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2014 IL App (4th) 130703-U

NO. 4-13-0703

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**  
May 1, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: the Commitment of KEVIN STANBRIDGE,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Adams County
v.	)	No. 05MR45
KEVIN STANBRIDGE,	)	
Respondent-Appellant.	)	Honorable
	)	William O. Mays,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Pope and Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* In this appeal, which concerns the Sexually Violent Persons Commitment Act (725 ILCS 207/1 to 99 (West 2012)), the appellate court affirmed the trial court's judgment, (1) declining to address the respondent's argument that the court should have conducted an evidentiary hearing on the State's motion for a finding of no probable cause and (2) concluding that the court did not err by granting the State's motion to dismiss the respondent's petition for discharge from the Illinois Department of Human Services' custody.

¶ 2 In October 2007, a jury adjudicated respondent, Kevin Stanbridge, a sexually violent person as defined by section 5(f) of the Sexually Violent Persons Commitment Act (725 ILCS 207/5(f) (West 2004)). In February 2008, the trial court committed respondent to the care, custody, and control of the Illinois Department of Human Services (IDHS) until such time as he was no longer sexually violent.

¶ 3 In December 2012, respondent *pro se* filed a fourth petition for discharge from IDHS' custody pursuant to section 65(b)(1) of the Act (725 ILCS 207/65(b)(1) (West 2012)),

which his appointed counsel later adopted. In February 2013—while respondent's petition for discharge was pending—the State filed a motion for a finding of no probable cause based on an August 2012 periodic reexamination report filed under section 55 of the Act (725 ILCS 207/55 (West 2012)). The State's motion sought the trial court's ruling that no probable cause existed to warrant a hearing on whether respondent had made sufficient progress to be conditionally released or discharged from IDHS' custody. In May 2013, the State filed a motion to dismiss respondent's December 2012 petition for discharge from IDHS' custody.

¶ 4 On July 24, 2013, the trial court considered arguments on the State's motion (1) for a finding of no probable cause and (2) to dismiss respondent's petition for discharge. That same day, the court entered a written order, granting the State's motion for a finding of no probable cause. In August 2013, the court entered a written order, granting the State's motion to dismiss respondent's petition for discharge from IDHS' custody.

¶ 5 Respondent appeals, arguing that the trial court erred by (1) not conducting an evidentiary hearing on the State's motion for a finding of no probable cause and (2) granting the State's motion to dismiss his petition for discharge from IDHS' custody. We affirm.

¶ 6 I. BACKGROUND

¶ 7 A. The Pertinent Events Preceding Respondent's Appeal

¶ 8 In November 1999, the State charged respondent with aggravated criminal sexual abuse (720 ILCS 5/12-16(d) (West 1998)), alleging that he committed an act of sexual penetration with a 14-year-old boy by placing his mouth on the minor's penis. A jury later convicted respondent of that charge, and the trial court sentenced him to seven years in prison. In May 2004, this court reversed respondent's conviction and remanded the case for a new trial. *People v. Stanbridge*, 348 Ill. App. 3d 351, 810 N.E.2d 88 (2004). Following an April 2005 retrial, a

jury convicted respondent of aggravated criminal sexual abuse. Respondent appealed, and this court affirmed his conviction and seven-year prison sentence. *People v. Stanbridge*, No. 4-05-0585 (June 14, 2007) (unpublished order under Supreme Court Rule 23).

¶ 9 In May 2005—during the pendency of respondent's appeal to this court following his second trial—the State filed a petition to involuntarily commit him as a sexually violent person under section 5(f) of the Act. During an October 2007 trial on the State's commitment petition, the jury considered expert testimony from three licensed clinical psychologists, who testified about their respective psychological evaluations of respondent, which they each documented. The State's first expert diagnosed respondent, in pertinent part, with "pedophilia, sexually attracted to males, nonexclusive type" and "paraphilia, not otherwise specified, sexually attracted to adolescent males." The State's second expert agreed with the first expert's diagnosis of paraphilia but ruled out that respondent suffered from pedophilia. Respondent's expert, Dr. Kirk Witherspoon, diagnosed respondent with a history of alcohol abuse that was in long-term remission. Thereafter, the jury adjudicated respondent a sexually violent person. In February 2008, the trial court committed respondent to the care, custody, and control of IDHS until such time as he was no longer sexually violent.

