

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

In the Matter of Sandy Lee Mangelsen,

Haley L. Wamstad,)	District Court No. 18-2012-MH-00150
Grand Forks County State's Attorney,)	Supreme Court No. 20130155
)	
Petitioner and Appellee,)	
)	
v)	
)	
Sandy Lee Mangelsen,)	
)	
Respondent and Appellant,)	

ON APPEAL FROM ORDER FOR COMMITMENT ISSUED
APRIL 24, 2013 BY HONORABLE KAREN K. BRAATEN
OF THE GRAND FORKS COUNTY DISTRICT COURT

BRIEF OF APPELLEE

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STATEMENT OF THE ISSUES

- I. The district court's order finding Mr. Mangelsen to be a "sexually dangerous individual" is not clearly erroneous.
- II. The district court did not order Mr. Mangelsen to sit in perpetuity. Rather he is entitled to an annual review hearing.

STATEMENT OF THE CASE

[¶1] On November 5, 2012, the State of North Dakota filed a Petition for Commitment of a Sexually Dangerous Person pursuant to N.D.C.C. Chapter 25-03.3. Appellant's App. at 5. A Preliminary Hearing was held on the Petition on November 9, 2012. Appellant's App. at 24. Following the Preliminary Hearing, the court issued Findings of Fact, Conclusions of Law and Order on Preliminary Hearing finding that there is probable cause to believe the respondent is a sexually dangerous individual and ordering that a written evaluation be completed at the North Dakota State Hospital. Appellee's App. at 12. A Commitment Hearing was held on January 4, 2013, before the Honorable Karen Braaten, District Court Judge. Appellant's App. at 27. On April 24, 2013, the district court issued a Memorandum Decision and Order for Commitment of Respondent as Sexually Dangerous Individual. Appellant's App. at 11. On May 21, 2012, Mr. Mangelsen filed a Notice of Appeal. Appellant's App. at 29.

STATEMENT OF THE FACTS

[¶2] On August 5, 2005, Mr. Mangelsen touched the breast of a 13-year-old girl and touched the inside of the thigh and held the hand of a 14-year-old girl with whom he was riding ATVs. Appellee's App. at 2. Mr. Mangelsen was an adult at the time of this offense. Id. He was subsequently convicted of the offense of Sexual Contact with a Child (less than 16) for this offense. Id. During the investigation for this offense, it was also alleged that Mr. Mangelsen made harassing phone calls to his ex-girlfriend, had entered a house without permission and used the bathroom where an adult female was showering, and touched the genital area of a 9-year-old girl over her clothing and attempted to kiss her. Id. No charges were pressed for these allegations. Id.

[¶3] On March 31, 2007, Mr. Mangelsen kissed and touched the buttock of a 14-year-old girl. Id. Mr. Mangelsen, then age 20, was aware of the girl's age at the time of the contact. Id. Mr. Mangelsen was subsequently convicted of Gross Sexual Imposition as a result of this offense. Id.

[¶4] While incarcerated at the North Dakota State Penitentiary, Mr. Mangelsen was referred to sex offender treatment, but was not successful in the treatment program on his first or second attempts. Id. Mr. Mangelsen, on his third attempt, met the expectations of the program on August 12, 2008. Id. Mr. Mangelsen was thereafter released from incarceration in North Dakota and Minnesota and began probation supervision in the community in February of 2010. Id.

[¶5] Mr. Mangelsen was to abide by special sex offender conditions of probation, which included that he was not to be in public areas where children congregate without his mother present as a responsible adult, and he was not to leave the State of

North Dakota. Id. On February 17, 2010, shortly after his release from incarceration, Mr. Mangelsen was located at the East Grand Forks, Minnesota, public library with two females who appeared to be under the age of 18. Id. at 3. It was reported that Mr. Mangelsen made sexual contact with one female by making contact under her coat and clothing in the library. Id. Mr. Mangelsen was then arrested for violations of his probation conditions. Id. At the time of his arrest, he was found in possession of a note he wrote seeking a relationship with another woman whom he knew had minor children. Id. Mr. Mangelsen stated he listened to his “Little Country Devil” and told himself to forget the fact that he could get in trouble for being there. Id. Subsequently, Mr. Mangelsen was released back to the community despite the fact that the court acknowledged that he is a high risk sex offender that violated several conditions of his probation. Id.

