STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0031

In the Matter of the Civil Commitment of:

Ta'Vieyon Antione Hightower a/k/a Tavinyon Antoine Lee a/k/a Ta'Vieyon Lee Hightower a/k/a Ta'Vieyon Antoine Lee Hightower a/k/a Tavieyon Antoine Lee Hightower.

Filed June 23, 2025
Affirmed
Cochran, Judge

Ramsey County District Court
File No. 62-MH-PR-23-133

Kathleen K. Rauenhorst, Rauenhorst & Associate, P.A., St. Paul, Minnesota (for appellant Ta'Vieyon Antione Hightower)

John Choi, Ramsey County Attorney, Beth Harrison, Assistant County Attorney, St. Paul, Minnesota (for respondent Ramsey County)

Considered and decided by Reyes, Presiding Judge; Cochran, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges an order of the district court indeterminately committing him pursuant to Minnesota Statutes section 253B.18, subdivision 3 (2024), as "a person who has a mental illness and is dangerous to the public." Appellant argues that the evidence presented at trial was insufficient to support the district court's determination that the

criteria for civil commitment under section 253B.18 (2024) were met. Because there is clear and convincing evidence to support the district court's determination, we affirm.

FACTS

In February 2023, after appellant Ta'Vieyon Antione Hightower was found incompetent to proceed on five juvenile delinquency petitions, respondent Ramsey County filed a petition for civil commitment of Hightower as a person who has a mental illness and is dangerous to the public pursuant to section 253B.18. In March 2023, in a separate matter, Hightower was civilly committed as a person who poses a risk of harm to himself and others due to mental illness and chemical dependency, and was admitted to the Anoka Metro Regional Treatment Center (AMRTC).

Initial Commitment Hearing in this Matter

In September 2023, the district court held an initial commitment hearing in this matter. Following the hearing, the district court determined that Hightower met the statutory criteria for "a person who has a mental illness and is dangerous to the public." The district court ordered Hightower committed to a secure treatment facility after concluding that there was no less restrictive facility that would meet Hightower's needs. The district court also ordered that "[a] written report shall be filed by the treatment facility within sixty (60) days" and that a hearing would be held within 90 days of the filing of the report, or such other date as the parties and court agree, to determine whether Hightower "shall remain committed as mentally ill and dangerous to the public for an indeterminate period" of time.

Review Hearing and Indeterminate Commitment

In July 2024, following receipt of the written report, the district court held a review hearing to determine whether to continue Hightower's commitment for an indeterminate amount of time. The district court heard testimony from two court-appointed psychological examiners, as well as Hightower and his mother. The district court also received numerous exhibits that included, among other exhibits, records from Hightower's juvenile delinquency proceedings, police reports, multiple psychological evaluations, including those from court-appointed examiners, and records from the AMRTC where Hightower resided following his initial commitment.

At the review hearing, the court-appointed psychological examiners testified about Hightower's mental health and behavior. The testimony of the examiners was largely consistent. Both examiners agreed that Hightower met the diagnostic criteria for posttraumatic stress disorder (PTSD) and antisocial personality disorder. One examiner also diagnosed him with borderline personality disorder. The examiners testified that Hightower's mental health manifests through his "paranoia" and that he "tends to be highly suspicious of others." This paranoia, the examiners testified, had led to instances of physical aggression by Hightower against others. Both examiners included in their report a review of Hightower's history of committing violent acts. Both also testified that, since his initial civil commitment, Hightower had assaulted peers and staff on four separate occasions. Both examiners administered the same psychological evaluation tool to assess the likelihood that Hightower would engage in violent behavior in the future. Both examiners testified that the results indicated that Hightower was at high risk of harming

others in the future, with one examiner stating that Hightower's risk of future violence was "high to very high." Finally, both examiners testified that they did not believe there was a less restrictive alternative for Hightower beyond civil commitment.

Hightower testified on his own behalf. Hightower testified that he believed that he had PTSD but stated that he did not believe that he had any other mental illness. Hightower testified that he did not believe that he posed a danger to others but conceded that, since arriving at AMRTC, he had punched others on four to eight occasions. According to Hightower, he did so because he did not have his "freedom." Hightower further testified that, if he were discharged into the community, he would live with his mother and grandmother, continue to take his medications, and stay away from "bad influences."

Hightower also called his mother to testify. Hightower's mother testified that she agreed that Hightower had PTSD but disagreed with the other diagnoses that the examiners provided. She further testified that the district court could discharge Hightower to live with her and that she would be willing to assist him in attending community-based programming. The district court also received letters from his aunt and grandmother that urged the court not to continue Hightower's civil commitment and expressed a willingness to support Hightower in the community, should he be discharged.

