

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In the Matter of the Civil Commitment of:

Charles Helmer,

Respondent.

**DAKOTA COUNTY'S
OBJECTION TO MOTION
FOR INJUNCTION**

Court File Number 19HA-PR-20-939
CA File Number CM-20-293

Dakota County opposes the Notice of Motion and Motion filed May 13, 2021 by an interested person requesting the Court issue an injunction against further administration of electroconvulsive therapy (ECT) or neuroleptic medications to Respondent. Dakota County requests the Court deny the motion in its entirety.

The Court issued an Order for the administration of neuroleptic medications on December 11, 2020. Respondent was found to suffer from schizoaffective disorder and was further found to have little or no insight into his mental illness. A court appointed examiner submitted a report and testified on December 10, 2020 that Respondent was incompetent to consent to the use of neuroleptics. The Order authorized the use of Zyprexa, Haldol, Prolixin, Invega, and Clozaril pursuant to Jarvis v. Levine, 418 N.W.2d 139 (Minn. 1988).

The Court issued an Order for ECT on January 8, 2020. Respondent was found to suffer from schizophrenia and was further found to have limited insight into his mental illness. A court appointed examiner submitted a report and testified on January 7, 2020 that the use of ECT is the least intrusive therapy available to meet Respondent's treatment needs and outweighs the potential risks to Respondent. Respondent was found to lack competency to consent to the use of ECT. The Order authorized the use of an acute phase of three treatments per week to a maximum of 12 treatments, and a maintenance phase of one or fewer treatments per week for the duration of the commitment pursuant to Price v. Sheppard, 239 N.W.2d 905 (Minn. 1976).

During both above referenced hearings, Respondent was represented by counsel and Respondent's rights were protected during the proceedings. The Court properly considered all evidence presented and determined that both petitions be granted.

This motion is not brought by Respondent, but an interested person, presumably on behalf of Respondent. "Interested Person" is defined in the Minnesota Commitment and Treatment Act as:

- (1) an adult who has a specific interest in the patient or proposed patient, including but not limited to a public official, including a local welfare agency acting under section [260E.31](#); a health care or mental health provider or the provider's employee or agent; the legal guardian, spouse, parent, legal counsel, adult child, or next of kin; or other person designated by a patient or proposed patient; or
- (2) a health plan company that is providing coverage for a proposed patient.

Minn. Stat. §253B.02, subd. 10.

The movant did not submit a supporting affidavit nor indicate her relation to Respondent to indicate whether she is an interested person pursuant to the statute. The motion contains no cite to any rule or statute under which the motion is brought, questioning the standing of movant to bring this motion. The county can find no authority in the Commitment and Treatment Act Rules, the Minnesota Commitment and Treatment Act (Minn. Stat. §253B), nor the Minnesota Rules of Civil Procedure for an interested person to bring a motion for an injunction.

Even if the Court determines the interested person has standing to bring this motion, three of the movant's supporting affidavits are "reproductions". It is unclear whether permission was granted to the movant to authorize the use of those documents. In addition, those affiants seem wholly unfamiliar with Respondent. The supporting affidavit signed by Dr. Lee Coleman does not indicate where he signed his affidavit and is not one of Respondent's treating doctors; Dr. Coleman indicated he merely reviewed Respondent's "medical and legal records". Dr. Coleman fails to indicate which records he reviewed.

Respondent's treating doctors are in the best position to evaluate Respondent's treatment needs. The Notice of Motion and Motion filed May 13, 2021 by an interested person-not Respondent-requesting the Court issue an injunction against further administration of ECT or neuroleptic medications to Respondent should be denied in its entirety and dismissed with prejudice.

Dated: 5-18-21

KATHRYN M. KENNA
DAKOTA COUNTY ATTORNEY

/s/ Jennifer L. Jackson

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