

Sep 05 2024

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

80 Court of Appeals

In Re: The Care and Treatment of George Roman Pierson,
Respondent.

Civil Action No. 2023CP3600120

ORDER ON POST-TRIAL MOTIONS

FILED
NEWBERRY COUNTY
2024 SEP 23 AM 10:02
ELIZABETH P. FOLK
CLERK OF COURT

A jury trial on a sexually violent predator case was conducted during the January 8, 2024 term, and the jury unanimously determined beyond a reasonable doubt that the Respondent qualifies as a sexually violent predator. The Respondent's attorney filed a post-trial motion seeking judgment notwithstanding the verdict (JNOV), a new trial, and a new trial under the thirteenth juror doctrine.¹ The motions are respectfully denied.

The Respondent asserts that JNOV or a new trial should be granted because of alleged inconsistencies within the testimony of the State's expert, Dr. Christopher Gillen. Dr. Gillen determined that The State presented the testimony of Dr. Christopher Gillen in support of its position that the Respondent suffers from anti-social personality disorder and meets the statutory definition for a sexually violent predator, and that the Respondent should be required to be held for long-term care and treatment. No testimony was presented by the Respondent.

WPA #1

The Respondent focuses on alleged inconsistency. Specifically, the language relied upon comes from a report issued by Dr. Gillen. Respondent maintains this was read into evidence:

Of note, there is a question whether [Respondent's] personality disorder predisposes [Respondent] to engage in acts of sexual violence, as defined by the statute, and not just other illegal or problematic sexual behaviors (i.e., exhibitionism). Mr. Pierson committed one sexually violent offense in 2004 and his behaviors since then, while problematic, was [sic] not sexually violent. Further, he has not committed any sexually violent offenses despite being released to the community and exposed to risks for various amounts of time since his release from his only sexually violent offense in 2011.

¹ The attorneys agreed to have the court determine this motion using written submissions. Various efforts were made to arrange for a hearing, but the initial and ultimate agreement was that no formal hearing was needed.

Dr. Gillen testified extensively about how his diagnosis and findings are based upon looking at the entirety of the evidence. He testified that the evidence before him included Respondent's qualifying sexually violent conviction from 2004 and his on-going, other non-qualifying sexual offenses committed in and out of prison. It is undisputed that after Respondent was released from prison on the qualifying offense conviction, he went on to commit other sexual offenses that put him back in prison where he continued to commit various sexual infractions while incarcerated. Based on all the information Dr. Gillen reviewed for the evaluation, he concluded Respondent's anti-social personality disorder is a mental condition that affects his emotional and volitional capacity to engage in acts of sexual violence and predisposes him to engage in such behavior in the future.

Even if there was a material inconsistency in one aspect of the doctor's analysis, which the court does not find, Dr. Gillen's testimony viewed as a whole was more than sufficient to justify the jury's finding. Dr. Gillen testified that he holds a doctoral degree in clinical psychology, that he has trained and supervised practitioners in this field, specifically related to SVP, since 2020, and that he has been licensed in South Carolina since 2020. He was qualified as an expert, without objection.

His testimony was that he conducted interviews of the Respondent over a two-day period for a total of eight hours. He considered the records, as well as interviews with the Respondent's mother and aunt. Dr. Gillen stated that the Respondent was reared primarily by his mother, that he was involved with the Department of Juvenile Justice (DJJ) when he was fourteen to fifteen years of age, that he lived with his cousin at age sixteen, and that he was sexually abused as a child.

Mr. Pierson indicated that he started using marijuana at around the age of the Respondent. He has been treated for alcohol abuse, but did not find it effective.

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WPK
#2

Mr. Pierson's mother had a history of mental health issues and, at times, the Respondent had to live with other people. His aunt, Rita Jones, indicated that the Respondent's family members suffered from schizophrenia and personality disorders. Concerning the diagnosis of the Respondent as having anti-social personality disorder. He described the diagnosis as requiring a finding of flagrant disregard for others starting before age fifteen. Dr. Gillen cited the Respondent's aggression towards teachers, his destruction of property by breaking windows and keying cars, and thefts beginning around age eight.

The Respondent became involved with DJJ for truancy, contempt of court, and possession of a weapon on school grounds. He was suspended from school. He did not graduate from high school, nor did he obtain his GED.

WPK
#3
According to Dr. Gillen, the Respondent indicated that he had a brain syndrome disorder, but the doctor found no records stating that diagnosis. The Respondent told Dr. Gillen that he suffered two head injuries. He said that he was struck in the head with a tire iron related to the sexual contact that he had with a minor.

Dr. Gillen testified that the Respondent has a history of having difficulty retaining relationships. It was asserted that the Respondent referred to women as trash and said that he does not want a long-term relationship. There are indications of cruelty to women. The Respondent discussed treating a woman as a dog in an effort to toughen her up. He said that he is not into sado-masochistic behavior, but thinks that a lot of women like it and sometimes it is necessary to engage in it to see if the woman wants to participate in it. He has tried to pay women for sex. He stated that he masturbates multiple times each day (four to five times per day). He discussed the excitement of exposing his penis.

The Respondent has had difficulty maintaining employment. He has had a number of jobs, with the longest period of employment in any given job being six months. There is an indication

that he threatened to kill a co-worker. There is also evidence that he exposed himself and masturbated at a job site, which the doctor found to be significant because it was an act that was sexual in nature, committed in an area where it was likely to be known, and demonstrated a lack of impulse control. While in the South Carolina Department of Corrections (SCDC), he was terminated from several of the jobs he undertook. He had six writeups for sexual misconduct in SCDC. Mr. Pierson expressed that he felt that he was targeted by SCDC officials.

