

MARK I. GESSNER

v.

STATE OF MAINE

Submitted on Briefs June 20, 2024  
Decided July 2, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, LAWRENCE, and DOUGLAS, JJ.

## MEMORANDUM OF DECISION

Mark I. Gessner appeals from a judgment of the Superior Court (Kennebec County, *Mallonee, J.*) denying his petition for release from the Department of Health and Human Services' custody following his 2011 commitment as a result of his being found not criminally responsible on a criminal charge. 15 M.R.S. 104-A(1) (2024). Gessner contends that the trial court erred as a matter of law by "relying on [Gessner's] aggregate record of nearly thirty years," and argues further that the court failed to address the question before the court—whether Gessner currently satisfies the criteria for discharge.

Contrary to Gessner's contention, the trial court did not err in reaching its judgment on the petition for release after considering the previous records reflecting his mental illness as well as records and testimony reflecting more current observations. *See* 15 M.R.S. 104-A(1); *Begin v. State*, 2018 ME 69, ¶ 3 n.1, 186 A.3d 128.

Although the court did not attempt to "resolve every clinical anomaly in the record," it nevertheless concluded that Gessner failed—upon this record—

to meet his burden to establish by clear and convincing evidence that he may be discharged without likelihood that he will cause injury to himself or others due to a qualifying disease. *See generally Taylor v. Comm’r of Mental Health and Mental Retardation*, 481 A.2d 139 (Me. 1984). Construing all allowable inferences in the record in the light most favorable to the trial court’s denial of Gessner’s petition, we conclude that the court was not compelled to find in Gessner’s favor. *See Begin v. State*, 2016 ME 186, ¶¶ 8-9, 12, 153 A.3d 93.

The entry is:

Judgment affirmed.

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Maeghan Maloney, District Attorney, and Carie James, Asst. Dist. Atty.,  
Prosecutorial District IV, Augusta, for appellee State of Maine