

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 20-1092

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United States of America

*Plaintiff - Appellee*

v.

John Axelgard

*Defendant - Appellant*

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

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Submitted: July 7, 2020

Filed: July 13, 2020

[Unpublished]

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Before KELLY, ERICKSON, and STRAS, Circuit Judges.

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PER CURIAM.

The district court<sup>1</sup> ordered John Axelgard involuntarily committed based on a “mental disease or defect.” 18 U.S.C. § 4246 (authorizing commitment when

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<sup>1</sup>The 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.

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