

Oct 07 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE MATTER OF THE CARE AND)
TREATMENT OF)

BENJAMIN HEYWARD,)

RESPONDENT.)

IN THE COURT OF COMMON PLEAS)
NINTH JUDICIAL CIRCUIT)

CASE NO. 2023-CP-10-05097)

ORDER OF VOLUNTARY)
COMMITMENT)

2024 SEP 3 11:10:31
CLERK OF COURT
COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CHARLESTON, SC

This case was brought pursuant to the Sexually Violent Predator Act ("SVPA"), S.C. Code Ann. §§ 44-48-10, *et seq.* By consent of the parties, a hearing was held on September 3, 2024. The Respondent, Benjamin Heyward, was present and represented by Nancy C. Fennell, Esquire. The State was represented by Assistant Attorney General Christopher Runyan.

Following a probable cause hearing held on February 13, 2024, the Court found probable cause exists that Respondent is a sexually violent predator and ordered Respondent to submit to a mental evaluation. Dr. Christopher Gillen, Ph.D., of the South Carolina Department of Mental Health ("DMH") was appointed to evaluate Respondent. Dr. Gillen issued a report on July 25, 2024, finding Respondent meets the criteria for civil commitment and recommended he be confined in a secure facility for long-term control, care, and treatment pursuant to the SVPA.

The parties stipulated to the findings of Dr. Gillen and the State introduced into evidence a copy of Dr. Gillen's evaluation and the indictments and sentencing sheets for Respondent's qualifying convictions in Charleston County, which include: 1 count of Assault with Intent to Commit Criminal Sexual Conduct – Second Degree.

The Respondent, through his counsel, has advised the Court he wishes to waive his rights as stated below, will not contest, and consents to his designation as a sexually violent predator pursuant to the SVPA. Respondent also, through counsel, consents to the use of the evaluation prepared by Dr. Gillen dated July 25, 2024, as evidence of his current mental abnormality, personality disorder, and risk evaluation for purposes of committing him for long term control, care, and treatment. The report is hereby entered into evidence for purposes of Respondent's commitment. The report is to be sealed pursuant to S.C. Code Ann. Section 44-48-150.

The Court determined from the Respondent that he has freely, voluntarily, intelligently, and without coercion waived his rights, including but not limited to, the right to a jury trial, the right to present evidence and the right to cross-examine witnesses, and consented to be committed to long-term control, care, confinement, and treatment at the Department of Mental Health pursuant to the SVPA.

The Court further verified from the Respondent that he was making this decision after consultation with his attorney, and that he was satisfied with the representation of his attorney.

The Court further verified from the Respondent that he was not under the influence of alcohol or drugs at this time, nor did he suffer from any other impairment that might prevent him from understanding his rights and these proceedings.

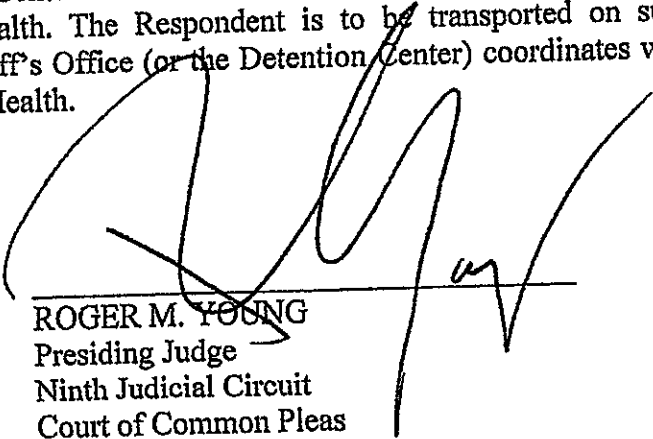
The Court, having heard the presentation of the State's evidence and the statements of the Respondent and his counsel, makes the following findings of fact and conclusions of law pursuant to S.C. Code Ann. §§ 44-48-10, *et seq.*:

1. This Court has jurisdiction of this matter and can determine the merits of the State's case;
2. Respondent freely, voluntarily, intelligently, and without coercion has waived his rights as set forth herein and consented to commitment in the custody of the South Carolina Department of Mental Health for long term control, care, and treatment pursuant to the SVPA;
3. The State has proven beyond a reasonable doubt that Respondent is a sexually violent predator, as the term is defined in S.C. Code Ann. § 44-48-30 of the SVPA; and
4. Respondent should be committed to the Department of Mental Health for his long-term control, care, and treatment pursuant to S.C. Code Ann. §§ 44-48-10, *et seq.*

NOW THEREFORE IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Respondent, Benjamin Heyward, is committed to the Department of Mental Health for his long-term control, care, and treatment; and
2. Respondent, Benjamin Heyward, shall remain detained in the Charleston County Detention Center. Respondent shall be transported by the Sheriff of Charleston County or the Detention Center to the secure facility of the South Carolina Department of Mental Health. The Respondent is to be transported on such scheduled date as the Sheriff's Office (or the Detention Center) coordinates with the Department of Mental Health.

AND IT IS SO ORDERED.



ROGER M. YOUNG
Presiding Judge
Ninth Judicial Circuit
Court of Common Pleas

September 3, 2024
Charleston, South Carolina