

INDIANA SUPREME COURT

Marty J. Wilson v. State of Indiana

Indiana Supreme Court Case No. 26S-CR-197 · No. 26S-CR-197 · Decided June 23, 2026

SUMMARY

The Indiana Supreme Court affirmed the denial of Marty J. Wilson’s petition to remove his sexually violent predator status and his motion to correct error. The Court held that applying Indiana’s sexually violent predator statute to Wilson did not violate the Indiana Constitution’s prohibition on ex post facto laws because he may petition annually for individualized review. The Court also provided guidance concerning when trial courts should appoint experts and hold hearings on petitions for removal of sexually violent predator status.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Justice Goff; Chief Justice Rush; Justice Slaughter; Justice Massa; Justice Molter
JURISDICTION	Indiana Supreme Court
DECIDED	June 23, 2026
DOCKET	26S-CR-197
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wilson appealed the denial of his petition to remove his sexually violent predator status and the denial of his motion to correct error. The Indiana Court of Appeals affirmed in a memorandum decision. The Indiana Supreme Court granted transfer, vacated the Court of Appeals' decision, and affirmed the trial court.
STANDARD OF REVIEW	Questions of statutory and constitutional dimension are reviewed de novo. A ruling on a motion to correct error is ordinarily reviewed for abuse of discretion, but review is de novo when the issue is purely a question of law.
PRECEDENTIAL VALUE	Published and precedential Indiana Supreme Court opinion
PARTIES	Marty J. Wilson v. State of Indiana

TOPICS

ex post facto

constitutional law

statutory interpretation

appellate procedure

criminal procedure

PRACTICE AREAS

constitutional law

criminal procedure

appellate procedure

statutory interpretation

sex offender registration

QUESTIONS PRESENTED

1. Whether retroactive application of Indiana's sexually violent predator statute violated the Indiana Constitution's prohibition against ex post facto laws as applied to Wilson.
2. Whether the trial court denied Wilson meaningful review by summarily denying his petition without appointing two experts or conducting a hearing.
3. What showing entitles an SVP petitioner to a hearing and court-appointed expert evaluations on a petition for removal of SVP status.

HOLDINGS

1. The SVP statute does not violate the Indiana Constitution's ex post facto prohibition as applied to Wilson because he has an annual opportunity to petition for an individualized determination of whether he remains likely to reoffend.
2. The record did not establish that the trial court relied solely on the unchanging facts of Wilson's original offense or otherwise denied him meaningful review.
3. A trial court should set a hearing and appoint court-appointed experts to testify when an offender makes a prima facie showing that he no longer suffers from a mental abnormality or personality disorder presenting a substantial danger, meaning a serious and well-founded risk, that he will commit an SVP-qualifying sex offense in the future.

KEY QUOTATIONS

“A trial court should set a hearing, upon the offender’s request, at which the court-appointed experts testify to their evaluations when the offender makes a prima facie showing that he no longer “suffers from a mental abnormality or personality disorder” that “presents a substantial danger, that is, a serious and well-founded risk,” that he will recidivate by committing an SVP-qualifying sex offense.” (at 13)

FACTUAL BACKGROUND

Wilson pleaded guilty in 1999 to Class B felony child molesting based on allegations that he engaged in sexual-deviate conduct with his ex-wife's twelve-year-old niece. He was sentenced to ten years, with three years suspended, and initially faced a ten-year sex-offender registration requirement. Later statutory amendments classified him as a sexually violent predator by operation of law and imposed lifetime registration. After release, Wilson complied with registration requirements, completed sex-offender therapy, avoided subsequent offenses, maintained long-term employment, and married, but his petition for removal of SVP status was denied.

PROCEDURAL HISTORY

Wilson was convicted and sentenced in the Lawrence Superior Court. In 2024, he petitioned for removal of his sexually violent predator status, requested a hearing, and sought appointment of two experts. The trial court denied the petition and later denied his motion to correct error after an evidentiary hearing. The Court of Appeals affirmed, and the Indiana Supreme Court granted transfer, vacated the intermediate appellate decision, and affirmed the trial court's rulings.

DISPOSITION

affirmed

CASES CITED

- Lemmon v. Harris, 949 N.E.2d 803, 806-07, 813 (Ind. 2011)
- Wilson v. State, 25A-CR-115, 2025 WL 1540392 (Ind. Ct. App. May 30, 2025)
- Tyson v. State, 51 N.E.3d 88, 90 (Ind. 2016)
- In re Adoption of K.G.B., 18 N.E.3d 292, 296 (Ind. Ct. App. 2014)
- Jensen v. State, 905 N.E.2d 384, 389, 394 (Ind. 2009)
- Wallace v. State, 905 N.E.2d 371, 378-83 (Ind. 2009)
- Kennedy v. Mendoza-Martinez, 372 U.S. 144, 169 (1963)
- Gonzalez v. State, 980 N.E.2d 312, 315-21 (Ind. 2013)
- Seling v. Young, 531 U.S. 250, 261, 263, 269 (2001)
- Hevner v. State, 919 N.E.2d 109, 111 (Ind. 2010)
- Scott v. State, 895 N.E.2d 369, 375-76 (Ind. Ct. App. 2008)
- Williams v. State, 895 N.E.2d 377, 386 (Ind. Ct. App. 2008)
- Scott v. State, 593 N.E.2d 198, 200 (Ind. 1992)
- Beauchamp v. State, 788 N.E.2d 881, 886 (Ind. Ct. App. 2003)
- People v. Superior Court (Ghilotti), 44 P.3d 949, 971 (Cal. 2002)
- Spells v. State, 225 N.E.3d 767, 776 (Ind. 2024)
- Bennett v. State, 119 N.E.3d 1057, 1058 (Ind. 2019)
- Grimes v. State, 235 N.E.3d 1224, 1234 (Ind. 2024)