

United States Court of Appeals
For the Eighth Circuit

No. 20-1092

United States of America

Plaintiff - Appellee

v.

John Axelgard

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: July 7, 2020

Filed: July 13, 2020

[Unpublished]

Before KELLY, ERICKSON, and STRAS, Circuit Judges.

PER CURIAM.

The district court¹ ordered John Axelgard involuntarily committed based on a “mental disease or defect.” 18 U.S.C. § 4246 (authorizing commitment when

¹The Honorable M. Douglas Harpool, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the

releasing a person who suffers from a “mental disease or defect” would “create a substantial risk of bodily injury . . . or serious damage to property”). On appeal, Axelgard’s counsel requests permission to withdraw and challenges the factual findings underlying the court’s commitment decision. Axelgard seeks unconditional release in a pro se supplemental brief and requests new counsel.

We conclude that the district court’s factual findings were not clearly erroneous. *See* 18 U.S.C. § 4246(d) (stating that a clear-and-convincing-evidence standard applies in this type of commitment proceeding); *United States v. Williams*, 299 F.3d 673, 676 (8th Cir. 2002) (discussing the standard of review on appeal). Evidence in the record, including several expert opinions, established that Axelgard has a mental illness, that his dangerous behavior is related to it, and that he would likely discontinue treatment if he were released. *See United States v. Ecker*, 30 F.3d 966, 970 (8th Cir. 1994). Accordingly, we affirm the judgment, *see* 8th Cir. R. 47B, deny Axelgard’s motion for new counsel, and grant counsel’s motion to withdraw.

Honorable David P. Rush, United States Magistrate Judge for the Western District of Missouri.