¶ 10 In August 2008, Dr. Edward Smith, a licensed clinical psychologist, submitted to the trial court, on IDHS' behalf, a six-month reexamination report on respondent's mental condition pursuant to section 55 of the Act. Smith's reexamination sought to determine whether respondent had made sufficient progress to be conditionally released or discharged from IDHS' custody. In his report, Smith diagnosed respondent with (1) paraphilia, not otherwise specified, sexually attracted to adolescent males, nonexclusive type; (2) alcohol abuse in a controlled environment; and (3) personality disorder not otherwise specified with antisocial traits. Smith's re-

port expressly ruled out that respondent suffered from "pedophilia, sexually attracted to males, nonexclusive type." In support of his opinion that respondent did not suffer from pedophilia, Smith provided the following rationale:

"[Respondent] has been accused of sexually assaulting his [five-]year[-]old son and his [two-]year[-]old daughter as an adult and a [six-]year[-]old male cousin as a teenager. [Respondent] has and continues to deny engaging in inappropriate sexual behavior with children. While there are allegations of molestation of children, there is not currently sufficient information to make a diagnosis of pedophilia, hence the use of the term, rule out. Should additional information be brought forward, a full diagnosis of the disorder could be warranted."

¶ 11 Smith concluded that respondent had "not made sufficient progress to lower his risk of sexual re-offense to the extent he is safe to be managed in the community on conditional release." Respondent did not respond to IDHS' report—that is, he did not (1) request that the trial court appoint an expert to examine him, as permitted by section 55 of the Act; or (2) file or waive his right to file a petition for discharge under section 65(b)(1) of the Act. In September 2008, the State filed a motion for a finding of no probable cause based on Smith's six-month reexamination report. The following month, the court granted the State's motion, finding that no probable cause existed to warrant a hearing on whether respondent had made sufficient progress to be conditionally released or discharged from IDHS' custody.

¶ 12 In April 2009, respondent filed an amended petition for discharge from IDHS' custody. At a hearing conducted later that same month, the trial court granted respondent's re-

quest to undergo a psychological evaluation, which Witherspoon performed. In August 2009—while respondent's April 2009 amended petition for discharge was pending—IDHS submitted its required 18-month reexamination report, which Smith authored. Smith's report diagnosed respondent with the same disorders listed in his August 2008 report. Smith also concluded that respondent remained a risk to sexually reoffend. In October 2009, the State filed a motion for a finding of no probable cause based on Smith's report. In his November 2009 amended psychological report, Witherspoon recommended that respondent be discharged from IDHS' custody based on his assessment that respondent's test results and history placed him in a " 'low' sexual reoffense risk category in comparison to other convicted sexual offenders."

¶ 13 In January 2010, the trial court held a hearing on respondent's amended petition for discharge and the State's motion for a finding of no probable cause at which the court considered the reports submitted by Smith and Witherspoon and heard arguments of counsel. In February 2010, the court entered a written order (1) denying respondent's petition for discharge and (2) granting the State's motion for a finding of no probable cause. Defendant appealed, and this court reversed, concluding that the court had abused its discretion by denying respondent's April 2009 amended petition for discharge from IDHS' custody. *In re Detention of Stanbridge*, 408 Ill. App. 3d 553, 563, 948 N.E.2d 1063, 1071 (2011). In November 2012, the supreme court reversed this court's opinion, concluding that the trial court properly dismissed respondent's petition for discharge. *In re Detention of Stanbridge*, 2012 IL 112337, ¶ 87, 980 N.E.2d 598.

¶ 14 In August 2010, IDHS submitted its required 30-month reexamination report. In that report, Smith diagnosed respondent with the same disorders he had previously identified in his August 2008 and August 2009 reports. Smith also concluded that respondent remained a risk to sexually reoffend. Later that month, respondent *pro se* filed a petition for discharge from

IDHS' custody under section 65(b)(1) of the Act. In October 2010, the State filed a motion for a finding of no probable cause based on Smith's report. During a November 2010 hearing, the trial court (1) appointed counsel for respondent and (2) granted counsel leave to amend respondent's *pro se* petition. The court then heard arguments on the State's motion for a finding of no probable cause, which it later granted, finding that no probable cause existed to warrant a hearing on whether respondent had made sufficient progress to be conditionally released or discharged.