Following the July 2024 review hearing, the district court issued a written order indeterminately committing Hightower on the basis that he "continues to meet the statutory definition as a person who is mentally ill and dangerous to the public" within the meaning of Minnesota Statutes section 253B.02, subdivision 17 (2024). The district court explained that "[a]ll credible evidence presented to the Court established that [Hightower] does

continue to be mentally ill." The district court also noted that, in the initial civil-commitment order, the district court had "previously found by clear and convincing evidence" that Hightower had engaged in numerous overt acts that caused or attempted to cause serious physical harm to others. Those acts included, among others, incidents where Hightower (1) struck a mental health facility staff member in the head with a "solid pipe shower curtain rod" resulting in injuries, (2) punched a peer five times in the face causing them to fall to the ground, (3) struck a mental health facility staff member, unprovoked, in the jaw twice, and (4) assaulted a correctional facility staff member at the juvenile detention center, causing a concussion that led to the staff member missing a couple of weeks of work. The district court further found that the "evidence presented shows by clear and convincing evidence that there is [a] substantial likelihood that [Hightower] will engage in acts capable of inflicting serious physical harm on another." Therefore, the district court concluded that Hightower continues to meet the definition of a person who has a mental illness and is dangerous to the public.

In deciding whether to order indeterminate civil commitment to a secure treatment facility, the district court considered Hightower's proposed less-restrictive alternative—that he be discharged to the care of his mother. But the district court determined that "the expert evidence in the record all indicates a more restrictive treatment setting and type is needed to meet [Hightower's] needs and the requirements of public safety." As a result, the district court civilly committed Hightower for an indeterminate amount of time to a secure treatment facility.

Hightower appeals.

DECISION

Hightower challenges his indeterminate civil commitment under section 253B.18. Specifically, he argues that there is insufficient evidence to demonstrate that he continues to meet the criteria for commitment as "a person who has a mental illness and is dangerous to the public."

To review the sufficiency of the evidence in a civil commitment context, appellate courts "examine whether the commitment is justified by the findings based on the evidence at the hearing." *In re Civ. Commitment of Carroll*, 706 N.W.2d 527, 530 (Minn. App. 2005). "The record is viewed in the light most favorable to the [district] court's decision" and "[f]indings of fact will not be set aside unless clearly erroneous, with due regard given to the court's judgment of the credibility of the witnesses." *Id.* (quoting *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995)).

Under Minnesota law, an individual meets the statutory criteria for commitment as a "person who has a mental illness and is dangerous to the public" if that person has a mental illness and:

> as a result of that impairment presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another.

Minn. Stat. § 253B.02, subd. 17(2). If a district court determines that these criteria are met by clear and convincing evidence,

> it shall commit the person to a secure treatment facility . . . unless the patient or others establish by clear and

> convincing evidence that a less restrictive state-operated treatment program or treatment facility is available that is consistent with the patient's treatment needs and the requirements of public safety.

Minn. Stat. § 253B.18, subd. 1(a). Once a patient is initially committed, the treatment facility must file a report with the district court within 60 days. *Id.*, subd. 2(a). If the court finds after a review hearing "that the patient continues to be a person who has a mental illness and is dangerous to the public, then the court shall order commitment of the proposed patient for an indeterminate period of time." *Id.*, subd. 3.

Hightower does not challenge the district court's finding that he is mentally ill. Nor does he argue that the district court erred when it found that the record reflects that "there is a substantial likelihood that [he] will engage in acts capable of inflicting serious physical harm on another." Instead, he limits his challenge to the district court's finding that he "has engaged in an overt act causing or attempting to cause serious physical harm to another" within the meaning of the statute.

"Whether the evidence is sufficient to support a finding that an overt act has occurred is a legal question subject to de novo review." *Carroll*, 706 N.W.2d at 530. When considering whether an act rises to the level of causing serious physical harm, the individual's history of violence is a relevant consideration. *See id.* at 531 (considering the appellant's history of violence when concluding that an overt act rose to the level of causing serious physical harm); *see also In re Hofmaster*, 434 N.W.2d 279, 281 (Minn. App. 1989) (concluding that it is proper to consider an individual's "entire history . . . when determining that [they] remain[] a clear danger to others").

Hightower argues that there is not clear and convincing evidence to establish that he "engaged in an overt act causing or attempting to cause *serious* physical harm to another." (Emphasis added.) While Hightower acknowledges that the record evidence reflects that he may have committed acts that caused physical harm to others, he contends that there is not "clear and convincing evidence" that those acts rose to the level of causing or attempting to cause *serious* physical harm. To support his argument, Hightower relies on *In re Kottke*. 433 N.W.2d 881 (Minn. 1988).

