IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

THE STATE OF OKLAHOMA,

Plaintiff/Appellee,

vs.

STEPHANIE ANN SNOW,

Defendant/Appellant.

Case No. 121,878

APPEAL FROM THE DISTRICT COURT OF
CHEROKEE COUNTY, OKLAHOMA

HONORABLE DOUGLAS KIRKLEY, DISTRICT JUDGE

REVERSED AND REMANDED

Katie A. Wilmes
Randall Young
ASSISTANT ATTORNEYS GENERAL
Oklahoma City, Oklahoma — For Plaintiff/Appellee

Kevin D. Adams
Tulsa, Oklahoma — For Defendant/Appellant

OPINION BY GREGORY C. BLACKWELL, JUDGE:

After her indictment for murder, Stephanie Ann Snow was found not guilty by reason of mental impairment. Per statute, she was committed to state custody for an evaluation of whether she must remain in state custody, could be conditionally released, or must be unconditionally released. The trial court found that the evidence supported only a conditional release. Fundamental to the trial court's order is its finding that Ms. Snow "is in need of continued supervision as

a result of ... a history of treatment noncompliance." Because this finding does not have any support in the record, we reverse and remand for further proceedings consistent with this opinion.

BACKGROUND

Ms. Snow was arrested for the murder of Rick Arnold on October 11, 2020. She was ordered to be held without bond. She was later formally charged by felony information with first-degree murder. Ms. Snow was initially found incompetent to stand trial and was committed to the custody of the Oklahoma Forensic Center (OFC). However, in May 2022, Ms. Snow was found to have regained her competence and could proceed to trial. The court also granted Ms. Snow's motion to set bond, subject to following conditions, among others: that she live with her mother, that she have GPS monitoring, that she maintain her medication, and that she otherwise comply with treatment.

On September 7, 2023, the parties stipulated to the entry of judgment finding Ms. Snow not guilty by reason of mental impairment. As required by 22 O.S. § 1161(B)(1)-(2), Ms. Snow was again committed to OFC for an evaluation of whether she was dangerous to the public peace or safety (which would require continued state custody) or if she needed continued supervision as a result of unresolved symptoms of mental illness or a history of treatment noncompliance (which would allow for conditional release). While at OFC, Ms. Snow was evaluated by Dr. Scott Orth and Dr. Satwant Tandon.

On December 7, 2023, an evidentiary hearing was conducted and both Dr. Orth and Dr. Tandon testified. Both of their written reports were submitted to

the court for review. At the conclusion of the hearing the court found that, although Ms. Snow was not dangerous to the public peace or safety, she was in need of continued supervision due to a history of treatment noncompliance. On December 14, 2023, the court issued an order authorizing Ms. Snow's conditional release from the OFC provided that she complied with the conditions set forth in the agreed conditional release plan created by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS). Ms. Snow appeals the court's determination that she needed continued supervision because of history of treatment noncompliance.[1]

STANDARD OF REVIEW

While our research does not reveal any cases stating the proper standard of review of the trial court's decision in this context, we find that the trial court effectively holds a non-jury trial of 22 O.S. § 1161 issues. Where the trial court sits as the trier of fact, "the court's findings are entitled to the same weight and consideration that would be given to a jury's verdict." *Soldan v. Stone Video*, 1999 OK 66, ¶ 6, 988 P.2d 1268, 1269. "The trial court's findings will not be disturbed for insufficient evidence if there is any competent evidence—including reasonable inferences deraigned by the same—to support them." *Id.*[2]

---

[1] We have jurisdiction to review this once criminal matter. *See Parsons v. Dist. Court of Pushmataha Cnty.*, 2017 OK 97, ¶ 14-22, 408 P.3d 586 (finding civil appellate jurisdiction of issues presented under 22 O.S. § 1161).

[2] The state suggests, citing *Harris v. Okla. Cty. Dist. Ct.*, 1988 OK CR 26, 750 P.2d 1129, that abuse of discretion is the proper standard of review. However, *Harris* concerned a review of an order of vacation pursuant to 12 O.S. § 1031. *Id.* ¶ 4, 1131. Although such orders are routinely reviewed for an abuse of discretion, no such order was entered here. When an appellant is challenging the sufficiency of evidence of an order made under 22 O.S. § 1161, we find the any-competent-evidence standard to be correct.