[¶6] Shortly thereafter, on April 28, 2010, Mr. Mangelsen was arrested for Failure to Register as a Sex Offender and False Information to Law Enforcement. Id. His probation officer, Ms. Loralyn Waltz, stated that he has lied several times about his whereabouts and activities. Id. At that time, a second Petition to Revoke Probation was filed and Mr. Mangelsen was re-sentenced and was thereafter incarcerated. Id.

[¶7] While at the North Dakota State Penitentiary, Mr. Mangelsen received 27 Class A write-ups and had difficulty complying with the treatment program. Id. One of Mr. Mangelsen’s write ups was for sexual contact with another male inmate at the penitentiary. Id. It was also noted that Mr. Mangelsen was having difficulty with “ogling” female staff, but that he was attempting to change this behavior. Id.

[¶8] Prior to Mr. Mangelsen's release from incarceration, the State filed a Petition for Commitment of a Sexually Dangerous Individual. Appellant's App. at 5. Following the Preliminary Hearing, the court ordered Mr. Mangelsen be transported to the North Dakota State Hospital for a full evaluation. Appellee's App. at 12. While at the State Hospital on evaluation status, Mr. Mangelsen continued to be sexually preoccupied as evidenced by his inquiry regarding sexual contact between the individuals in the treatment program. Tr. at 25.

ARGUMENT

[¶9] The North Dakota Supreme Court’s review of this appeal under N.D.C.C. Ch. 25-03.3 is limited to a review of the procedures, findings, and conclusions of the district court. N.D.C.C. § 25-03.3-19. The district court’s findings of fact are reviewed on appeal under “a modified clearly erroneous standard of review.” In re J.G., 2013 ND 26, ¶ 8, 827 N.W.2d 341. Under this standard, the court “will affirm a district court’s order ‘unless it is induced by an erroneous view of the law or [the Supreme Court is] firmly convinced [the order] is not supported by clear and convincing evidence.’” In re Rubey, 2011 ND 165, ¶ 5, 801 N.W.2d 702 (quoting In re T.O., 2009 ND 209, ¶ 8, 776 N.W.2d 47). The Supreme Court “will not second-guess credibility determinations made by the court” when two experts disagree in an SDI proceeding. In re Whitetail, 2013 ND 143, ¶ 5, 712 N.W.2d 610.

I. THE DISTRICT COURT’S ORDER FINDING MR. MANGELSEN TO BE A “SEXUALLY DANGEROUS INDIVIDUAL” IS NOT CLEARLY ERRONEOUS.

[¶10] In order to commit an individual for sex offender treatment, the district court must find, by clear and convincing evidence, the person is a sexually dangerous individual. N.D.C.C. § 25-03.3-13. A “Sexually Dangerous Individual” means:

[A]n individual who is shown to have engaged in sexually predatory conduct and who has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction that makes that individual likely to engage in further acts of sexually predatory conduct which constitute a danger to the physical or mental health or safety of others.

N.D.C.C. § 25-03.3-01(8). Additionally, the court must also find that the individual facing commitment has “serious difficulty controlling his behavior.” Kansas v. Crane, 534 U.S. 407, 413 (2002).

A. The district court properly found Mr. Mangelsen engaged in “Sexually Predatory Conduct.”

[¶11] “Sexually Predatory Conduct” is defined as:

Engaging or attempting to engage in a sexual act or sexual contact with another individual, or causing or attempting to cause another individual to engage in a sexual act or sexual contact, if:

(4) The victim is less than fifteen years old; [or]

(7) The victim is a minor and the actor is an adult.

N.D.C.C. § 25-03.3-01(9)(a). Further, “sexual contact” is defined as “any touching, whether or not through the clothing or other covering, of the sexual or intimate parts of the person.” N.D.C.C. § 12.1-20-02(5). For purposes of an SDI hearing, the court can consider convictions or even allegations of sexually predatory conduct that did not result in a conviction. In re P.F., 2006 ND 82, ¶ 20-21, 712 N.W.2d 610.

[¶12] Both Dr. Lisota and Dr. Ertelt stated they believe Mr. Mangelsen engaged in Sexually Predatory Conduct. Tr. at 19-21, 159. Additionally, the district court received Petitioner’s exhibits 1-12, which outlined Mr. Mangelsen’s criminal history. Mr. Mangelsen’s sex related convictions included the following: Sexual Contact with a Child Under Sixteen (Ex. 2), Gross Sexual Imposition (Ex. 5), and Failure to Register as a Sex Offender (Ex. 11). Dr. Lisota also outlined other allegations of sexually predatory conduct in his testimony and evaluation report. Tr. at 21; Appellee’s App. at 2.

B. The district court properly found Mr. Mangelsen has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction.

[¶13] Dr. Lisota, qualified by the district court as an expert in clinical psychology, diagnosed Mr. Mangelsen with the following:

Axis I: Paraphilia, Not Otherwise Specified (Polymorphous Perverse)
Polysubstance Dependence, Sustained Full Remission, In a
Controlled Environment

Axis II: Antisocial Personality Disorder
Borderline Intellectual Functioning

Appellee's App. at 4. Dr. Ertelt, who was not qualified as an expert by the court, diagnosed Mr. Mangelsen with attention deficit hyperactivity disorder combined type, impulse control disorder not otherwise specified, alcohol dependence, adult antisocial behavior, sexual abuse of a child as the perpetrator, and borderline intellectual functioning. Tr. at 171-174.

[¶14] Dr. Lisota defined paraphilia NOS as "recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving (1) nonhuman objects, (2) the suffering or humiliation of oneself or one's partner, or (3) children or other nonconsenting persons that occur over a period of at least 6 months." Appellee's App. at 4. A "polymorphous perverse" diagnosis is a more specific category of paraphilia that is defined as behaviors showing that person is "quite sexually preoccupied and adapts his sexuality to the environment in which he is in." Tr. at 24.

[¶15] Dr. Lisota opined that Mr. Mangelsen is sexually preoccupied and adapts his sexuality to his environment. Id. For example, Dr. Lisota stated that while Mr. Mangelsen was incarcerated at the state penitentiary, he received a Class A write-up for engaging in sexual behavior with another inmate. Tr. at 25. Dr. Lisota also asserted that Mr. Mangelsen was sexually preoccupied in that when he arrived at the North Dakota State Hospital for his SDI evaluation, Mr. Mangelsen was asking peers "who's done who." Id. Lastly, Dr. Lisota also referenced a 2007 sex offender focused psychological evaluation completed by Dr. Newberry, which was summarized as follows:

Mr. Mangelsen was quite indiscriminate in regards to sexual partners. Dr. Newberry indicated that Mr. Mangelsen is likely to attempt to engage in sexual contact with any individual he finds attractive; and that Mr. Mangelsen has, basically, no ability to be accountable or to inhibit his impulses in this regard.

Tr. at 23. Dr. Lisota further explained:

While it would seem that Mr. Mangelsen has hebephilic tendencies, which are reflected in his discharge diagnosis from the NDSP, given that Mr. Mangelsen has also engaged in sexual contact with a peer while incarcerated as well as having documented difficulty with regard to “ogling” female staff suggests to the undersigned that Mr. Mangelsen’s sexual preferences are dependent upon the available potential victims, as opposed to being restricted to a specific gender or age range.

Appellee’s App. at 4-5.

[¶16] The Appellant asserts in his brief that “paraphilia, not otherwise specified (polymorphous perverse)” is not a valid diagnosis. Appellant’s Br. at 8-9. This Court has affirmed the commitment of sexually dangerous individuals that have been diagnosed with such diagnosis on prior occasions. See In re J.M., 2013 ND 11, ¶ 5, 826 N.W.2d 315; In re B.V., 2006 ND 22, ¶ 4, 708 N.W.2d 877. Additionally, even Dr. Ertelt recognizes that this diagnosis “would fall into the NOS category – the not otherwise specified category of paraphilia.” Tr. at 178.

