STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1625

In the Matter of the Civil Commitment of: DeRon Vaughnta Hazley.

Filed May 27, 2025
Affirmed
Bond, Judge

Hennepin County District Court
File No. 27-MH-PR-23-1178

DeRon V. Hazley, Moose Lake, Minnesota (pro se appellant)

Mary F. Moriarty, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorneys, Minneapolis, Minnesota (for respondent Hennepin County Attorney's Office)

Considered and decided by Bond, Presiding Judge; Reyes, Judge; and Klaphake, Judge.*

NONPRECEDENTIAL OPINION

BOND, Judge

Self-represented appellant challenges the district court's order indeterminately committing him as a sexually dangerous person and a sexual psychopathic personality, arguing that (1) he was denied the effective assistance of counsel, (2) he was denied due process of law, (3) the district court erred by finding him "highly likely" to engage in future

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

harmful sexual conduct, and (4) the district court failed to consider a less-restrictive alternative to commitment. We affirm.

FACTS

In November 2023, respondent Hennepin County petitioned to commit appellant DeRon Vaughnta Hazley as a sexually dangerous person (SDP) and as a sexual psychopathic personality (SPP) under Minn. Stat. § 253D.02, subds. 15, 16 (2024).[1] At the time of the petition, Hazley was serving a prison sentence for first-degree criminal sexual conduct. Following a commitment trial, the district court made the following factual findings.

At a young age, Hazley began engaging in antisocial behavior and criminal activities, including vehicle theft, cruelty to animals, and fire-setting. At age 15, Hazley was expelled from school, and was committed to the Hennepin County Home School after he kidnapped a classmate. At the time of the civil-commitment hearing, Hazley had spent roughly 22 of the last 25 years in a secure facility.

In December 2000, when he was 18 years old, Hazley carjacked a woman at gunpoint. When she told him she did not have any money, Hazley groped her breasts under her shirt and struck her in the face with the gun. The state charged Hazley with kidnapping, second-degree assault, and fifth-degree criminal sexual conduct. Hazley ultimately pleaded guilty to kidnapping and aggravated robbery.

[1] We cite the current version of the statute because, although the legislature amended certain provisions of the statute in 2024, the amendments did not alter the substance of the provisions that are at issue in this appeal.

In April 2001, Hazley and an accomplice flagged down a woman in a car and convinced her to follow them to a parking lot. Once there, Hazley took the woman's money and phone, and vaginally penetrated her. Law enforcement later recovered Hazley's DNA profile from a sperm cell found in a condom at the crime scene and Hazley was charged with first-degree criminal sexual conduct. The charge was later dismissed as part of a plea negotiation for a different sex offense involving a different victim.

In December 2002, Hazley was charged with being a prohibited person in possession of a firearm and solicitation based on an incident involving an undercover police officer. Hazley was convicted of firearm possession.

In June 2007, Hazley approached a woman in her car who was lost and offered to help her. After convincing her to follow him to a residential area, Hazley took the woman's phone, struck her in the face, and forced her to perform oral sex. Hazley then made the woman drive to an ATM and withdraw money. Hazley forced her to perform oral sex a second time, and he vaginally and orally penetrated her. Hazley took the victim's money, looked at her identification, and threatened to kill her and her family if she told anyone what happened. Hazley pleaded guilty to first-degree criminal sexual conduct and was sentenced to 20 years in prison in connection with this offense.

In February 2023, Hazley was released from prison and began living at a halfway house on supervised release. In May 2023, a woman with whom Hazley was having a sexual relationship tried to end the relationship. Hazley threatened the woman, struck her in the face several times with his fist, bit her, and vaginally penetrated her. The state

charged Hazley with first-degree criminal sexual conduct but was forced to dismiss the charges when it was unable to secure the attendance of a critical witness at trial.

Between 2003 and 2024, Hazley received 116 discipline reports while in custody at the Minnesota Department of Corrections (DOC) and the Hennepin County jail. These reports included more than 40 instances of non-contact sexual offenses that were typically characterized by Hazley intentionally masturbating in front of female prison staff, including corrections officers, medical staff, and his therapist. On several occasions, Hazley sent for prison staff or pressed the duress button in his cell and would be openly masturbating when staff arrived. During a psychological assessment in 2021, Hazley described the masturbation as retaliatory and addictive.