ANALYSIS

According to 22. O.S. § 1161(A)(5), when a defendant is acquitted on the ground that she was mentally ill at the time the crime was committed, the defendant "shall not be discharged from custody until the court has made a determination that the person is not dangerous to the public peace and safety and is a person requiring treatment." To assist the court in that determination, the statute also provides that the court must immediately issue an order for the former defendant to be examined by ODMHSAS at a designated facility. *Id.* During the now former defendant's required period of custody, ODMHSAS must have the individual examined by "two qualified psychiatrists or one such psychiatrist and one qualified clinical psychologist whose training and experience enable the professional to form expert opinions regarding mental illness, competency, dangerousness and criminal responsibility." *Id.* § 1161(B)(2). Within forty-five days of the court's order, the court shall then conduct a hearing "to ascertain whether the person is dangerous to the public peace or safety because the person is a person requiring treatment or, if not, is in need of continued supervision as a result of unresolved symptoms of mental illness or a history of treatment noncompliance." *Id.* The district attorney must establish the foregoing by a preponderance of the evidence. *Id.* § 1161(C)(3)(b). Based on the record before us on appeal and the briefs of the parties, it appears that the court complied with all of the necessary procedural requirements listed above. At the conclusion of the hearing, the trial court found that Ms. Snow was not "dangerous to the public peace or safety because the person is a person

requiring treatment."[3] However, the court did find that she was "in need of continued supervision as a result of ... a history of treatment noncompliance."

The only issue raised by Ms. Snow on appeal is whether the there was sufficient evidence in the record for the court to have found that she had a history of treatment noncompliance.[4] Upon review, we find that the state did not prove that she has a history of noncompliance by a preponderance of the evidence, as both experts consistently testified and reported that she did not have a history of treatment noncompliance and opined that she had been compliant with her medication regimen for over a year.

Dr. Scott explicitly testified on direct examination that Ms. Snow does not have the historical factors of treatment noncompliance. Tr. (December 7, 2024) 18. He added "the statutes are asking are these factors present, and in my opinion, they are not, so per the statutes she does not meet criteria for either, in my opinion, continued supervision or placement within our facility. She didn't meet those statutory requirements." *Id.* at 19. Later, Dr. Scott was directly asked on cross examination by Ms. Snow's counsel: "[I]n your expert opinion she has no history of treatment noncompliance?" *Id.* at 22. Dr. Scott replied: "She has no known, either by her self-report or anything that's ever been documented in any medical record indicating she's been treatment noncompliant." *Id.* Dr. Scott also

---

[3] Both "dangerous" and "person requiring treatment" are defined terms. 22 O.S. § 1161(H).

[4] Neither party disputed that both experts already made findings that Ms. Snow was not dangerous to the public peace or safety. *See* Tr. (Dec. 7, 2023), 5; *Defendant's Exhibit 1*, pg. 5; *Defendant's Exhibit 2*, pg. 7. Rather, according to the state, the purpose of the hearing was to seek clarification regarding the expert's conclusions on whether Ms. Snow had unresolved symptoms of mental illness or a history of noncompliance. Tr. (Dec. 7, 2023), 5.

testified that during the time Ms. Snow was out on bail that "she did not come back under the radar of the mental health system, didn't run a foul of whatever her requirements were of her bond." *Id.* at 12. He added that whatever her treating physician had prescribed her was sufficient to allow her to function within the community. *Id.*

Dr. Scott's report also reflected that Ms. Snow does not have a history of treatment noncompliance. For example, in his report, he writes: "I am unaware of any records or any report of Ms. Snow ever having previously been treatment noncompliant." *Defendant's Exhibit 2*, pg. 4. He affirmatively added that Ms. Snow does not have a known history of treatment noncompliance and that statutorily, in his opinion, Ms. Snow was appropriate for discharge from ODMHSAS. *Id.* at 7.

Dr. Tandon also explicitly testified that Ms. Snow "does not have a history of noncompliance" and added that whenever her medication has changed it was always through direction of her physician. *Id.* at 32. In her report, she wrote that she had received a note from Zachary Crossett, M.D., at Siloam Springs Internal Medicine on September 8, 2023. *Defendant's Exhibit 1*, pg. 3. The letter indicated that Dr. Crossett had been treating Ms. Snow for "the past year" and that "she has been compliant with all of her medication." *Id.* He added that Ms. Snow was doing well on her current medication regimen. *Id.*

On appeal, the state points out that Dr. Tandon testified about Ms. Snow's prior substance abuse. Dr. Tandon was asked by counsel if she would "agree that the addiction and the use of illegal drugs in the past would be an example

of treatment noncompliance." Tr. (December 7, 2023), 35. Dr. Tandon replied, "I'm not really sure if we could define that, but substance use is already classified under that." *Id.* Dr. Tandon added that Ms. Snow was in an accident in 2006 and as a result, she was prescribed opiates and eventually became dependent upon them until she needed rehab. *Id.* at 35-36. Dr. Tandon clarified Ms. Snow has been clean from opiates since 2016. *Id.* at 36. In her report, Dr. Tandon also mentioned that Ms. Snow is in "remission" from methamphetamine use and at trial she testified that Ms. Snow had a "history of methamphetamine problems."[5] *Id.* at 34; *Defendant's Exhibit 1*, pg. 3.

Although Dr. Tandon opined that substance abuse can be classified as treatment noncompliance, the evidence presented here about Ms. Snow's prior opiate and methamphetamine use was not enough to constitute a history of treatment noncompliance by a preponderance of the evidence. First, both experts knew about her history with substance abuse and even they did not determine there was a history of noncompliance after conducting psychological evaluations, conducting interviews with Ms. Snow, and reviewing her entire medical history.