[¶17] Dr. Ertelt did not dispute the diagnostic criteria for paraphilia has been met for Mr. Mangelsen, but rather he stated that he did not make that diagnosis because he did not find his sexual behavior as being “deviant.” Tr. at 224-226. Despite that statement, Dr. Ertelt conceded that “deviant” behavior is not defined, nor even mentioned, in the diagnostic manual in regards to paraphilia. Id.

[¶18] Dr. Lisota also diagnosed Mr. Mangelsen with Antisocial Personality Disorder (APD). Tr. at 27. Dr. Lisota testified that there are seven possible sets of

antisocial behaviors, only three of which are necessary for diagnosis. Tr. at 29. Dr. Lisota opined that Mr. Mangelsen exhibited the following behaviors: (1) failure to conform to social norms, (2) impulsivity, and (3) irresponsibility. Id. Dr. Lisota explained:

Mr. Mangelsen has demonstrated a failure to conform to social norms with respect to lawful behaviors... Mr. Mangelsen has a robust criminal history given that he has been incarcerated for most of his adult life. Furthermore, he has been unable to abide by the terms of his probation, being revoked on two separate occasions. He has evidenced deceitfulness within sex offender treatment and with law enforcement. He acknowledges a history of irritability and aggressiveness within records with a few instances of verbal and physical altercations noted in the records. He has evidenced impulsivity with regard to his sexual offending/rule violating behavior while in treatment and/or while on probation. He has demonstrated irresponsibility with regard to his poor employment history and involvement in treatment (ie, using pornography during treatment and engaging in sexual activities with a peer, also while in treatment). His continued contact with minor age females despite his probation status and his justification for having offended against the 14-year-old female, essentially failing to understand or take responsibility for the seriousness of his offense is indicative of his lack of remorse.

Appellee's App. at 5. Dr. Ertelt testified that many of the criteria for Antisocial Personality Disorder were present; however, he felt Impulse Control Disorder and Adult Antisocial Behavior were more appropriate for Mr. Mangelsen. Tr. at 232-256.

[¶19] The district court properly found that both Dr. Lisota and Dr. Ertelt diagnosed Mr. Mangelsen with either a sexual or personality disorder or other mental disorder or dysfunction. Appellant's App. at 15.

C. The district court properly found that Mr. Mangelsen is likely to engage in future acts of sexually predatory conduct and that there is a nexus between the disorder and the dangerousness that shows Mr. Mangelsen has serious difficulty controlling his behavior.

[¶20] "The phrase 'likely to engage in further acts of sexually predatory conduct' means the individual's propensity towards sexual violence is of such a degree as

to pose a threat to others.” Matter of E.W.F., 2008 ND 130, ¶ 10, 751 N.W.2d 686 (quotation omitted). In considering whether an individual is likely to engage in further acts of sexually predatory conduct, the court can consider any diagnosis that predisposes an individual to engage in further acts of sexually predatory conduct. In re Rubey, 2011 ND 165, ¶ 8, 801 N.W.2d 702. The court may also consider actuarial assessment tools, such as the MnSOST-R and Static 99-R. In re M.D., 2012 ND 261, ¶ 8, 825 N.W.2d 838.

[¶21] Additionally, Kansas v. Crane requires that there must be a nexus between the requisite disorder and future dangerousness. In re Wolff, 2011 ND 76, ¶ 7, 796 N.W.2d 644. There should be a showing that the diagnosis has manifested itself in a way to show the individual has serious difficulty in controlling his behavior. Id. The behavior, however, need not be sexual in nature. Id. This nexus must “distinguish a dangerous sexual offender whose disorder subjects him to civil commitment from the dangerous but typical recidivist in the ordinary criminal case.” In re Barrera, 2008 ND 25, ¶ 8, 744 N.W.2d 744 (citations omitted). In Wolff, the court considered the fact that the individual had difficulty controlling his behavior in a structured setting, was violating the rules and had made little progress in his treatment program, showed no empathy for his victims, has psychopathic traits, including impulsivity, irresponsibility, and violations of social and legal norms. Id. at ¶ 9.

