

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 IN THE MATTER OF THE)
 CARE AND TREATMENT OF)
 JOVAN BROWN,)
)
 Petitioner,)
 _____)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE #: 2014-CP-10-07452

ORDER DENYING ANNUAL REVIEW TRIAL

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JUN 26 2019

SC Court of Appeals

FILED
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 JULIE J. STRONG
 CLERK OF COURT
 BY

This matter came before the Court for an annual review hearing, pursuant to S.C. Code Ann. Section 44-48-110 of the Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10, *et seq.* (hereafter the Act), on May 14, 2019. The question before the Court was whether there was probable cause to believe that Petitioner’s mental abnormality or personality disorder had so changed that he is now safe to be at large and, if released, is not likely to commit acts of sexual violence, and if that burden was met, for an order requiring a trial on the issue. Petitioner was present and represented by Aimee J. Zmroczek, Esquire. The State of South Carolina was represented by James G. Bogle, Jr., Senior Assistant Attorney General.

Testimony was received from the Petitioner, Dr. William Burke, who evaluated Petitioner on his behalf, and Chief Psychologist Rozanna Tross, who wrote the Annual Review report documenting Petitioner’s progress, or lack thereof, in treatment. Introduced into evidence as Court’s exhibits were (1) Dr. Burke’s report, (2) Dr. Tross’ report, and (3) a Release Order from a Richland County case *In the Matter of the Care and Treatment of Thomas Simpkins*, 2010-CP-40-8715, filed March 22, 2017.

The Respondent was committed to the Sexually Violent Predator (“SVP”) Treatment Program on or about September 30, 2015.

Dr. Burke testified for Petitioner. The essence of his testimony was that Petitioner was safe to be released from the Sexually Violent Predator Treatment Program, but subject to a number of conditions, including, but not limited to, enrollment in his Sex Offender Treatment Program, and cooperation with the Department of Probation Pardon and Parole. It was also Dr. Burke’s testimony that Petitioner could be released by the Court, and if he violated any of those conditions, could be ordered back into the SVP Treatment Program. The Court observed that at no point did Dr. Burke testify Petitioner’s mental abnormality or personality disorder had so changed that he was safe to be at large and, if released, not likely to commit acts of sexual violence.

The Court has examined the statute and the *Simpkins* Order. The latter was issued as a result of Simpkins completing treatment at the Department of Mental Health (SVP Program), and being authorized to Petition for Release pursuant to S.C. Code Ann. Section 44-48-120 of the Act. That Order also placed a number of conditions on Mr. Simpkins and concluded that violations of those could subject him to contempt of court proceedings. However, nothing in that Order suggested that

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Simpkins would be transferred back into the Sexually Violent Predator Treatment Program were he to violate any of those conditions. It is clear from the Act that when a committed person completes treatment, to the extent that his mental abnormality disorder has so changed that he is safe to be at large, and not likely to commit acts of sexual violence, he is released without conditions. See Section 44-48-120.

From the testimony of Dr. Tross, it was clear that since he was committed in 2015, Petitioner's mental abnormality has evolved into Anti-Social Personality Disorder with Narcissistic Traits. This was confirmed by his treatment records as administered by WellPath Solutions, the treatment provider. In addition, he had committed misconduct by engaging in a relationship of a sexual nature with an employee of WellPath, possession of contraband in the form of two cell phones, while denying any responsibility for his misconduct.

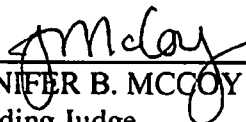
This is a mental health diagnosis matter governed by Section 44-48-110. The burden is on Petitioner to show probable cause his mental condition has changed as outlined above. After careful consideration of the testimony and exhibits,

IT IS HEREBY ORDERED that from the testimony of Dr. Tross and the documents presented, the Court hereby finds and concludes that Mr. Brown has not completed treatment, has not made sufficient progress in treatment; and that his mental abnormality has not so changed that he is safe to be at large, and, if released, is likely to commit acts of sexual violence.

IT IS FURTHER ORDERED that Jovan Brown shall continue to be confined in a secure facility of the Department of Mental Health for long term control, care and treatment pursuant to the Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10, *et seq.*

The Petitioner continues under the jurisdiction of this Court.

AND IT IS SO ORDERED.



JENNIFER B. MCCOY
Presiding Judge
Ninth Judicial Circuit
Court of Common Pleas

June 10, 2019
Charleston, South Carolina

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