

**Filed 12/20/16 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2016 ND 242

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In the Matter of Darl John Hehn

Jonathan Byers, Special Assistant  
State's Attorney,

Petitioner and Appellee

v.

Darl John Hehn,

Respondent and Appellant

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No. 20160213

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Appeal from the District Court of Richland County, Southeast Judicial District,  
the Honorable Daniel D. Narum, Judge.

AFFIRMED.

Per Curiam.

Jonathan R. Byers, Special Assistant State's Attorney, Office of the Attorney  
General, 600 East Boulevard Avenue, Department 125, Bismarck, N.D. 58505-0040,  
for petitioner and appellee; submitted on brief.

Jonathan L. Green, 522 Dakota Avenue, Suite 1, Wahpeton, N.D. 58075, for  
respondent and appellant; submitted on brief.

**Matter of Hehn**

**No. 20160213**

**Per Curiam.**

[¶1] Darl Hehn appeals from a district court order finding he is a sexually dangerous individual and denying him discharge from civil commitment. Hehn argues the State Hospital's failure to provide him treatment for his underlying borderline personality disorder violates his statutory right to treatment, his right to substantive due process, and his right to be free from cruel and unusual punishment. However, the record reflects Hehn is being treated for borderline personality disorder. Hehn argues the State's expert's "SDI Annual Re-evaluation" report should have been excluded from evidence as inadmissible hearsay because it relied in part on another expert's report who was not present to testify at the discharge hearing. However, Hehn waived this argument by declining a continuance until the expert would be available to testify at the hearing. See, e.g., Sahagian v. Murphy, 871 F.2d 714, 716 (7th Cir. 1989); State v. Bagshaw, 51 P.3d 427, 430-31 (Idaho Ct. App. 2002); see generally In re D.Z., 2002 ND 132, ¶ 5, 649 N.W.2d 231. Hehn argues the court erred in finding he is a sexually dangerous individual. We conclude the court's findings are supported by clear and convincing evidence. We summarily affirm under N.D.R.App.P. 35.1(a)(2) and (4).

[¶2] Gerald W. VandeWalle, C.J.  
Carol Ronning Kapsner  
Lisa Fair McEvers  
Daniel J. Crothers  
Dale V. Sandstrom