[¶22] Dr. Lisota opined that Mr. Mangelsen’s sexual disorder of “paraphilia, not otherwise specified (polymorphous perverse),” is related to his past sexually predatory conduct and this disorder predisposes Mr. Mangelsen to engage in future acts of sexually predatory conduct given the nature of the disorder. Appellee’s App. at 5-6. In relation to the antisocial personality disorder, Dr. Lisota stated:

Mr. Mangelsen's personality disorder has manifested in some extreme ways, including his past sexually predatory conduct. It is concluded that a nexus exists linking the Antisocial Personality Disorder to Mr. Mangelsen's sexual offending in that his pattern of sexually predatory conduct is characterized by opportunistic offending, impulsivity, deceitfulness, aggression and a lack of remorse for his victims. It is widely accepted that the best predictor of future behavior is past behavior. Moreover, this disorder predisposes him to act impulsively and to disregard the wishes, rights, and safety of others in order to achieve his own ends. Therefore, this disorder in combination with his history of sexual offending predisposes him to engage in future acts of sexually predatory conduct.

Appellee's App. at 6. Additionally, Dr. Lisota diagnosed Mr. Mangelsen with polysubstance dependence, which he stated serves as a disinhibitor of behavior. Id. He stated it "is accepted by experts in the field as a dynamic risk factor for sexual and violent offending behavior." Id. Mr. Mangelsen's polysubstance dependence is in remission, but that is due to the fact that he was in prison prior to the evaluation. Id.

[¶23] Additionally, the combination of psychopathy and a sexual disorder "is known in the profession as the 'deadly duo' because of the high risk it presents for reoffending." In re R.A.S., 2009 ND 101, ¶ 7, 766 N.W.2d 712. Dr. Lisota testified that he administered the psychopathy checklist revised (PCL-R) on Mr. Mangelsen and assigned a score of 31. Tr. at 58. Dr. Lisota stated that a score of 30 or higher is indicative of someone that is psychopathic. Id. Dr. Lisota stated that Mr. Mangelsen possesses more psychopathic traits overall than 93.3% of the forensic psychiatric patients in the normative sample. Id. This score, in combination with his sexual disorder, places him at a high risk to reoffend.

[¶24] The actuarial assessments also indicate Mr. Mangelsen poses a high risk to reoffend. Dr. Lisota administered the MnSOST-R and the Static 99-R. Tr. at 35. Dr. Ertelt completed the Static 99-R and the SRA-FVL. Tr. at 185-187. On the MnSOST-R,

Mr. Mangelsen scored a +10 or +12, both of which are in the high risk category for re-offense. Tr. at 37. Two scores were assigned due to a lack of information for one question. Id. In this category, an individual subject to intensive supervised probation upon release would have a thirty percent likelihood of re-offense. Tr. at 42. However, due to Mr. Mangelsen's failures to comply with supervised probation, his likelihood of re-offense is fifty-four percent. Id.

[¶25] Both Dr. Lisota and Dr. Ertelt administered the Static 99-R testing instrument and arrived at scores of 6 and 5, respectively. Tr. at 47. With regard to translating these scores to Mr. Mangelsen's risk of re-offense, the doctors disagree. Dr. Ertelt used the normative sample, which comprises all of the offenders in the database and provides only a 5-year recidivism rate. Tr. at 48. Dr. Lisota, on the other hand, opined the testing instruments employed are only useful to the extent that one employs the correct norms. Tr. at 51. In other words, "you have to be comparing apples to apples to get the right results." Id. Contrary to Dr. Ertelt's approach, Dr. Lisota compared Mr. Mangelsen to the "high-risk-high-need group" because that sample is specifically for individuals that have been referred for civil commitment. Tr. at 50. In that sample, Mr. Mangelsen poses a predicted 41.9% rate of recidivism at ten years. Id. Dr. Lisota also stated that the research shows that Mr. Mangelsen is at least 3.77 times more likely than the "typical" sex offender to reoffend. Appellant's App. at 8. Dr. Lisota opined Mr. Mangelsen's score distinguishes him from the dangerous, but typical criminal recidivists. Tr. at 50.