Hazley had a history of noncompliance with release conditions and engaging in criminal behavior while on supervision in the community. While Hazley was residing at a halfway house on intensive supervised release in June 2022, he repeatedly failed to comply with his release conditions and was ultimately terminated from the halfway-house program and returned to prison. In February 2023, Hazley was released to a different halfway house under standard conditions of release. He again failed to comply with his conditions of release and, in May 2023, was returned to prison. At the time of the commitment hearing, Hazley had never participated in sex-offender treatment.

Two doctors testified at the commitment trial. Dr. Andrea Lovett is a licensed psychologist who has worked as a court examiner in over 60 SDP/SPP cases and in upwards of 800 general-commitment cases. Dr. Amber Lindeman, a court examiner appointed at Hazley's request, had served as a court examiner five times and had treated

hundreds of sex offenders while employed as a DOC psychologist. Both doctors interviewed Hazley, reviewed all the evidence, and submitted a written report detailing Hazley's history, the results of actuarial assessments, and their recommendation for civil commitment. Both doctors opined that Hazley met the statutory criteria for commitment as an SDP and an SPP and that, given Hazley's high risk level and need for sex-offender treatment, the Minnesota Sex Offender Treatment Program is the only appropriate placement. The district court found the testimony of Drs. Lovett and Lindeman persuasive and credible.

Hazley testified on his own behalf. Hazley testified that "a lot" of the incident reports from his time in incarceration were fabricated. He stated that the 2000 sexual offense was a "drug deal gone bad," the 2001 offense was a consensual encounter with a sex worker, and that the 2023 allegation was false. Hazley's mother and sister also testified.

After reviewing the evidence, the district court determined that Hazley met the statutory requirements for commitment as an SDP and an SPP, and that Hazley failed to establish a less-restrictive alternative to commitment. The district court ordered that Hazley be indeterminately committed to the Minnesota Sex Offender Treatment Program.

Hazley appeals.

DECISION

On appeal from a civil-commitment order, we review a district court's factual findings regarding the criteria for clear error. *In re Civ. Commitment of Stone*, 711 N.W.2d 831, 836 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006). In doing so, we view the

evidence in a light most favorable to the findings, do not reweigh the evidence, and do not resolve conflicting evidence. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021). Whether the evidence meets the statutory requirements for commitment is a question of law, which we review de novo. *In re Civ. Commitment of Crosby*, 824 N.W.2d 351, 356 (Minn. App. 2013), *rev. denied* (Minn. Mar. 27, 2013).

I. Hazley did not receive ineffective assistance of counsel.

Hazley first argues that he was denied the effective assistance of counsel during his commitment trial. A person committed as an SDP or an SPP may bring an ineffective-assistance-of-counsel claim. *In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 657 (Minn. App. 2019), *rev. denied* (Minn. Sept. 17, 2019). We analyze a claim of ineffective assistance of counsel in a commitment proceeding under the same standard that applies in criminal cases, which requires a showing that the attorney's conduct fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984). This court applies "a strong presumption that [an attorney's] performance falls within the wide range of reasonable professional assistance." *Johnson*, 931 N.W.2d at 657 (quotation omitted). An attorney's performance is objectively unreasonable when the attorney does not exercise "the customary skills and diligence that a reasonably competent attorney would [exercise] under the circumstances." *See State v. Doppler*, 590 N.W.2d 627, 633 (Minn. 1999) (quotation omitted).