Second, as to the methamphetamine use, we find that illicit drug use can logically only be considered "treatment noncompliance" if it occurs at a time when a person is undergoing treatment. But, as noted, there was a complete absence of evidence that Ms. Snow was undergoing treatment at the time she was abusing methamphetamine. Certainly, there is nothing in this record to

---

[5] It appears the methamphetamine use occurred in 2020. *See Defendant's Exhibit 2*, pg. 2.

suggest that on the date of the homicide in question Ms. Snow was receiving any kind of treatment. Her treatment, as relevant to this case, did not begin until she entered state custody after the homicide. Accordingly, her abuse of methamphetamine prior to that time cannot be treatment noncompliance.

Finally, while not directly on point, we find *Parsons v. Dist. Court of Pushmataha Cnty.*, 2017 OK 97, 408 P.3d 586, consistent with our reading. In that case, the reviewing forensic psychologist of former defendant Parsons found:

> In reviewing his history, periods of medication non-compliance, including not taking medications at all and not taking them as prescribed, appear to increase his risk for leaving his home unexpectedly and/or making a suicide attempt. Based on this history, Mr. Parsons does appear to be a person who 'is in need of continued supervision as a result of ... a history of treatment noncompliance.'

Id. ¶ 4, 591. The expert based this opinion on "all relevant court and medical records; conducted several personal interviews with Parsons; interviewed Parsons's wife; consulted Parsons's treating psychiatrist; ... and independently conducted psychological tests on Parsons." *Id.* We note that both doctors in this case also interviewed Ms. Snow, spoke with her treating physician, conducted independent psychological tests on Ms. Snow. However, none of the interviews, conversations, medical records, or letters from her current treating physician led either expert to opine that there was a history of treatment noncompliance. Further, we note that Parsons apparently had periods of time in which he was not taking his prescribed medication or was not using it as prescribed. No such evidence was presented regarding Ms. Snow. In fact, according to both experts

Ms. Snow has been compliant with her prescribed medication regimen during the entire history of this case.

It appears that the court reached its decision that there was a history of noncompliance because both experts had personal reservations about Ms. Snow being released without continued supervision. For example, the court stated:

> I've heard the evidence and both reports are—it's interesting, both of them talk about not being dangerous, but both of them talk about conditional release, they just don't use those words. Even in the testimony with Dr. Tandon she's like she needs supervision. And that equivocal statement is giving me pause to say that [the prosecutor] is right, there is a history of treatment noncompliance.

Id. at 45. The statement of Dr. Tandon referred to by the court occurred when she was asked by counsel if she thought it would be beneficial to the public if Ms. Snow stayed under the supervision of the Forensic Board. *Id.* at 28. Dr. Tandon answered: "Even though, with the findings, the statute does not require [sic], but as a treatment provider I do agree that she should be under some kind of monitoring." *Id.* Thus, it appears the court found that based on Dr. Tandon's extra-statutory suggestion for continued monitoring and reservations about discharge, there was treatment noncompliance. However, even Dr. Tandon testified that in recommending continued supervision she was merely rendering her opinion as a doctor and that it was not based on the statute. *Id.* at 35.

Upon careful review of the entire record, we find that the there was a complete absence of evidence of a history of treatment noncompliance within the meaning of the relevant statute. The trial court's order, which was entirely

dependent on this finding,[6] is thus reversed and the matter is remanded for further proceedings consistent with this opinion. Although the trial court is not required to hold a new hearing as a result of this remand, consistent with *Parsons*, "given the passage of time," we remand to allow the state the opportunity to introduce relevant *new* evidence, if any. *Id.* ¶ 27.

REVERSED AND REMANDED.

HIXON, J., concurs, and HUBER, P.J., dissents.

HUBER, P.J., dissenting:

I respectfully dissent. The appellate record establishes that Ms. Snow had a history of drug addiction, in-patient treatment in 2017, and several subsequent incidents of relapse. It was during a relapse of methamphetamine use in 2020 that Ms. Snow shot and killed Rick Arnold. The appellate record also established that prior to this 2020 relapse, Ms. Snow was arrested for possession of methamphetamine in 2020 and received a deferred sentence. Her history of continued drug use after in-patient treatment for drug abuse, coupled with her subsequent arrest and probation for methamphetamine use was sufficient to establish a "history of treatment noncompliance" by a preponderance of the evidence. I would find there is competent evidence to support the trial court's

[6] The state also asks us to affirm the trial court because the evidence could have supported a finding that Ms. Snow was experiencing "unresolved symptoms of mental illness." *Answer Brief*, pgs. 16-17. We find the record supports the trial court's decision not to make such a finding, and thereby decline the state's request.

finding that Ms. Snow needed continued supervision because of a history of treatment noncompliance and, therefore, affirm the trial court's determination.

November 21, 2024