

**IN THE SUPREME COURT OF IOWA**

No. 09 / 06-1745

Filed August 22, 2008

**IN RE THE DETENTION OF SCOTT ALLEN BENNETT**

**SCOTT ALLEN BENNETT,**

Appellant.

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Appeal from the Iowa District Court for Black Hawk County,  
Bruce B. Zager, Judge.

Respondent in a civil commitment proceeding appeals from civil  
commitment after a jury found him to be a sexually violent predator.

**AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Steven Addington,  
Michael H. Adams, and Greta Truman, Assistant Public Defenders, for  
appellant.

Thomas J. Miller, Attorney General, and Linda J. Hines and  
Rebecca Goettsch, Assistant Attorneys General, for appellee.

**PER CURIAM.**

After a jury found Scott Bennett to be a “sexually violent predator” (SVP), as defined in Iowa Code section 229A.2(11) (2005), the district court committed him to the custody of the department of human services as required by section 229A.7(5). Bennett appeals and raises several claims of error. On our review, we find the claims were either not preserved or were rejected by other decisions of this court decided during the pendency of this action. We affirm the decision of the district court.

Bennett first claims his rights to due process and equal protection were violated by the provision in Iowa Code section 229A.7(4) that entitled the attorney general to demand a jury trial. Our recent opinion in *In re Detention of Hennings*, 744 N.W.2d 333 (Iowa 2008), squarely addressed and rejected similar arguments. For the reasons stated in that opinion, the statutory right of the attorney general to demand a jury trial does not violate the Due Process and Equal Protection Clauses of our Federal and state Constitutions.

Next, Bennett asserts three legal errors: insufficiency of the evidence, admission of irrelevant and unfairly prejudicial evidence, and erroneous jury instructions. Bennett’s arguments supporting these three errors are premised on his claim that chapter 229A requires a present likelihood of reoffense at the time of the proposed commitment. We rejected such an interpretation in *In re Detention of Pierce*, 748 N.W.2d 509 (Iowa 2008). *Pierce* is dispositive of Bennett’s claims of legal error. For the reasons stated in that opinion, we conclude the district court did not commit the legal errors asserted by Bennett.

We conclude Iowa Code section 229A.7(4) does not violate Bennett’s rights to due process and equal protection, and the district court did not err in interpreting and applying chapter 229A. Bennett has

failed to preserve the other issues he raises on appeal. *See Meier v. Senecaut*, 641 N.W.2d 532, 537 (Iowa 2002) (holding issues must be raised and decided in district court before we will consider them on appeal). We affirm the district court.

**AFFIRMED.**

All justices concur except Baker, J., who takes no part.

This is not a published opinion.