Hazley asserts that his attorney's performance was deficient because the attorney made only minimal objections and was "less than adversarial" during the civil-commitment

trial. It appears that Hazley primarily takes issue with his attorney's failure to object to the state's request that Dr. Lindeman be qualified as an expert witness. Matters of trial strategy lie within the discretion of trial counsel and generally will not be second-guessed by appellate courts. *See Leake v. State*, 737 N.W.2d 531, 542 (Minn. 2007) (stating that "[g]enerally, decisions about objections at trial are matters of trial strategy"). Dr. Lindeman is a licensed psychologist who had previously served as an examiner in SDP/SPP cases and had conducted over 200 psychosexual evaluations during her career. On this record, Hazley cannot establish that his counsel's lack of objections fell below a reasonable standard of care.[2]

Citing *In re Civil Commitment of Benson*, 12 N.W.3d 711 (Minn. 2024), Hazley also asserts that his attorney failed to inform him of his right to waive counsel. In *Benson*, the supreme court held that Minn. Stat. § 253D.20 (2022) does not prohibit a civilly committed person from moving to waive their right to counsel. 12 N.W.3d at 720. *Benson* is not useful authority for two reasons. First, Hazley did not request to waive counsel. Second, *Benson* does not stand for the proposition that an attorney renders deficient performance if they do not advise the subject of a commitment proceeding of a right to waive counsel, and Hazley points us to no other relevant caselaw. Hazley's ineffective-assistance-of-counsel argument therefore fails.

[2] We observe that, beyond conclusory assertions that "the second prong is met," Hazley makes no argument that there is a reasonable probability that the result of the commitment trial would have been different but for counsel's alleged errors. Inadequately briefed issues are not properly before an appellate court. *See Melina v. Chaplin,* 327 N.W.2d 19, 20-21 (Minn. 1982).

II. Hazley was not denied procedural or substantive due process.

Hazley asserts that civil commitment is unconstitutional because it violates procedural and substantive due process. Hazley first argues that his constitutional right to procedural due process was violated because he was not afforded a meaningful opportunity to be heard. But apart from this general assertion, Hazley does not elaborate *how* the opportunity to be heard was denied to him. While pro se litigants are accorded some leeway, they are generally held to the same standard as attorneys. *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). "An assignment of error on mere assertion, unsupported by argument or authority, is forfeited and need not be considered unless prejudicial error is obvious on mere inspection." *Scheffler v. City of Anoka*, 890 N.W.2d 437, 451 (Minn. App. 2017), *rev. denied* (Minn. Apr. 26, 2017); *see also State, Dep't of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to reach an issue not adequately briefed); *In re Civ. Commitment of Kropp*, 895 N.W.2d 647, 654 (Minn. App. 2017) (applying *Wintz* in a civil-commitment matter), *rev. denied* (Minn. June 20, 2017). At the civil-commitment hearing, Hazley was represented by counsel, testified, and called witnesses to testify on his behalf. The record does not support Hazley's claim that he was denied a constitutionally adequate opportunity to be heard.

Hazley also argues that his substantive due-process rights "were clearly violated given these facts." Again, though, Hazley fails to specify any facts or develop a legal argument to support his claim. Moreover, a substantive due-process claim such as Hazley's has been previously considered and rejected by the Minnesota Supreme Court. *In re Linehan*, 594 N.W.2d 867, 875-76, 878 (Minn. 1999) *(Linehan IV)* (holding that the SDP

commitment act does not violate substantive due process because the statute is narrowly tailored to address a compelling state interest); *see also In re Blodgett*, 510 N.W.2d 910, 916 (Minn. 1994). We conclude that Hazley was not denied substantive or procedural due process.

III. The record supports the district court's determination that Hazley meets the statutory criteria for commitment as an SDP and an SPP.

A. Hazley meets the statutory criteria for commitment as an SDP.

An SDP is a person who: "(1) has engaged in a course of harmful sexual conduct . . . ; (2) has manifested a sexual, personality, or other mental disorder or dysfunction; and (3) as a result, is likely to engage in acts of harmful sexual conduct." Minn. Stat. § 253D.02, subd. 16. Hazley challenges the third prong, arguing that the district court clearly erred in finding that he is "likely to engage in acts of harmful sexual conduct." We disagree.