[¶26] Merely completing treatment and having few write ups while in prison does not preclude a finding that an individual is "likely to engage in further acts of

sexually predatory conduct.” Whitetail, 2013 ND at ¶ 8. But rather, a personality disorder in conjunction with paraphilia can likely lead an individual to engage in further acts of sexually predatory conduct. Id. at ¶ 3. In Whitetail, the Court also considered a score of 21 on the Psychopathy Checklist-Revised, which indicated a higher risk of re-offense due to the characteristics identified in that testing instrument. Id. at ¶ 9. This Court recognized that completion of the treatment programs at the prison did not lessen his likelihood of reoffending. Id.

[¶27] Similar to Whitetail, Mr. Mangelsen completed low-intensity treatment at the prison. Tr. at 63. However, that does not serve as a protective factor to reduce his risk of reoffense. Id. Dr. Lisota stated it is the predominant view in the field that low-intensity sex offender treatment “does not constitute a protective factor.” Tr. at 63. But rather, Mr. Mangelsen’s sexual and personality disorders, in conjunction with his high psychopathy score and his behavioral control issues since early childhood, indicate his serious difficulty controlling his sexual behavior. Tr. at 65-66.

II. THE DISTRICT COURT DID NOT ORDER MR. MANGELSEN TO SIT IN PERPETUITY. RATHER HE IS ENTITLED TO AN ANNUAL REVIEW HEARING.

[¶28] Mr. Mangelsen alleges in his brief that he has been ordered to “sit in perpetuity and wait for his diagnosis to change.” Appellant’s Br. at 12. An individual subject to civil commitment is entitled to an annual review hearing. N.D.C.C. §25-03.3-18 (1). At this annual review hearing, the State is required to prove, by clear and convincing evidence, that the committed individual remains a sexually dangerous individual. Id. at subd. (4). The district court did not order Mr. Mangelsen to be civilly committed for any time period beyond one year without further court intervention.

[¶29] Mr. Mangelsen also alleges that because the North Dakota State Hospital did not initially refer Mr. Mangelsen for civil commitment, the filing of a civil commitment at this time is in violation of Kansas v. Crane, 534 U.S. 407 (2002). Appellant's Br. at 13-14. Dr. Sullivan at the North Dakota State Hospital completed a paper review of Mr. Mangelsen in 2009 and determined that he should not be brought to the North Dakota State Hospital for a full SDI evaluation. Appellant's App. at 4. Subsequent to that review, Mr. Mangelsen had his probation revoked again and had an additional charge of False Information to Law Enforcement. Tr. at 17. As a result, Mr. Mangelsen has further demonstrated serious difficulty controlling his behavior. Tr. at 70. Dr. Sullivan completed a second paper review in 2012 and recommended Mr. Mangelsen for a full SDI evaluation based on the additional information. Tr. at 17.

[¶30] In Crane, the Court instructs that we are to distinguish a "dangerous sexual offender subject to civil commitment 'from other dangerous persons who are perhaps more properly dealt with exclusively through criminal proceedings.'" Crane, 534 U.S. at 412. We can distinguish a sexually dangerous individual from the typical recidivist by determining if they have "serious difficulty controlling their behavior." Id.

[¶31] Mr. Mangelsen appears to be alleging that because he violated his conditions of probation, the criminal justice system should be the only method by which he should be adjudicated. Appellant's Br. at 13-14. This is not the standard set in Crane. "Neither Kansas v. Crane nor our case law, however, require the conduct evidencing the individual's serious difficulty in controlling his behavior to be sexual in nature." Wolff, 2011 ND at ¶ 7. However, "inability to control behavior' will not be demonstrable with mathematical precision." Crane, 534 U.S. at 413. In fact, "most severely ill people –

even those commonly termed ‘psychopaths’ – retain some ability to control their behavior.” Id. at 412.