¶ 15 In February 2011, respondent's appointed counsel filed an amended petition for discharge from IDHS' custody, arguing that he was no longer a sexually violent person. Respondent claimed that expert medical testimony presented at his October 2007 trial on the State's petition to involuntarily commit him as a sexually violent person revealed he had been diagnosed with pedophilia, which Smith had since ruled out. Respondent claimed that this change in his condition warranted his release from IDHS' custody. Following arguments at an August 2011 hearing, the trial court denied respondent's amended petition for discharge.

¶ 16 Also in August 2011, the aforementioned reexamination process was repeated with IDHS' 42-month report, in which Smith made the same diagnoses and conclusions as in his previous reports. In September 2011, respondent *pro se* filed a petition for discharge from IDHS' custody. In November 2011, the State filed a motion for a finding of no probable cause based on Smith's 42-month reexamination report. In January 2012, the trial court conducted a hearing at which respondent—who was represented by his earlier appointed counsel—withdraw his September 2011 petition for discharge. Following arguments at that same hearing, the court entered a written order granting the State's motion for a finding of no probable cause.

¶ 17 B. The Issues on Appeal

¶ 18 In August 2012, IDHS submitted its required 54-month reexamination report. In

that report, Smith diagnosed respondent with the same disorders he had previously identified in his past four annual reexamination reports—that is, (1) paraphilia, not otherwise specified, sexually attracted to adolescent males, nonexclusive type; (2) alcohol abuse in a controlled environment; and (3) personality disorder not otherwise specified with antisocial traits. With regard to those diagnoses, Smith concluded as follows:

"These diagnoses are considered mental disorders according to the Act, in that they are congenital or acquired conditions affecting [respondent's] emotional or volitional capacity and predisposing him to engage in acts of violence. His alcohol abuse and personality disorder diagnoses alone would not typically be considered mental disorders according to the Act. However, in combination with his paraphilia diagnosis, they are considered mental disorders."

¶ 19 As to propensity to engage in future acts of sexual violence, Smith provided the following summary, detailing the results of two actuarial tests and a diagnostic screening tool:

"[Respondent's] risk assessment indicated he scored in the moderate-high risk category on the STATIC-99, in the moderate-low risk category on the STATIC-99R, and in the high[-]risk category on the MnSOST-R. [Respondent] also had [five] additional risk factors, not measured by the actuarial instruments, which likely increases his assessed risk level. No medical or treatment[-]based risk reduction is warranted. While there is some age-based risk reduction warranted, [respondent's] age, to a reasonable degree of

psychological certainty, does not lower his risk below that of a substantial probability to engage in future acts of sexual violence. [Respondent] remains substantially probable to engage in future acts of sexual violence due to his mental disorders and assessed risk."

The five additional risk factors Smith identified were respondent's (1) personality disorder, (2) substance abuse, (3) intoxication during the offense, (4) intimate-relationship conflicts, and (5) deviant sexual interests. Smith also reiterated that although respondent had been accused of sexually assaulting his five-year-old son and two-year-old daughter as an adult and a six-year-old boy as a teenager, sufficient evidence did not exist to make a diagnosis of pedophilia.

¶ 20 In December 2012, respondent *pro se* filed his fourth petition for discharge from IDHS' custody pursuant to section 65(b)(1) of the Act, which his appointed counsel later adopted. In his petition, respondent argued generally that the trial court should place greater weight on Witherspoon's November 2009 amended psychological report because Witherspoon's results "were based upon independent, structured, and thorough evaluation procedures, ensuring the use of new facts, professional knowledge and research, in order to ensure a valid opinion was made for that particular reporting period." Respondent discounted Smith's August 2012 reevaluation, stating that "[w]ith the exception of insignificant updates, such as progress reports and medical issues, each of \*\*\* Smith's reports [were] practically identical and word for word from the last."