The Minnesota Supreme Court has held that this prong of the statute requires that the individual is "highly likely" to reoffend with future acts of harmful sexual conduct. *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 22 (Minn. 2014). There is no numeric value to establish whether someone is highly likely to reoffend, but the supreme court has outlined different factors to assist in the court's evaluation. These factors include:

> (a) the person's relevant demographic characteristics (*e.g.*, age, education, etc.); (b) the person's history of violent behavior (paying particular attention to recency, severity, and frequency of violent acts); (c) the base rate statistics for violent behavior among individuals of this person's background (*e.g.*, data showing the rate at which rapists recidivate, the correlation between age and criminal sexual activity, etc.); (d) the sources of stress in the environment (cognitive and affective factors

> which indicate that the person may be predisposed to cope with stress in a violent or nonviolent manner); (e) the similarity of the present or future context to those contexts in which the person has used violence in the past; and (f) the person's record with respect to sex therapy programs.

In re Linehan, 518 N.W.2d 609, 614 (Minn. 1994) (*Linehan I*). In addition to these *Linehan* factors, courts must also consider "any other type of relevant and reliable evidence, including evidence derived from actuarial risk assessments." *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 808 (Minn. App. 2014) (quotation omitted).

Hazley contends that the district court's finding that he is highly likely to engage in harmful sexual conduct is not supported by the record. He further argues that the district court merely reviewed the *Linehan* factors in light of the expert testimony without assigning significance to individual factors. The record does not support Hazley's contentions.

In finding that Hazley was likely to engage in future acts of harmful sexual conduct, the district court relied on psychological testing and actuarial risk assessments conducted by Dr. Lovett and Dr. Lindeman. Hazley scored a 38.9 on the Psychopathy Checklist Revised (PCL-R), which Dr. Lovett explained is within the category of offenders who present with high psychopathy, which, when paired with sexual deviancy, indicates an increased risk of recidivism. Both doctors concluded that Hazley's scores on the Static-99R and the Static-2002R placed him at well-above-average likelihood for reoffending.

The district court also made detailed findings on each of the *Linehan* factors and determined that each one weighed in favor of finding that Hazley was highly likely to engage in future harmful sexual conduct. On the first factor, the court found that Hazley's

age was not a protective factor given his long history of sexual violence. Hazley not only lacked any employment history, but he had a history of earning money through criminal activity. As to the second factor, the court found that Hazley had a history of criminal conduct dating back to age 12, and that his adult offenses all involved threatened or actual physical assaults. In addition, Hazley frequently employed handguns or other weapons, which escalated the severity of his conduct. On the third factor—base-rate statistics—the district court credited the expert reports that rapists reoffend at a base of 39% over 25 years. As to the fourth factor, the court found that Hazley lacked a steady work history, financial resources, or strong community support. The court credited the doctors' testimony that Hazley's history demonstrated an inability to cope with the stressors of a release environment, particularly given Hazley's refusal to engage in treatment.

The fifth factor—the similarity of the present or future context to those contexts in which the person has used violence in the past—was of "particular concern" to the district court. Hazley had never attempted sex-offender treatment or demonstrated insight into a need for treatment. Hazley was unable to control his impulses in prison and on supervision, and committed a physical and sexual assault while on intensive supervised release in 2023. If released again, Hazley would "face the same challenges that in the past led to his criminality and sexual offending." Finally, regarding the final *Linehan* factor of the person's record of sex-offender treatment, the court found that Hazley never participated in sex-offender treatment and therefore his harmful sexual behaviors have not been addressed.

We give great deference to the district court's weighing of evidence relevant to whether an individual is highly likely to engage in harmful sexual conduct. *See Ince*, 847 N.W.2d at 23. Here, the district court analyzed the *Linehan* factors, the actuarial assessment, and the other evidence and determined that Hazley was highly likely to engage in future acts of harmful sexual conduct. Contrary to Hazley's claim that the district court did not weigh the *Linehan* factors in a multi-factor analysis, the record shows that the district court found certain pieces of testimony particularly compelling, and it weighed specific *Linehan* factors more heavily than others. Based on our careful review, we conclude that the district court's finding that Hazley is highly likely to engage in harmful sexual conduct is amply supported by the record. We therefore affirm the district court's determination that Hazley meets the statutory criteria for commitment as an SDP.

