STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Charleston County

Honorable Roger M. Young, Circuit Court Judge

IN THE MATTER OF THE CARE AND TREATMENT OF MARK RAINEY A/K/A MARK RANEY

APPELLANT

APPELLATE CASE NO. 2018-001974

PRO SE BRIEF OF APPELLANT

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SC Court of Appeals

MARK W. RANEY

Appellant

4546 Broad River Road

Columbia SC 29210

STATEMENT OF ISSUE ON APPEAL

Did the trial judge err by refusing to direct a verdict for Appellant when the state failed to present sufficient evidence he was a sexually violent predator?

ARGUMENT

The trial judge erred by refusing to direct a verdict for Appellant when the state failed to present sufficient evidence or meet the criteria that he was a sexually violent predator.

Relevant Facts

Dr. Gehle diagnosed appellant with Other specified paraphilic disorder - biastophilia. (R. 81, 5-8).. Dr. Gehle also diagnosed appellant with antisocial personality disorder. (R. 87, 8-12)..

Dr. Gehle on direct examination addmitted that biastophilia does not meet the criteria as a possibe mental abnormality (R. 82, 22-25).. And is not listed in the DSM-V diagnostic manual...

Dr. Gehle keyed in on ONly one factor in determining a diagnosis of biastophilia. "That appellant most of been aroused by rape because appellant ejaculated".. (R. 100, 15-19)... she then goes on to addmit that not everyone who commits a rape or gets aroused or somebody who suffers from biastophilia is a sexually violent predator. (R. 101, 11-24)

Further more Dr. Gehle did not attempt to back up a diagnosis of biastophilia.. Dr. Gehle presented no evidence that appellant was only aroused by rape, that appellant had ever viewed rape pornography, or ever had rape fantasies... Nor that rape was ever the primary focus of appellants sexual arousal... Dr. Gehle never attempted to interview any of appellants past sexual partners to find out Weather

appellant was aroused by consensual sexual encounters.. Which must be the case since appellant has fathered two children...

It is further noted in other cases that a possible reason the medical community rejected biastophilia was because "a consensus or a strong majority of the forensic psychiatric community, do not believe that it is a mental illness or a personality disorder.. This was admitted by Dr. Gehle (SVP case SC v. Michael Fulton R. 153, 8-17)

She went on to explain in the same case that the debate in the medical community was also that doctors "were afraid of that disorder being used to describe every rapist without any specific criteria.. (SVP case SC v. Michael Fulton R. 152, 8-17)...

A journal article in the Psychiatric Times by Dr. Allen Francis stated that "coercive paraphilia is not the average rejected diagnosis", "It has been, and is continuing to be badly misused to facilitate what amounts to an unconstitutional abuse of psychiatry"...

Dr. Gehle also stated that in multiple prior evaluations of appellant there were never any diagnosis's of biastophilia or any other mentioned paraphilia's... That she was the first to diagnosis appellant with biastophilia (R. 105, 4-25 & R. 106, 1-18).

Dr. Gehle goes on to also admit that this coercive paraphilic disorder - biastophilia only applies to a very small percentage of the population, "Maybe one or two percent". (R. 115, 16-20)... I find it quite astonishing that in just the small living area I reside in of only forty four (44) people, that there could be three (3) people diagnosised by Dr. Gehle with other paraphilic disorder - biastophilia when only one or two percent of the population has such a diagnosis.. (SVP case SC v. Mark Raney) - (SVP case SC v. Michael Fulton) - (SVP case SC v. Robert Ferguson). This is without a doubt an overeach in diagnosis to apply

a disorder thats not even a recognized diagnosis in the DSM-V (Diagnostic and statistical Manual Fifth-Edition)... To quote Dr. Allen Francis in the Psychiatric Times, this diagnosis has been, and is continuing to be badly misused to facilitate what amounts to an unconstitutional abuse of psychiatry...

