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2012 IL App (3d) 110707-U

Order filed July 10, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
)	Whiteside County, Illinois,
Petitioner-Appellee,)	
)	Appeal No. 3-11-0707
v.)	Circuit No. 87-CF-384
)	
MICHAEL C. CRAMER,)	Honorable
)	John L. Hauptman,
Respondent-Appellant.)	Judge, Presiding.

PRESIDING JUSTICE SCHMIDT delivered the judgment of the court.
Justices Carter and O'Brien concurred in the judgment.

ORDER

- ¶ 1 *Held:* The State's evidence proved by clear and convincing evidence that respondent remained a sexually dangerous person.
- ¶ 2 In 1987, the State petitioned the trial court to civilly commit respondent under the Sexually Dangerous Persons Act (SDPA) (Ill. Rev. Stat. 1987, ch. 38, ¶ 105-1.01 *et seq.*). The court found respondent to be a sexually dangerous person, and ordered commitment. On October 13, 2010, respondent filed an application to show that he was recovered. 725

ILCS 205/9 (West 2010). The trial court denied the application offer; a jury found that respondent remained sexually dangerous. Respondent appeals, arguing that the State's evidence was insufficient to prove that he remained a sexually dangerous person. We affirm.

¶ 3

FACTS

¶ 4

In 1987, respondent was civilly committed under the provisions of the SDPA, after being charged with engaging in sexual behaviors with his four-year-old great-nephew. Respondent subsequently filed several applications alleging recovery, but all were denied. On October 12, 2010, respondent filed the instant application showing recovery, and the cause proceeded to a jury trial.

¶ 5

At the jury trial on September 20, 2011, the State called Dr. Angeline Stanislaus and Dr. Mark Carich, who both prepared the socio-psychiatric evaluation report on respondent. Both experts interviewed defendant on January 24, 2011.

¶ 6

Stanislaus testified that when she interviewed respondent, she discussed his history of sex offenses. In 1980, respondent was convicted of indecent exposure for exposing himself to three 11- or 12-year-old girls and telling them he wanted to have sex with them. In 1981, respondent was convicted of disorderly conduct for telling a 12- or 13-year-old girl that he wanted to have sex with her. In 1983, respondent was convicted of three counts of aggravated incest for molesting his 10- or 11-year-old stepdaughter over a nine-month period. In 1987, respondent was charged with aggravated criminal sexual abuse for engaging in mutual oral sex with his four-year-old great-nephew. Respondent admitted to all of the offenses, except the molesting of his great-nephew.

Additionally, during a prior evaluation in 2006, respondent admitted to molesting around 40 children, mainly boys around nine years old.

¶ 7 Stanislaus and Carich both testified that in their opinion, respondent continued to be sexually dangerous. They diagnosed respondent as suffering from pedophilia, and testified that he had been suffering from it at least since his first offense in 1980. Stanislaus testified that pedophilia is a deviant sexual disorder characterized by intent recurrent sexual urges, fantasies, or behaviors toward children. Stanislaus based her diagnosis on respondent's history of offending, his psychiatric history, statements regarding his sexual interests made in his 2011 interview, and criteria set forth in the Diagnostic and Statistical Manual, Fourth Edition, Text Revision.

¶ 8 Stanislaus also testified that respondent did not have his pedophilia under control. Additionally, based on respondent's sex offending history, even after incarceration, and the fact that he had not participated in treatment since 2000, respondent still had the propensity to commit sex offenses against children. Both experts also opined that it was much more likely than not that respondent would reoffend in the future if not confined.

¶ 9 The experts emphasized that defendant had not made any substantial changes that would have decreased his propensity to sexually offend. Respondent told Carich that he did not need to attend treatment because his religious faith would protect him from committing a sexual offense again, and that he was cured because of his religion. Respondent also stated that he no longer fantasized about children, but also did not want to talk about his victims during the interview. Not talking about his victims was a concern to both experts, because it tended to show that respondent was not recovering

from his disorder. Stanislaus testified that offenders progressing in treatment explain how they have changed and describe what they have done to make the fantasies go away.

¶ 10 In determining respondent's high risk to reoffend, both experts relied, in part, on two actuarial risk assessment tools. According to both assessment tools, respondent was at a high risk to reoffend. The experts admitted that there were some factual inaccuracies in the data used; however, even accounting for some of the inaccuracies, respondent would still be in the high risk category.

¶ 11 After jury deliberations, the jury found that respondent was still a sexually dangerous person, and his application showing recovery was denied. Respondent filed a motion for judgment notwithstanding the verdict, which the trial court denied. Respondent appeals.

¶ 12 ANALYSIS

¶ 13 On appeal, respondent argues that the State failed to prove by clear and convincing evidence that he remained a sexually violent person.

¶ 14 In a hearing on a respondent's application to show recovery, the State has the burden of proving by clear and convincing evidence that the applicant is still a sexually dangerous person. 725 ILCS 205/9(b) (West 2010). On appeal, the reviewing court must consider all the evidence introduced at trial in the light most favorable to the State and then determine whether any rational trier of fact could have found that the respondent was still a sexually dangerous person. *People v. Trainor*, 337 Ill. App. 3d 788 (2003).

¶ 15 A person is sexually dangerous if: (1) the person suffered from a mental disorder for at least one year prior to the filing the petition; (2) the mental disorder is associated

with criminal propensities to the commission of sexual offenses; (3) the person has actually demonstrated that propensity towards acts of sexual assaults or acts of sexual molestation of children; and (4) there is an explicit finding that it is "substantially probable" that the person would engage in the commission of sex offenses in the future if not confined. *People v. Masterson*, 207 Ill. 2d 305, 330 (2003); 725 ILCS 205/1.01 (West 2010). A "mental disorder" under the SDPA means "congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence." 725 ILCS 205/4.03 (West 2010).

¶ 16 In the present case, the State presented the testimony of two expert witnesses, who opined that respondent was still a sexually dangerous person. Respondent argues that the experts' reliance on his history of sex offenses and psychiatric history was insufficient to prove his current mental state. However, evidence of respondent's history of sex offenses may be relied upon to support the mental disorder requirement and to prove respondent's propensity to commit sex crimes. See *People v. Cole*, 299 Ill. App. 3d 229 (1998); *People v. P.T.*, 233 Ill. App. 3d 386 (1992).

¶ 17 Furthermore, the experts' determination that respondent did not have his sexual deviance under control and that he had a high risk to reoffend in the future was not based solely on his history. They also relied on respondent's lack of participation in the treatment program and statements he made in his 2011 interview, especially the claim that he was cured, and his reluctance to discuss how he had changed his behavior to prevent future sexual offenses. Although respondent points out that the experts relied on actuarial risk assessment tools, which had inaccuracies in the data, the experts did not

solely rely on this information in making their determination, and even accounting for some inaccuracies, respondent was still in the high risk category. Therefore, considering all the evidence introduced at trial in the light most favorable to the State, we find that a rational jury could have found that respondent was still a sexually dangerous person. See *Trainor*, 337 Ill. App. 3d 788.

¶ 18

CONCLUSION

¶ 19

For the foregoing reasons, the judgment of the circuit court of Whiteside County is affirmed.

¶ 20

Affirmed.