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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable William P. Keesley, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF GEORGE ROMAN PIERSON,

APPELLANT

APPELLATE CASE NO. 2024-001488

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err by denying Appellant's motion for a directed verdict when the state failed to present sufficient evidence Appellant is a sexually violent predator?

STATEMENT OF THE CASE

The state filed a petition seeking to involuntarily commit Appellant pursuant to the Sexually Violent Predator Act (SVPA). The case was called to trial on January 8, 2024, before the Honorable William Keesley, and a jury. R. 1. Assistant Attorney General James Fisher represented the state. Michael Gambrell represented Appellant. R. 2.

On January 9, 2024, the jury found Appellant is a sexually violent predator. R. 267, ll. 2-12. Judge Keesley ordered Appellant be committed to the Department of Mental Health for long term control, care, and treatment. R. 273.

On January 19, 2024, Appellant filed a Motion for a Judgment Notwithstanding the Verdict, or Alternatively, for a New Trial. R. 274-276. The state filed a return to this motion on May 16, 2024. R. 277-281. By order filed August 23, 2024, Judge Keesley denied the motion. R. 282-288.

This appeal follows.

STANDARD OF REVIEW

“On appeal from the denial of a defendant’s directed verdict motion, the appellate court may only reverse the trial court if there is no evidence to support the trial court’s ruling.” In re Taft, 413 S.C. 16, 21-22, 774 S.E.2d 462, 465 (2015) (citing In re Matthews, 345 S.C. 638, 646, 550 S.E.2d 311, 315 (2001)). “In considering a directed verdict motion, the trial court is concerned with the existence or nonexistence of evidence, not its weight.” Id. at 22, 774 S.E.2d at 465 (citing State v. Cherry, 361 S.C. 588, 593, 606 S.E.2d 475, 477-78 (2004)). “A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged.” Id. (quoting State v. McKnight, 352 S.C. 635, 642, 576 S.E.2d 168, 171 (2003)).

ARGUMENT

The trial court erred by denying Appellant's motion for a directed verdict when the state failed to present sufficient evidence Appellant is a sexually violent predator.

Relevant Facts

Dr. Christopher Gillen with the Office of Mental Health was court appointed to evaluate Appellant. Dr. Gillen was qualified as an expert in forensic psychology. R. 98, l. 25 – 99, l. 5.

Dr. Gillen testified that Appellant was convicted of lewd act on a child for conduct that occurred in 2004 when Appellant was eighteen years old. R. 125, l. 25 – 128, l. 25. This is Appellant's only conviction for a sexually violent offense. After pleading guilty, Appellant was sentenced to fifteen years suspended upon the service of ten years imprisonment and five years' probation. R. 270.

After Appellant was released from incarceration, he was found in violation of the conditions of his probation on three occasions. He was also convicted of failing to register as a sex offender three times and possession of a firearm and ammunition by a convicted felon. R. 135, l. 20 – 138, l. 17; R. 213, l. 2 – 214, l. 4. In April 2021, Appellant was charged with indecent exposure after he exposed his penis and masturbated in view of a female coworker. Appellant was arrested again for indecent exposure in October 2021 for exposing his penis to a sixteen year old female at a neighbor's house. R. 130, l. 11 – 134, l. 15. Appellant pled guilty to one count of indecent exposure for the conduct that occurred in October 2021. However, the other indecent exposure charge was dismissed. Notably, indecent exposure is not classified as a sexually violent offense. R. 216, l. 24 – 217, l. 8.

During his various periods of incarceration in the Department of Corrections, Appellant was charged with twenty-eight disciplinary infractions, six of which involved sexual misconduct.

More specifically, Appellant allegedly exposed his penis when he knew certain individuals would be present. R. 140, l. 10 – 141, l. 24.

After interviewing Appellant, reviewing his case file, and conducting collateral interviews with Appellant's mother and aunt, Dr. Gillen diagnosed Appellant with antisocial personality disorder. R. 99, l. 25 – 101, l. 25. He explained that antisocial personality disorder is a personality disorder characterized by a violation and disrespect of the rights of other people. R. 125, ll. 14-16. In order to be diagnosed with antisocial personality disorder, one must have displayed symptoms of conduct disorder before the age of fifteen. Dr. Gillen maintained Appellant displayed such symptoms. For example, Appellant was allegedly aggressive toward teachers and engaged in property destruction, including throwing rocks at windows and scratching cars. R. 104, l. 20 – 107, l. 1.

Additionally, one must meet at least three of the seven criteria that make up antisocial personality disorder in order to receive such a diagnosis. Dr. Gillen maintained that Appellant satisfied the following criteria: (1) failure to conform with social norms with respect to lawful behavior, (2) impulsivity or failure to plan ahead, (3) irritability or aggressiveness, (4) reckless disregard for the safety of self or others, and (5) lack of remorse. While Appellant demonstrated some traits attributed to the remaining two criteria, deceitfulness and consistent irresponsibility, Dr. Gillen concluded Appellant did not meet these criteria. R. 152, l. 6 – 158, l. 2.

Dr. Gillen conducted the Static-99R, a risk assessment tool used to predict sexual reoffending. He maintained that Appellant's score on this assessment placed him in the "well above average risk category." R. 159, l. 16 – 161, l. 6. Dr. Gillen also considered Appellant's dynamic risk factors, including sexual compulsivity, criminal personality, aggression, impulsivity, lack of community support, and treatment compliance. R. 162, l. 21 – 171, l. 19.