Dr. Gehle applied this diagnosis to appellant even though she admitted that appellant did not meet the full criteria for any of the paraphilias in the DSM-V Manual or diagnostic class. (R. 83, 11. 10-16)

In addition, nor can appellants commitment rest on Dr. Gehles antisocial personality disorder diagnosis... In (Kansas v. Hendricks 521 U.S. 346 (1997), Justice Kennedy wrote that "if it were shown that mental abnormality is too imprecise a catagory to offer a solid basis for concluding that civil detention is justified, our precedents would not suffice to validate it"... (Hendricks at 372). Our Supreme Court holds, "The purpose of the SVPA is to involuntarily commit only a limited subclass of dangerous persons and not to broadly subject any dangerous person to what may be an indefinite term of confinement" (In re Thomas S., 402 S.C. 373, 741 S.E. 2d 27 (2013). (Internal quotations omitted) (emphasis added).

Antisocial personality disorder, has been held legally insufficient by the New York court of Appeals and this court should adopt the New York high courts reasoning. (State v Donald DD, 24 N.Y. 3d 174 (2014)...

Further more, since Dr. Gehle's diagnosis of Other Specified

paraphilia - biastophilia, is not a recognized diagnosis within the DSM-V Diagnostic Manual or by the medical psychiatric community, then a diagnosis of (antisocial personality disorder) alone - that is when the (antisocial personality disorder) diagnosis is not accompanied by a diagnosis of any other condition, disease or disorder alleged to constitute a mental abnormality - simply does not distinguish the sex offender whose mental abnormality subjects him to civil commitment from the typical recidivist convicted in an ordinary criminal case...
(Id at 190.) The courts analysis reveals that a diagnosis of antisocial personality disorder simply has so little probative value regarding inability to control the commission of sexual crimes that it was legally insufficient to form the basis for commitment, (Id. 190-92.) Appellant urges this court to adopt the New York Court of Appeals reasoning in (Donald DD) with no evidence to link a specious alleged mental defect or abnormality to appellants risk to sexually re-offend and the invalidity of antisocial personality disorder... The trial courts denial of appellants directed verdict motion should be reversed and the appellant should be released from commitment...

In closing i would like to add that in Kansas v. Crane the Court held that while an "inability to control behavior will not be demonstrable with mathematical precision. It is enough to say that there must be proof of serious difficulty in controlling behavior"... Thus, the court vacated and remanded the case...

Except for appellants behavior two and a half decades in the

past the State and the States lone witness failed to prove that appellant was any serious difficulties in controlling behavior ... The appellants records while incarcerated show just the opposite of uncontroiled behavior ... Matter of fact the appellant maintained a level of behavior indicative to rebabilitation and of rebuilt character ---

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

This 14th day of August, 2019

Mark W. Raney

MARK W. RANEY

Appellant

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,

This 14th day of August, 2019

Mark W. Raney

MARK W. RANEY

Appellant

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Charleston County

Honorable Roger M. Young, Circuit Court Judge

IN THE MATTER OF THE CARE AND TREATMENT OF MARK RAINEY A/K/A MARK RANEY

Appellate case No. 2018-001974 APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the pro-se Brief of Appellant in the above referenced case has been served upon V. CLAIRE ALLEN - DEPUTY CLERK, THE SOUTH CAROLINA COURT OF APPEALS 1220 SENATE STREET, COLUMBIA SOUTH CAROLINA 29201 ... And a copy of the ~~pro-se~~ Brief of Appellant have been served on LARA M. CAUDY, APPELLATE DEFENDER - DIVISION OF APPELLATE DEFENSE 1330 LADY STREET, SUITE 401 COLUMBIA, SOUTH CAROLINA 29201-3332

Mark W. Raney 8/14/2019

MARK W. RANEY

Appellant

SUBSCRIBED AND SWORN TO before me this ____ day of August, 2019

(*No Notary accessible at this institution at this time...)

Notary Public for South Carolina

My Commission Expires:

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