¶ 21 Respondent also disagreed with the following analysis of Witherspoon's amended psychological report, as stated by the supreme court in its November 2012 opinion, affirming the trial court's denial of respondent's April 2009 amended petition for discharge:

"There is no indication that the bases for \*\*\*Witherspoon's

new diagnoses are predicated upon any new facts or professional knowledge or research that was not already considered by the experts testifying at the [October 2007] commitment trial and rejected by the jury. [Respondent] concedes that \*\*\* 'Witherspoon did not address factors related to [his] progress, change in condition or treatment as it relates to diagnosis.' Furthermore, there is no indication that \*\*\* Witherspoon's scoring of the actuarial instruments was based on any events or factual information that was not already considered and rejected at the commitment trial. Although \*\*\* Witherspoon considered denial as a dynamic risk factor that he believes may now be considered as a protective factor in evaluating risk of recidivism, \*\*\* Witherspoon did not opine that such a change could alone support a finding that [respondent] is no longer a sexually violent person. Nor has he represented that the 2002R revised actuarial instrument yielded remarkably different scores for [respondent] than the Static 99, previously administered. Without some evidence of sufficient progress or other relevant changed circumstances, the opinion was insufficient to establish probable cause. Therefore, the trial court properly concluded that [respondent] had not presented a plausible account that he was 'no longer a sexually violent person.' 725 ILCS 207/65(b)(2) (West 2008)." *Stanbridge*, 2012 IL 112337, ¶ 76, 980 N.E.2d 598.

¶ 22

In February 2013—while respondent's December 2012 petition for discharge was

pending—the State filed a motion for a finding of no probable cause based on Smith's August 2012, 54-month periodic reexamination report. In May 2013, the State filed a motion to dismiss respondent's December 2012 petition for discharge from IDHS' custody. In its motion, the State argued generally that the trial court should dismiss respondent's December 2012 petition for discharge because respondent failed to allege sufficient facts to establish that he is no longer a sexually violent person.

¶ 23 On July 24, 2013, the trial court conducted a hearing at which it considered arguments on the State's motion (1) to dismiss respondent's petition for discharge and (2) for a finding of no probable cause.

¶ 24 1. *The State's Motion To Dismiss Respondent's Petition for Discharge*

¶ 25 During argument, the State contended that respondent's December 2012 petition for discharge was merely a collateral attack on the jury's October 2007 determination adjudicating him a sexually violent person. The State noted that although respondent had completed non-sex-offender-specific programs, respondent essentially claimed that "it would be impractical and fundamentally unfair to require him \*\*\* to participate in sex-offender-specific treatment because of his continued denial of committing the acts pursuant to which he was found [to be] a sexually violent person." The State concluded that it was clear that respondent's condition had not changed in any significant way that would substantiate his release and that respondent had no intention of attending sex-offender-specific treatment.

¶ 26 Respondent concentrated his argument on "diagnostic criteria," analogizing his situation to that of (1) a diabetes patient whose condition improves without medical treatment or (2) excessive mineral content in a person's bloodstream that dissipates without medical intervention. In this regard, respondent asserted that during his October 2007 trial, evidence presented to

the jury by a licensed clinical psychologist supported a diagnosis of pedophilia, a condition respondent no longer possessed. Respondent also claimed that Smith's diagnosis of paraphilia was unsupported in that respondent's current condition does not meet the criteria stated in Smith's reevaluation report for paraphilia. Respondent contended that this change in his condition established probable cause to warrant a hearing on whether he had made sufficient progress to be conditionally released or discharged from IDHS' custody.

¶ 27 In rebuttal, the State noted that despite respondent's claims, his condition had not changed in that his diagnosis of paraphilia had been made by two other experts at his October 2007 commitment trial and Smith had adhered to that diagnosis in every reexamination report he authored.

¶ 28 *2. The State's Motion for a Finding of No Probable Cause*

¶ 29 At that same hearing, the trial court considered arguments on the State's February 2013 motion for a finding of no probable cause, in which the parties again argued whether respondent's condition had significantly changed such that he was no longer sexually violent.

¶ 30 *3. The Trial Court's Rulings*

¶ 31 On July 24, 2013, following the aforementioned arguments, the trial court entered an order granting the State's motion for a finding of no probable cause. On August 5, 2013, the court entered an order granting the State's motion to dismiss respondent's December 2012 petition for discharge from IDHS' custody, which the court based on the following findings:

"1. Respondent has not raised any issues of fact that have not previously been ruled on;

2. Respondent has not raised any facts suggesting that probable cause exists to believe that his condition is so changed

that he is no longer a sexually violent person; and

3. Respondent has not raised any facts suggesting that probable cause exists to believe that his condition has changed as a result of participating in treatment for sexually violent persons."

