

IN THE COURT OF APPEALS OF IOWA

No. 9-584 / 08-1299
Filed August 19, 2009

**IN RE THE DETENTION OF
STEPHEN C. CURTISS,**
Respondent-Appellant.

Appeal from the Iowa District Court for Story County, Dale E. Ruigh,
Judge.

The respondent appeals from the district court's order committing him as a
sexually violent predator. **AFFIRMED.**

Aaron S. Fultz of Gonnerman, Keenan & Fultz, L.L.P., Ames, for
appellant.

Thomas J. Miller, Attorney General, and Kyle Hanson and Becky
Goetsch, Assistant Attorneys General, Stephen Holmes, County Attorney, for
appellee State.

Considered by Vogel, P.J., Potterfield, J., and Huitink, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

HUITINK, S.J.

In 1985 Stephen Curtiss was imprisoned for a conviction of sexual abuse in the third degree for molesting the four-year-old son of a woman he was dating. He was released in 1989. Three to four months after his release, Curtiss was imprisoned again for a conviction of sexual abuse in the third degree and indecent contact for molesting the five or six-year-old son of his new girlfriend. He was released in 1995. In 1997 Curtiss was again convicted of sexual abuse in the third degree, as well as two counts of lascivious acts with a child, when he molested an eleven-year-old neighbor boy. He was imprisoned for those convictions and released in 2007. Curtiss was forty-five years old at the time of the most recent incident.

In 2007, while he was still incarcerated, the State petitioned to have Curtiss adjudicated a sexually violent predator subject to civil commitment. See Iowa Code § 229A (2007). Following a bench trial, the district court determined Curtiss was a sexually violent predator under section 229A.2(11) and committed him to the custody of the Iowa Department of Human Services (DHS). On appeal, Curtiss challenges the sufficiency of the evidence supporting the district court's finding that he has a mental abnormality that makes him likely to engage in sexually violent offenses.

We review a challenge to the sufficiency of the evidence for errors at law. *In re Detention of Betsworth*, 711 N.W.2d 280, 286 (Iowa 2006). If there is substantial evidence upon which a rational trier of fact could find the respondent to be a sexually violent predator beyond a reasonable doubt, we are bound by the court's finding. *In re Detention of Swanson*, 668 N.W.2d 570, 574 (Iowa

2003. To determine whether the evidence was substantial, we consider the entirety of the evidence presented in a light most favorable to the State, including all legitimate inferences and presumptions that may be fairly and reasonably deduced from the record. *Id.* Evidence is not substantial if it raises only suspicion, speculation, or conjecture. *Betsworth*, 711 N.W.2d at 287.

Contrary to Curtiss's claims, we find the record contains substantial evidence to support the district court's finding that Curtiss suffers from a mental abnormality that predisposes him to commit sexually violent offenses. In addition to the other evidence, we specifically note the district court heard the expert testimony of Dr. Harry Hoberman, who examined and evaluated Curtiss during the civil commitment proceedings. Following his examination of Curtiss, Dr. Hoberman diagnosed him with two mental abnormalities: pedophilia and antisocial personality disorder. Dr. Hoberman testified that he based his opinion on various actuarial risk assessments, his clinical interview with Curtiss, and a review of Curtiss's history.

Dr. Hoberman explained pedophilia as "having recurrent, intense sexually arousing fantasies, sexual urges or behaviors involving activity with a prepubescent child" that a person acts on or that cause a person significant distress or impairment. Dr. Hoberman testified Curtiss has been described as suffering from "firmly entrenched pedophilia" and is "a classic example of a sexual predator." He based Curtiss's pedophilia diagnosis on Curtiss's admissions to being sexually attracted to young boys and his history of molesting young boys:

[Mr. Curtiss] has made statements going back at least as far as December of 1983 that he does have a sexual desire for kids, that he knows he has this desire, and he needs help.

.....

In my interview with Mr. Curtiss, he indicated that it was true that he had made statements in the past that he was sexually aroused by boys.

.....

In Mr. Curtiss's case, we have a pattern of charges and convictions for sexual offenses against minor boys ranging from, I believe, five to nine—five to 11, starting in 1973. So charges for sex offenses against boys from 1973, 1984, 1985, 1990, 1997. Some of those instances there were multiple charges and multiple alleged victims.

.....

So, in other words, Mr. Curtiss—there is good evidence that he has sexually arousing fantasies and sexual urges and he's acted on these urges. They've caused him impairment, which is to say that he's—there have been adjudications, he's been incarcerated on several occasions.

Dr. Hoberman described antisocial personality disorder as “a collection of maladaptive personality traits that exhibit over time [that] create impairment for the individual.” In order to be diagnosed with antisocial personality disorder, Dr. Hoberman testified that an individual must meet at least three of the seven criteria. Specifically, Dr. Hoberman testified that Curtiss met six of the seven criteria, namely: failure to conform to social norms with respect to lawful behaviors, deceitfulness, impulsivity or failure to plan ahead, reckless disregard for the safety of others, consistent irresponsibility, and lack of remorse. Dr. Hoberman further explained that the presence of both pedophilia and antisocial personality disorder magnify each other's effects, and described the combination as the “dynamic duo” of sex offense recidivism.

Upon our review, we conclude Dr. Hoberman's opinion provides substantial evidence to show Curtiss has mental abnormalities that make him

more likely than not to reoffend. The district court did not err in interpreting and applying chapter 229A. We affirm the court's determination that Curtiss is a sexually violent predator.

AFFIRMED.