Dr. Gillen acknowledged that Appellant's single sexually violent offense appeared to be "an isolated incident" and Appellant had not committed any additional sexually violent offenses in the twenty years since despite being released into the community for significant periods of time. He noted that while Appellant's behavior since he committed the sexually violent offense in 2004 was "problematic," it was not "sexually violent." R. 219, l. 1 – 220, l. 5. Dr. Gillen also admitted that Appellant was not sexually attracted to prepubescent children notwithstanding his lewd act on a child conviction and did not suffer from any paraphilic disorders. R. 222, l. 8 – 12.

Despite this evidence, Dr. Gillen opined that Appellant is more likely than not to engage in acts of sexual violence if not confined for long term control, care, and treatment. He further opined Appellant was more likely than not to commit acts of sexual violence such that he is a menace to the health and safety of others. R. 225, ll. 12-25.

At the conclusion of the state's presentation of evidence, which constituted solely of Dr. Gillen's testimony, Appellant moved for a directed verdict arguing the evidence was insufficient. The trial court denied the motion finding there was sufficient evidence for the case to go to the jury. R. 229, l. 24 – 230, l. 3.

Discussion

The trial judge erred by denying Appellant's motion for a directed verdict when the state failed to present sufficient evidence he was a sexually violent predator pursuant to the SVPA.

"In ruling on a motion for directed verdict, the trial court is concerned with the existence of evidence, not its weight." In Re Matthews, 345 S.C. 638, 647, 550 S.E.2d 311, 315 (2001) (citing State v. Cooper, 334 S.C. 540, 551-552, 514 S.E.2d 584, 590 (1999)).

The state bears the burden of proving a person is a sexually violent predator. In re Taft, 413 S.C. 16, 22, 774 S.E.2d 462, 465 (2015) (citing In re Care & Treatment of Corley, 353 S.C.

202, 206, 577 S.E.2d 451, 453 (2003)). Section 44-48-30(1) of the SVPA defines “sexually violent predator” as a person who “has been convicted of a sexually violent offense” and “suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.” S.C. Code Ann. § 44-48-30(1). “Likely to engage in acts of sexual violence” under the SVPA “means that a person is predisposed to engage in acts of sexual violence and more probably than not will engage in acts of sexual violence to such a degree as to pose a menace to the health and safety of others.” S.C. Code Ann. § 44-48-30(9).

While the state presented evidence that Appellant has been convicted of a sexually violent offense and that he allegedly suffers from a personality disorder, the state wholly failed to present sufficient evidence that Appellant is “likely to engage in acts of *sexual violence* if not confined in a secure facility” as required under the SVPA (emphasis added). Dr. Gillen acknowledged that Appellant’s single sexually violent offense appeared to be “an isolated incident” and Appellant had not committed any additional sexually violent offenses in the twenty years since despite being released into the community for significant periods of time. He noted that while Appellant’s behavior since he committed the sexually violent offense in 2004 was “problematic,” it was not “sexually violent.” R. 219, l. 1 – 220, l. 5. Moreover, Dr. Gillen admitted that “*there is a question* whether his [Appellant’s] personality disorder predisposes [Appellant] to engaged in acts of sexual violence, as defined by the statute [SVPA], and not just other illegal or problematic sexual behaviors, e.g., exhibitionism.” R. 219, ll. 18-24 (emphasis added). Based on this testimony, there is no evidence to support the trial court’s ruling denying Appellant’s motion for a directed verdict.

Respectfully, this Court should vacate the order of commitment, direct a verdict in favor of Appellant, and order he be released.

CONCLUSION

Based on the foregoing argument, this Court should direct a verdict in favor of Appellant, vacate the order of commitment, and order Appellant be released.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of September, 2025.

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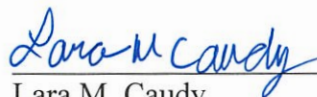
PETITION TO BE RELIEVED AS COUNSEL

Counsel for George Roman Pierson states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense and was appointed to represent Appellant.
2. She has reviewed the record of Appellant's trial, which was held on January 8-9, 2024, before the Honorable William P. Keesley, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for George Roman Pierson.

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of September, 2025.

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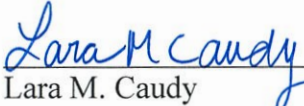
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Complete Trial Transcript dated January 8-9, 2024;
- (2) Plaintiff's Exhibit No. 1 (Indictment and Sentence Sheet);
- (3) Order of Commitment;
- (4) Respondent's Motion for JNOV and Alternatively for a New Trial;
- (5) Return to Respondent's Motion for JNOV or, in the Alternative, a New Trial;
- (6) Order on Post-Trial Motions.

I certify that this designation contains no matter which is irrelevant to this appeal.



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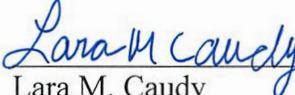
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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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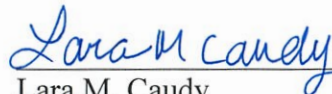
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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case have been served upon Christopher S. Runyan, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on George Roman Pierson, at 4546 Broad River Road, Columbia, SC 29210, this 5th day of September, 2025.



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT