes him. "Patient says that he's still feeling frustrated; that if he has a way to do it he could end his life, but he would not do anything to hurt himself while in the hospital."

Later in that report: "Patient indicates he spent the week" -- "or it is indicated that he spent the weekend talking about how he knew how to kill himself and how to kill other people." He was generally disruptive and irritable. He also accuses the provider of wanting to shoot him up with a bunch of poison and substances illegally.

In Exhibit 3, which are the Mayo records, it indicates that "Patient has demonstrated symptoms consistent with diagnosis given, specifically persecutory delusions, that he will be tortured, and that he has been poisoned in the past." Also, there's indication -- I'm sorry. I put my Post-It in the wrong place.

I'm simply going to move on then. Exhibit 4 was from Horizon Homes. Indicated portion here is when he asked the staff, "Can you get me a gun so I can go back to Winona and blow my brains out?" And finally, the last portion is simply him indicating that he felt that he was, in fact, a slave.

The Court also finds that there's no less restrictive placement for him. I am aware that he has a guardian. I did also read in the reports that they tried to use the crisis center, and that was not successful. Medication management would

not work here. He had been at a group home. Outpatient would not work here given his strong opposition to medication necessary.

I also find by a preponderance of the evidence that he lacks the capacity to make decisions regarding the administration of his own medication. I'll make each of the findings that he does not demonstrate an awareness of his situation; that he does not demonstrate an understanding of the treatment, risks, or benefits; and that he has not communicated a clear choice regarding treatment with neuroleptic medication that is reasonable and not based on delusions.

I do find that the use of neuroleptic medications in this case is not experimental and there is not an available alternative. I do find all the witnesses to be credible and that they very closely matched the medical records during the time period before the Court. I have also gone over the specific medications in the Jarvis petition with Dr. Schock.

As indicated, I also do find that he's a danger to himself or others by the statements I've read. I will tell the parties I have one question, and it's at the end of the proposed order and I'm sorry I didn't ask it before. The proposed order has me reference a case manager from Winona County. In one of the medical records it indicated that he previously had a mental health case manager in Winona County; however, when that civil commitment expired, the case manager ended. Does he no longer have a case manager in Winona County?

MR. ELLISON: Your Honor, he did have -- when Mr. Russell was on commitment previously, he had one social worker who was his case manager through that commitment. When that commitment expired, he no longer wanted to work with that case manager so that ended.

The current practice in Winona County is through the commitment the social worker who brought the petition and worked with the prepetition screening process will become his new case manager. So he would have a case manager moving forward.

THE COURT: So he's not actually had one during this, kind of, pretrial period?

MR. ELLISON: Well, he -- I would say he has. Ms. Engel, who's on the hearing -- she's been working with the hospital and been in communication and aware of what's going on. So I would say she's been working as a case manager, if you want to use a technical term. I'm not sure when the exact date would have been, but she's been following up and monitoring this case the entire time.

THE COURT: Perfect.

Mr. Jones, any follow-up on that?

MR. JONES: No follow-up, Your Honor.

THE COURT: All right. So then I would include that the case manager in Winona County is Ms. Engel. She was present today for all of the testimony and the Court's findings here and the exhibits that the County has.

To conclude, I am granting the civil commitment as requested by Winona County. I'm going to ask Mr. Ellison to draft that order.

Is there anything else that you believe should be on the record today, Mr. Ellison?

MR. ELLISON: Not that I can think of at this time, Your Honor. Thank you.

THE COURT: Mr. Jones?

MR. JONES: Your Honor, I believe the Court has made all of the required findings.

THE COURT: Court clerk, anything that you believe is outstanding or I should review?

COURT CLERK: No, Your Honor. Thank you.

THE COURT: All right. If there's a short form or a short order that I do first, Mr. Ellison, just let the clerk know when it's ready for me and I'll be sure to get that signed for you. Okay?

MR. ELLISON: Sounds great, Your Honor. Thank you.

THE COURT: All right. Have a good day everyone. Thank you for your time.

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(Whereupon, the proceedings were adjourned at 11:49 a.m.)

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CERTIFICATE

STATE OF MINNESOTA)
)
COUNTY OF WINONA)

I, Deborah A. Grebin, RPR, Official Court Reporter in and for the State of Minnesota, Third Judicial District, hereby certify that the foregoing 36 pages are a true and complete record of the proceedings held herein, as transcribed from the audio recordings.

/s/Deborah A. Grebin Dated: September 8, 2024

Deborah A. Grebin, RPR
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