

**IN THE COURT OF APPEALS OF IOWA**

No. 2-252 / 11-0409  
Filed May 9, 2012

**IN RE THE DETENTION OF  
HARLAN HALL WILLET,**

**HARLAN HALL WILLET,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Johnson County, Paul D. Miller,  
Judge.

Harlan Willet appeals from a judgment finding him a sexually violent  
predator. **AFFIRMED.**

Michael H. Adams, Local Public Defender, and Thomas J. Gaul, Special  
Defense Unit, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines and Becky Goettsch,  
Assistant Attorneys General, and Janet M. Lyness, County Attorney, for appellee.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

**DOYLE, J.**

Harlan Willet appeals from his civil commitment as a sexually violent predator. He contends the State failed to present sufficient evidence to show the crime for which he was confined was a sexually violent offense, and therefore, the district court erred in failing to grant his motions for summary judgment and directed verdict. Upon our review, we affirm.

***I. Background Facts and Proceedings.***

Willet has a history of sexual offense convictions dating back to 1979. Most recently, he was convicted of third-degree kidnapping in 2005. Although Willet maintained in that case the sex acts with the victim were consensual, the jury found otherwise, specifically finding Willet confined his victim in a building with the specific intent to subject the victim to sexual abuse knowing he did not have the victim's consent or authority. He was sentenced to ten years in prison.

In May 2010, while Willet was serving his sentence, the State filed a petition alleging Willet was a sexually violent predator under Iowa Code chapter 229A (2009). Among other things, the petition alleged Willet's 2005 kidnapping offense was a sexually motivated offense. Ultimately, after a trial on the petition, the jury found the 2005 kidnapping was sexually motivated and Willet to be a sexually violent predator.

Willet now appeals. He contends that while the kidnapping may have been sexually motivated, the State's evidence was insufficient to show it was sexually violent or dangerous.

## ***II. Scope and Standards of Review.***

We review a challenge to the sufficiency of the evidence for errors at law. *In re Det. of Betsworth*, 711 N.W.2d 280, 286 (Iowa 2006). “Evidence is substantial if a jury could reasonably infer a fact from the evidence.” *In re Det. of Hennings*, 744 N.W.2d 333, 340 (Iowa 2008).

## ***III. Discussion.***

Under the statutory scheme of Iowa Code chapter 229A, a person is subject to commitment proceedings if the person is a “sexually violent predator.” Iowa Code § 229A.1. A “sexually violent predator” is defined as

a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality which makes the person likely to engage in predatory acts constituting sexually violent offenses, if not confined in a secure facility.

*Id.* § 229A.2(11).

“Likely to engage in predatory acts of sexual violence” means that the person more likely than not will engage in acts of a sexually violent nature. If a person is not confined at the time that a petition is filed, committed person is “likely to engage in predatory acts of sexual violence” only if the person commits a recent overt act.

*Id.* § 229A.2(4).

There is no dispute here that Willet was confined at the time the State’s petition was filed. In such situations, our supreme court determined the “recent overt act” requirement of chapter 229A may be satisfied if the State proves the offense for which the person was confined was a “sexually violent offense.” *In re Det. of Gonzales*, 658 N.W.2d 102, 104-05 (Iowa 2003); *see also In re Det. of Shaffer*, 769 N.W.2d 169, 173 (Iowa 2009).

A “sexually violent offense” is defined, among other things, as “[a]ny act which, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to [chapter 229A], has been determined beyond a reasonable doubt to have been sexually motivated.” Iowa Code § 229A.2(10)(g). “‘Sexually motivated’ means that one of the purposes for commission of a crime is the purpose of sexual gratification of the perpetrator of the crime.” *Id.* § 229A.2(9).

The relevant jury instructions submitted in this case stated:

**INSTRUCTION NO. 8**

To prove [Willet] is a sexually violent predator, the State must prove each of the following elements beyond a reasonable doubt:

1. [Willet] has been convicted of, or charged with, a sexually violent offense.
2. [Willet’s kidnapping offense in 2005] was sexually motivated as defined in Instruction No. 11.
3. [Willet] suffers from a mental abnormality.
4. That mental abnormality makes [Willet] likely to engage in predatory acts constituting sexually violent offenses if [Willet] is not confined in a secure facility.

. . . .

**INSTRUCTION NO. 11**

As used in these instructions, “sexually motivated” means that one of the purposes for commission of the crime is the purpose of sexual gratification of the perpetrator of the crime.

Here, the victim’s deposition was entered into evidence at the trial, describing the events surrounding his kidnapping and Willet’s attempted sexual assault. From this testimony, there was more than sufficient evidence to establish Willet kidnapped his victim for purposes of his own sexual gratification and thus the kidnapping was sexually motivated and therefore a sexually violent

offense, as defined under section 229A.2(10)(g).<sup>1</sup> Although Willet testified the sex acts were consensual, the jurors were free to accept or reject any part of each witness's testimony and to give the testimony the weight they thought it should receive. *State v. Shanahan*, 712 N.W.2d 121, 135 (Iowa 2006). Consequently, we find there was sufficient evidence presented to establish Willet's most recent crime was a sexually violent offense, satisfying the "recent overt act" requirement of section 229A.2(4). The district court therefore did not err in denying Willet's motions for summary judgment and directed verdict. Accordingly, we affirm the judgment of the district court.

**AFFIRMED.**

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<sup>1</sup> Further, it is noted the kidnapping offense would also fall within the definition of "sexually violent offense" under section 229A.2(10)(b)(2). Kidnapping is a sexually violent offense if it "involves sexual abuse, attempted sexual abuse, or intent to commit sexual abuse." Iowa Code § 229A.2(10)(b)(2). The jury in the kidnapping trial found beyond a reasonable doubt that Willet confined his victim in a building with the specific intent to subject the victim to sexual abuse knowing he did not have the victim's consent or authority.