In *Kottke*, the conduct at issue involved an incident in which Kottke struck a security guard with "a slightly closed fist," leaving red marks on the guard's face, and another incident in which Kottke struck another man on the back, causing him to fall and sprain his thumb. *Id.* at 882. At trial, a doctor testified that, as to the assaults, Kottke "simply struck out in a rather ineffectual way and then immediately retreated and became . . . his usual mild-mannered self." *Id.* at 883. In deciding whether Kottke's acts involved "serious physical harm" within the meaning of the statute, the supreme court distinguished between overt acts that cause physical harm and acts that cause *serious* physical harm. *Id.* at 884. Noting that there was no statutory definition of serious physical harm, the supreme court looked to other appellate court decisions to determine whether the conduct at issue in *Kottke* involved "serious physical harm." *Id.* In doing so, the supreme court highlighted acts from other cases that involved "serious physical harm" including dragging someone by the neck with an electrical cord, shooting and killing someone, stabbing someone, and murdering someone. *Id.* But the supreme court also stated that "[l]ess violent conduct than that illustrated in the cases cited can, of course, constitute serious physical harm. It is not

necessary that mayhem or murder occur." *Id.* The supreme court then concluded that Kottke's conduct, while intolerable, did not rise to the level of an overt act causing serious physical harm within the meaning of section 253B.02, subdivision 17. *Id.* at 883-84.

Hightower argues that his overt acts cited by the district court do not "rise to the extremes contemplated by *Kottke*" and therefore are not overt acts "causing or attempting to cause serious physical harm to another" within the meaning of the statute. He emphasizes that his acts largely involved assaults with his fists, like the conduct at issue in Kottke, which the supreme court concluded did not involve serious physical harm. We are not persuaded.

First, Hightower's argument ignores that the supreme court expressly stated in *Kottke* that the examples cited were not the only acts that could constitute serious harm. The supreme court went on to say that "[l]ess violent conduct than that illustrated in the cases cited can, of course, constitute serious physical harm." *Id.* at 884.

Second, clear and convincing evidence in the record before us reflects that Hightower engaged in numerous violent acts that resulted in serious physical harm or that could have resulted in serious physical harm. Hightower's acts include, among others: (1) assaulting a staff member with a solid pipe shower curtain rod; (2) "punch[ing] a peer five times in the face," causing the peer to fall to the ground; (3) punching a staff person with a closed fist in the "face/jaw twice, severely injuring the staff [person]"; and (4) "punching a staff person with a cl[e]nched fist five times . . . , resulting in a concussion" that caused the staff person to miss work for a couple of weeks. In contrast, the two incidents in *Kottke* involved conduct where Kottke "struck out in a rather ineffectual way."

Id. at 883. We therefore conclude that the district court did not err when it found clear and convincing evidence that Hightower engaged in overt acts in which he caused or attempted to cause serious physical harm to others. *See Carroll*, 706 N.W.2d at 531 (considering the appellant's entire history of violence).

We are not persuaded otherwise by Hightower's argument that we should not consider the above-referenced overt acts in determining whether there is sufficient evidence to support his civil commitment because the acts "are all incidents that were situational or provoked rather than due to a mental illness." In other words, Hightower contends that, because his acts were not due to mental illness, they do not constitute "overt act[s] causing . . . serious physical harm to another" within the meaning of section 253B.02, subdivision 17(2). But we rejected a similar argument in *Hofmaster*. 434 N.W.2d at 280-81. In *Hofmaster*, we interpreted the statutory definition of a person who is mentally ill and dangerous to the public and concluded that, while the clear danger that the individual presents must be a result of that person's mental illness, the overt act evincing this danger "need not be the result of mental illness." *Id.* at 281. And, since *Hofmaster* was decided, the statutory definition of a person who has mental illness and is dangerous to the public has not changed in a manner that would alter our statutory interpretation. *Compare* Minn. Stat. § 253B.02, subd. 17 (2024), *with* Minn. Stat. § 253B.02, subd. 17 (1986). As a result, this argument is unavailing.

In sum, there is clear and convincing evidence in the record that Hightower "engaged in . . . overt act[s] causing or attempting to cause serious physical harm to" others within the meaning of section 253B.02, subdivision 17(2). We therefore conclude that the

district court did not err when it indeterminately committed Hightower as "a person who has a mental illness and is dangerous to the public."

Affirmed.