B. Hazley meets the statutory criteria for commitment as an SPP.

An SPP is a person who (1) has "conditions of emotional instability," impulsive behavior, "lack of customary standards of good judgment," "failure to appreciate the consequences of personal acts, or a combination of any of these conditions, which render the person irresponsible for personal conduct with respect to sexual matters"; (2) has "an utter lack of power to control" his sexual impulses, as evidenced "by a habitual course of misconduct in sexual matters"; and (3) "as a result, is dangerous to other persons." Minn. Stat. § 253D.02, subd. 15.

Hazley broadly asserts that the county failed to meet its burden under the Minnesota Commitment and Treatment Act: Sexually Dangerous Persons and Sexual Psychopathic Personalities, Minn. Stat. §§ 253D.01-.36 (2024). But apart from this general statement,

Hazley does not raise any specific argument challenging his commitment as an SPP. As already noted, we do not consider inadequately briefed issues or mere assertions of error unsupported by legal authority and argument. *Wintz*, 558 N.W.2d at 480; *Scheffler*, 890 N.W.2d at 451.

Even if we were to consider Hazley's argument, the record supports the district court's determination that there was clear and convincing evidence that Hazley meets the statutory requirements of an SPP under Minn. Stat. § 253D.02, subd. 15. The extensive record in this case includes years of criminal records, DOC records, psychological services records, and the reports and testimony from two court-appointed psychologists. After reviewing this evidence, the district court made findings on each prong of the SPP statute. Specifically, the district court found that Hazley's commission of offenses while incarcerated, his failure to show remorse, and his manipulative behaviors reflect emotional instability and poor judgment. The district court found that the similarities between Hazley's sexual offenses, and his frequent sexual misbehavior while incarcerated, evidenced habitual sexual misconduct. The court analyzed Hazley's behavior under three different sets of factors and found that the nature and frequency of the offenses, and Hazley's refusal to attend sex-offender treatment, demonstrated an inability to control his sexual impulses. Finally, the district court found that Hazley was dangerous to others because he is likely to reoffend and his earlier offenses were of a violent nature.

We discern no clear error in the district court's findings, and we affirm the district court's determination that Hazley meets the statutory criteria for commitment as an SPP.

IV. The district court did not clearly err by finding that no less-restrictive alternative to commitment was available and willing to accept Hazley.

Finally, Hazley argues that the district court erred by failing to consider less-restrictive alternatives to indefinite secure commitment. This argument is unavailing.

If a district court determines that the statutory commitment criteria have been proven,

> the court shall commit the person to a secure treatment facility unless the person establishes by clear and convincing evidence that a less restrictive treatment program is available, is willing to accept the [person] under commitment, and is consistent with the person's treatment needs and the requirements of public safety.

Minn. Stat. § 253D.07, subd. 3. A person opposing commitment does not have the right to be placed in a less-restrictive treatment program. *In re Kindschy*, 634 N.W.2d 723, 731 (Minn. App. 2001), *rev. denied* (Minn. Dec. 19, 2001). Rather, they must prove, by clear and convincing evidence, that such a program is available, willing to accept them, and will meet their treatment needs and the public's need for safety. Minn. Stat. § 253D.07, subd. 3. In considering treatment alternatives, courts may consider factors such as the need for security, whether the individual needs long-term treatment, and what type of treatment is required. *See In re Pirkl*, 531 N.W.2d 902, 909-10 (Minn. App. 1995), *rev. denied* (Minn. Aug. 30, 1995). Appellate courts review the district court's finding regarding the availability of a less-restrictive program for clear error. *Ince*, 847 N.W.2d at 25-26.

Hazley does not directly address the factors and evidence the district court considered in finding that no less-restrictive treatment program was available. Rather, Hazley argues generally that he does not pose a threat to public safety because he

transitioned to supervised community living after prison. But Hazley does not identify a specific supervised community-living program that is available and willing to accept him. Nor does he address how supervised community living would be consistent with his treatment needs and the public's need for safety, particularly in light of the experts' testimony that Hazley requires long-term, inpatient sex-offender treatment and that MSOP is the only appropriate placement. We discern no clear error in the district court's determination that Hazley has not proved by clear and convincing evidence that a less-restrictive program is available or willing to accept him.

Affirmed.