[¶32] Mr. Mangelsen’s conduct after the 2009 paper review by Dr. Sullivan indicates further need for treatment prior to transitioning Mr. Mangelsen into the community. Mr. Mangelsen was incarcerated on a probation revocation from June 2009 to February 2010 in the State of Minnesota. Appellee’s App. at 31. He was then placed on probation in Grand Forks, ND. Id. His probation conditions directed that he was not to leave North Dakota or enter Minnesota without permission from his probation officers. Id.

On 2/17/11, the East Grand Forks (MN) Police Department investigated a report that Mr. Mangelsen was at the public library with two females (one of whom looked younger than 16, but both females’ dates of birth placed them at age 18 or above), and was touching one of the females under her coat and clothing ... He was found to be in possession of a letter he had written, seeking a relationship with a female whom he knew had minor children...Mr. Mangelsen told his probation officer at the time he was in the library, he listened to his ‘Little Country Devil’ that told him to forget the fact that he could get in trouble for being there. He thought, ‘I don’t care if I go down’ and he didn’t think anyone could see him touching the female’s thighs.

Id. In addition to this incident, Mr. Mangelsen also failed to comply with his sex offender registration requirements and received a conviction for False Information to Law Enforcement. Id. Lastly, Mr. Mangelsen received a total of 27 Class A write-ups in prison, one of which includes sexual contact with another inmate. Id. As a result, Mr. Mangelsen has demonstrated serious difficulty controlling his behavior since Dr. Sullivan’s evaluation in 2009. Tr. at 70.

CONCLUSION

[¶33] It was not clearly erroneous for the district court to conclude Mr. Mangelsen was a Sexually Dangerous Person pursuant to North Dakota Century Code Chapter 25-03.3. Given the testimony and evidence presented, the State respectfully requests this Court affirm the district court's Memorandum Decision and Order for Commitment of Mr. Mangelsen as a Sexually Dangerous Individual.

DATED this 18th day of September, 2013.



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**IN THE SUPREME COURT
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IN THE MATTER OF:

Sandy Lee Mangelsen,

RESPONDENT AND APPELLANT

) District Court No. 18-2012-MH-00150
) Supreme Court No. 20130155
)
)
)

AFFIDAVIT OF SERVICE

BY E-MAIL

SA# 122283

STATE OF NORTH DAKOTA)
) SS
COUNTY OF GRAND FORKS)

The undersigned, being of legal age, being first duly sworn deposes and says that on the ___ day of September, 2013, she served true copies of the following documents:

**Brief of Appellee
Appendix of Appellee**

electronically through the Court Electronic Filing System to:

Tyler J. Morrow
Attorney at Law
311 North 3rd Street, Suite 300
Grand Forks, ND 58203
tyler@ralawfirms.com



States Attorney's Office

Subscribed and sworn to before me this 10th day of September, 2013.



Notary Public

ch



**IN THE SUPREME COURT
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In the Matter of Sandy Lee Mangelsen,

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Grand Forks County State's Attorney,)	Supreme Court No. 20130155
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Respondent and Appellant,)	

AFFIDAVIT OF SERVICE
BY E-MAIL
SA# 122283

STATE OF NORTH DAKOTA)
) SS
COUNTY OF GRAND FORKS)

The undersigned, being of legal age, being first duly sworn deposes and says that on the 24 day of September, 2013, she served true copies of the following documents:

**Brief of Appellee
Appendix of Appellee**

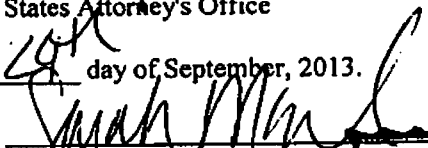
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Tyler J. Morrow
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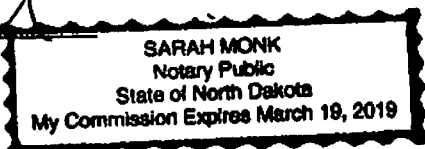


States Attorney's Office

Subscribed and sworn to before me this 24th day of September, 2013.



Notary Public



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