¶ 32 C. Respondent's Appeal to This Court

¶ 33 On August 19, 2013, respondent filed a notice of appeal to this court. In that filing, respondent appealed only the trial court's August 5, 2013, order dismissing his petition for discharge from IDHS' custody.

¶ 34 On November 27, 2013, respondent filed a motion for leave to file an amended notice of appeal with this court, requesting to also appeal the trial court's July 24, 2013, order granting the State's motion for a finding of no probable cause. In December 2013, this court denied respondent's motion for leave to file an amended appeal.

¶ 35 II. THE PROPRIETY OF THE TRIAL COURT'S RULINGS

¶ 36 A. The Trial Court's No-Probable-Cause Determination

¶ 37 Respondent argues that the trial court erred by not conducting an evidentiary hearing on the State's motion for a finding of no probable cause. The State responds that this court lacks jurisdiction to reach the merits of respondent's argument because respondent failed to specify in his notice of appeal that he was challenging the court's July 24, 2013, order granting the State's motion for a finding of no probable cause. (Respondent did not file a reply brief addressing the State's jurisdictional claim.) We agree with the State.

¶ 38 "It is axiomatic that the appellate court must first consider its jurisdiction to hear an appeal before reaching the merits." *In re Estate of Gagliardo*, 391 Ill. App. 3d 343, 349, 908 N.E.2d 1056, 1061 (2009). Illinois Supreme Court Rule 303(b)(2) provides that a notice of ap-

peal "shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court." Ill. S. Ct. R. 303(b)(2) (eff. June 4, 2008).

¶ 39 "The purpose of the notice of appeal is to inform the prevailing party that the other party seeks review of the trial court's decision." *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176, 950 N.E.2d 1136, 1144 (2011) (quoting *People v. Lewis*, 234 Ill. 2d 32, 37, 912 N.E.2d 1220, 1223 (2009)). The timely filing of a notice of appeal is the only jurisdictional step for initiating appellate review. *Pappas*, 242 Ill. 2d at 176, 950 N.E.2d at 1143. Unless a notice of appeal is properly filed, the appellate court lacks jurisdiction over the matter and is obligated to dismiss the appeal. *Id.*, 950 N.E.2d at 1144.

¶ 40 In this case, respondent filed a timely notice of appeal on August 19, 2013, appealing only from the "order entered on August 5, 2013, dismissing respondent's petition for discharge." In his prayer for relief, respondent sought "reversal and remand for the appointment of an evaluator on respondent's behalf pursuant to the \*\*\* Act."

¶ 41 On November 27, 2013, respondent filed his brief to this court in which he argued that the trial court erred by (1) not conducting an evidentiary hearing on the State's motion for a finding of no probable cause and (2) granting the State's motion to dismiss his petition for discharge from IDHS' custody. That same day, respondent also filed a motion for leave to file an amended notice of appeal, acknowledging that he failed to include in his August 19, 2013, notice of appeal that he was also requesting review of the court's July 24, 2013, order granting the State's motion for a finding of no probable cause. In December 2013, this court denied respondent's motion for leave to file an amended appeal.

¶ 42 Accordingly, because respondent did not timely appeal the trial court's July 24, 2013, order, which granted the State's motion for a finding of no probable cause, we dismiss his



sis to respondent's substantive claim that he alleged sufficient facts in his December 2012 petition for discharge from IDHS' custody pursuant to section 65(b)(1) of the Act to defeat the State's May 2013 motion to dismiss pursuant to section 2-615(a) of the Code.

¶ 47 Section 5(f) of the Act defines "sexually violent person" as follows:  
" 'Sexually violent person' means a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence."  
725 ILCS 207/5(f) (West 2012).