The exposure of his penis and masturbation in front of a co-worker occurred in April of 2021. Mr. Pierson stated that he waited for others to leave the area where the female was located because he wanted to expose himself to her and masterbate. He said that he gets random erections and thought that the female would help. After he was arrested for indecent exposure, he was released on bond but reoffended in October of 2021. Dr. Gillen found that important because the Respondent engaged in sexual behavior while out on bond. The doctors stated that fact demonstrates his inability to control sexual urges. Dr. Gillen described the Respondent's sexual impulsivity to be severe.

WPA
#4

The Repondent went to a neighbor's home and made sexual comments to a sixteen-year-old who told him to leave. Instead, he followed her to her room and exposed himself to try to start what he deemed to be a consensual sexual relationship. He left only after being told to leave for the third time.

Dr. Gillen also testified about non-sexual offenses that Mr. Pierson committed as an adult, also indicating a lack of impulse control. He was arrested for pointing a firearm, possession of a firearm by a felon, and drug offenses. He violated probation three times. He violated the requirement to register as a sex offender three times. According to Dr. Gillen, this is evidence that the Respondent has difficulty following conditions of community supervision.

Dr. Gillen stated that Mr. Pierson said that he would murder every police officer if confined. Tests performed on the Respondent showed a high score for aggression.

Dr. Gillen did not find the Respondent to be psychotic or schizophrenic. The reports of psychotic symptoms, such as seeing and hearing things that were not real, appear to have been part of his effort to get moved out of various placements. Dr. Gillen felt that the behavior would stop when he got moved out of the placements and started again only when he got put somewhere that he did not want to be. So, the doctor evaluated the reporting of psychotic or schizophrenic behaviors as being inconsistent and not reliable.

Dr. Gillen found the Respondent's anti-social personality disorder to be demonstrated in his lack of impulse control, which the doctor found to be longstanding and inflexible. It was stated to distort his perceptions and to affect other people.

WPK
HS
With regard to the offense for which the Respondent was incarcerated, the defendant stated that he was at the home of the child's mother and was babysitting. He said that the girl did not want to go to sleep and that he woke up to find his niece masturbating him and then herself. He did admit masterbating in front of the child. However, the police report stated that he removed the child's clothes, performed digital penetration of the child's vagina, and masterbated.

When questioned about the impact upon the child, he expressed that his conduct did have an impact on the child, but that the incident had also had a adverse impact upon him. He focused on himself as suffering from legal difficulties, an impact upon his profession, and the negative effects upon family relationships.

Dr. Gillen testified about various tests that were performed and the criteria necessary to conclude that the Respondent suffers from anti-social personality disorder. The DSM IV lists seven criteria for this diagnosis, at least three of which must be met. Dr. Gillen found the Respondent to

have five, including the failure to conform to social norms with respect to lawful behavior, impulsivity, aggressiveness, reckless disregard for the safety of others, and lack of remorse.

A risk assessment test was conducted. This was described as being one piece of the puzzle in determining the qualification as a sexually violent predator needing long-term care and treatment. Mr. Pierson's score falls into the category of posing a well above average risk. There was testimony to explain the doctor's evaluation of static risk factors and dynamic risk factors. The discussion regarding dynamic risk factors included what the doctor found to be severe difficulty in controlling his sexual offenses, his deceit, lack of remorse, failure to follow rules, impulsivity, and lack of community and professional support. Dr. Gillen found that the Respondent engages in cognitive distortions resulting in inaccurate beliefs about his sexual interactions. He was found not to take things seriously, not to have any concrete plans or the skills necessary to address treatment needs on his own, not to have sufficient insight into various issues, and a belief that treatment would make things worse.

WPC
#6

In all, the doctor assessed eleven factors in this part of his assessment of the Respondent's overall risk to reoffend, both in a five-year period and over his lifetime. His conclusion is that Mr. Pierson is likely to reoffend and meets the criteria for determining him to be a sexually violent predator under the statute who requires longterm care and treatment.

The Respondent's argument related to alleged inconsistency in the doctor's testimony is that the court should grant judgment for the Respondent as a matter of law. That argument is not supported by the totality of the record. The court declines to enter JNOV.

With regard to the Respondent's assertion that a new trial should be granted based on the jury failing to take the case seriously and rendered a decision without proper deliberation, the verdict came after somewhere between fifteen and eighteen minutes of deliberation. The fact that the jury had a copy of the charge is not controlling because the charge was read to them in open

court and on the record, and there is no support for the position that the jury failed to follow the instructions. The evidence in this case was overwhelmingly against the Respondent. The jury was acting within its provence in determining the amount of time necessary for deliberations. The motion for new trial on these grounds is denied.

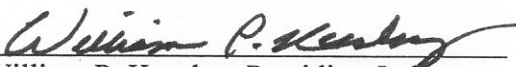
Finally, the Respondent asks the court to act as the thirteenth juror and essentially deadlock the jury, preventing a verdict and requiring a new trial. For all the reasons stated above, the court declines to do so.

To the extent that there is mention in the Respondent's motion about a new trial nisi, the court finds no basis in this context for such relief.

THEREFORE, IT IS ORDERED that the post-trial motions filed by the Respondent are respectfully denied, and the verdict of the jury is upheld.

AND IT IS SO ORDERED.

#7


William P. Keesley, Presiding Judge

August 20, 2024

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ELIZABETH P. FOLK
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