

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 3, 2006

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2004AP19
STATE OF WISCONSIN**

Cir. Ct. No. 1998CI4

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE COMMITMENT OF CHARLES C. PATTERSON:

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

CHARLES C. PATTERSON,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
DANIEL R. MOESER, Judge. *Affirmed.*

Before Lundsten, P.J., Deininger and Higginbotham, JJ.

¶1 PER CURIAM. Charles Patterson appeals an order denying his petition for discharge from commitment under the sexual predator law, WIS. STAT. ch. 980 (2003-04).¹ We affirm.

¶2 Patterson argues that there was insufficient evidence, under the clear and convincing standard, to support a finding that he is still a sexually violent person. At a hearing on a petition for discharge from a WIS. STAT. ch. 980 commitment, “the state has the burden of proving by clear and convincing evidence that the committed person is still a sexually violent person.” WIS. STAT. § 980.09(2)(b) (2001-02). A “sexually violent person” is a person “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.” WIS. STAT. § 980.01(7) (2001-02).²

¶3 The circuit court’s conclusion that Patterson is still a sexually violent person and should remain committed is supported by the evidence. Dr. Michael Hagan testified that Patterson still met the criteria for commitment under WIS. STAT. ch. 980. He testified that Patterson suffered from two mental disorders, anti-social personality disorder and pedophilia, that predispose him toward future acts of sexual violence. Dr. Christopher Snyder testified that Patterson was still a sexually violent person. He testified that Patterson suffered from anti-social personality disorder, paraphilia and pedophilia, which predisposed him to commit acts of sexual violence. Dr. Edmund Munsholt testified that

¹ All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

² The statute has been amended since Patterson’s petition for discharge was decided.

Patterson suffered from an anti-social personality disorder that predisposed him to commit acts of sexual violence. Because the circuit court is the sole arbiter of the credibility of the witnesses and the weight to be given their testimony, this evidence was sufficient evidence to support the circuit court's decision that Patterson is still a sexually violent person who should not be discharged from his commitment.

¶4 Patterson points to the testimony of Dr. Munsholt and Dr. Patricia Coffey in support of his argument that there is insufficient evidence to support the circuit court's order. Dr. Munsholt testified that he could not determine whether there was a substantial probability that Patterson would reoffend. Dr. Coffey testified that Patterson does not meet the threshold for commitment under WIS. STAT. ch. 980. This argument ignores our standard of review. We review the circuit court's commitment decision by considering whether the evidence, *viewed most favorably to the state*, supports the decision. *State v. Burgess*, 2003 WI 71, ¶9, 262 Wis. 2d 354, 665 N.W.2d 124. Here, it clearly does.

¶5 Patterson next contends that the circuit court should not have relied on the testimony of Dr. Hagan and Dr. Snyder because the testimony was flawed. Patterson argues that they "began their evaluations under the assumption [he] was a sexually violent person," and looked only at whether "he had made significant progress" in his treatment. Assuming, without deciding, that the circuit court was required to find that Patterson was a sexually violent person *ab initio*, the court did so. The court explained that the State had to prove that Patterson *is* a sexually violent person, not simply that he had not made progress in treatment. Dr. Hagan testified that Patterson still met the criteria for commitment *and* that he had not made significant progress in his treatment. Dr. Snyder testified that Patterson

remained a sexually violent person *and* that he had not made sufficient progress in his treatment. The circuit court was entitled to find that their testimony established that Patterson is still a sexually violent person.

¶6 Finally, Patterson contends that the State's experts used actuarial assessments to determine his risk of re-offending that were not intended for juvenile offenders. Although the experts did use these assessments, they testified that the assessments were of limited value and should be considered with caution because they were not intended for juveniles. The circuit court specifically stated that it gave very little weight to the assessments for that reason. Therefore, the circuit court did not err in considering the assessments because it was aware of their limited probative value.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