¶ 48 Section 65(b)(1) of the Act provides, in pertinent part, as follows:  
"A person may petition the committing court for discharge from custody or supervision without the Secretary's approval. At the time of an examination under subsection (a) of Section 55 of this Act, the Secretary shall provide the committed person with a written notice of the person's right to petition the court for discharge over the Secretary's objection. \*\*\* If the person does not affirmatively waive the right to petition, the court shall set a probable cause hearing to determine whether facts exist to believe that since the most recent periodic reexamination \*\*\*, the condition of the committed person has so changed that he or she is *no longer* a sexually violent person. However, if a person has previously filed a

petition for discharge without the Secretary's approval and the court determined, either upon review of the petition or following a hearing, that the person's petition was frivolous or that the person was *still* a sexually violent person, then the court shall deny any subsequent petition under this Section without a hearing unless the petition contains facts upon which a court could reasonably find that the condition of the person had so changed that a hearing was warranted. If a person does not file a petition for discharge, yet fails to waive the right to petition under this Section, then the probable cause hearing consists only of a review of the reexamination reports and arguments on behalf of the parties." (Emphases added.) 725 ILCS 207/65(b)(1) (West 2012).

Section 65(b)(2) of the Act also provides that if the trial court determines at a probable cause hearing that a plausible basis exists to believe that "the condition of the committed person has so changed that he or she is *no longer* a sexually violent person," the court shall schedule an evidentiary hearing on the respondent's petition for discharge. (Emphasis added.) 725 ILCS 207/65(b)(2) (West 2012).

¶ 49 In *Stanbridge*, 2012 IL 112337, ¶ 72, 980 N.E.2d 598, the supreme court construed the terms "no longer" and "still" as contained within sections 65(b)(1) and 65(b)(2) of the Act, holding as follows:

"By using the terms 'no longer' and 'still,' the legislature intended that the relevant inquiry must begin with the premise that the individual has been adjudicated in the past with a mental disorder that

makes it substantially probable that he will reoffend. The legislature intended that in postcommitment proceedings for discharge, the individual must present some plausible evidence that demonstrates a change in the circumstances that led to this finding. To hold otherwise would render the terms 'no longer' or 'still' superfluous. Under the relevant statutory scheme, a change in circumstances could include a change in the committed person, a change in the professional knowledge and methods used to evaluate a person's mental disorder or risk of reoffending, or even a change in the legal definitions of a mental disorder or a sexually violent person, such that a trier of fact could conclude that the person no longer meets the requisite elements."

¶ 50 We note that in his brief to this court, respondent abandons his reliance on Witherspoon's November 2009 amended psychological report as a basis for his claim that he alleged sufficient facts in his December 2012 petition for discharge from IDHS' custody pursuant to section 65(b)(1) of the Act. Instead, respondent posits that because expert medical testimony presented at his October 2007 trial on the State's petition to involuntarily commit him as a sexually violent person revealed a diagnosis of pedophilia, which Smith had since ruled out, this change represented probable cause to warrant a hearing on whether he had made sufficient progress to be conditionally released or discharged from IDHS' custody. We are not persuaded.

¶ 51 As the aforementioned historical account of this case clearly shows, Smith's numerous reevaluation reports consistently concluded that respondent remained "substantially probable to engage in future acts of sexual violence due to his mental disorders and assessed

risk." Smith substantiated that conclusion through (1) his medical diagnosis that respondent suffered from paraphilia, substance abuse, and an unspecified personality disorder, coupled with five additional factors, which likely increased respondent's assessed risk level; and (2) actuarial testing that estimated respondent's propensity to engage in a future act of sexual violence. Because Smith also consistently ruled out that respondent suffered from pedophilia, we reject respondent's assertion that this omission represented a change in his condition sufficient to establish probable cause to warrant a hearing on his discharge petition.

¶ 52 Here, by filing his December 2012 petition for discharge from IDHS' custody, respondent had the initial burden of providing sufficient evidence to plausibly show that he no longer met the elements for commitment in that he (1) no longer had a mental disorder or (2) was no longer dangerous because his mental disorder no longer created a substantial probability that he would engage in further acts of sexual violence. *Id.* ¶ 68, 980 N.E.2d 598. Respondent has failed to do so. Accordingly, we reject his claim that the trial court erred by granting the State's motion to dismiss his petition for discharge from IDHS' custody.

¶ 53 III. CONCLUSION

¶ 54 For the reasons stated, we affirm the trial court's judgment.

¶ 55 Affirmed.