

SUPREME COURT OF WASHINGTON

In re the Matter of the Detention of John Charles Anderson

211 P.3d 994 (Wash. 2009) · No. 79111-2 · Decided July 9, 2009

SUMMARY

The Washington Supreme Court reviewed the civil commitment of John Charles Anderson as a sexually violent predator. The court held that the trial court abused its discretion by denying public funding for an additional defense expert and remanded for a new trial. It also held that Anderson’s sexual activities with vulnerable copatients could satisfy the recent overt act requirement, subject to proof at the new trial.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	J.M. Johnson, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Owens, J.; Sanders, J.; Fairhurst, J.; Chambers, J.; Stephens, J.
JURISDICTION	Washington
DECIDED	July 9, 2009
DOCKET	79111-2
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anderson petitioned for discretionary review of a sexually violent predator commitment proceeding. The State cross-petitioned regarding the appointment of an additional defense expert.
STANDARD OF REVIEW	The court reviewed de novo whether Anderson's acts were recent and overt and reviewed the trial court's decision concerning expert testimony for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	John Charles Anderson v. State of Washington

TOPICS

- due process
- constitutional law
- health law
- civil rights

PRACTICE AREAS

civil commitment

sexually violent predator proceedings

constitutional due process

expert witness appointment

QUESTIONS PRESENTED

1. Whether Anderson's sexual activities with vulnerable patients at Western State Hospital constituted recent overt acts under chapter 71.09 RCW.
2. Whether the trial court abused its discretion by denying Anderson's request for appointment of Dr. Richard Wollert, or another additional expert, to perform an evaluation and testify for the defense.

HOLDINGS

1. The sexual activities found by the trial court could constitute overt acts because, in light of Anderson's history and mental condition and the expert testimony, they created a reasonable apprehension of sexually violent harm in the mind of an objective person. The most recent reported activity, occurring two months before the petition, was recent under the court's SVP precedents. The issue remained subject to proof at the new trial.
2. The trial court abused its discretion by denying Anderson's request to appoint Dr. Wollert, or another appropriate expert, to conduct a forensic psychosexual evaluation and testify for the defense. Anderson demonstrated good cause, including the distinct meaningfulness of the proposed testimony, the expert's availability, and the lack of undue prejudice or delay to the State.

KEY QUOTATIONS

“Under these circumstances, we agree with the Court of Appeals that there was good cause to appoint Dr. Wollert as an additional expert witness at public expense under former WAC 388-885-010(3)(c).” (998)

“Under the specific circumstances of this case, however, the trial court acted on unreasonable grounds in denying the motion and, therefore, abused its discretion.” (998)

FACTUAL BACKGROUND

Anderson had prior convictions and admissions involving sexual offenses against children and was diagnosed with pedophilia, sexual sadism, and a personality disorder. While voluntarily institutionalized at Western State Hospital for approximately a decade, he engaged in sexual relationships with multiple patients, including vulnerable or developmentally disabled patients, and his most recent reported sexual encounter occurred approximately two months before the State filed its commitment petition. After Anderson sought release, the State petitioned to commit him as a sexually violent predator. The trial court denied his request for a separately appointed expert, found the hospital sexual activities to be recent overt acts, and ordered commitment.

PROCEDURAL HISTORY

The trial court found that Anderson's sexual activities with vulnerable patients at Western State Hospital constituted recent overt acts, found him to be a sexually violent predator, and ordered his commitment. The Court of Appeals affirmed the recent-overt-act determination but reversed and remanded for a new trial because

the trial court improperly denied Anderson's request for appointment of an additional testifying expert. The Washington Supreme Court granted review of both issues and affirmed the remand for a new trial.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remand for a new trial at which Dr. Wollert, or another appropriate expert witness, may perform an evaluation and testify on Anderson's behalf. The State must prove the recent-overt-act element and the other elements of its SVP case at the new trial.

CASES CITED

- In re Detention of Marshall, 156 Wash. 2d 150, 125 P.3d 111 (2005)
- In re Personal Restraint of Young, 122 Wash. 2d 1, 857 P.2d 989 (1993)
- Industrial Indemnity Co. of Northwest, Inc. v. Kallevig, 114 Wash. 2d 907, 792 P.2d 520 (1990)
- In re Estate of Jones, 152 Wash. 2d 1, 93 P.3d 147 (2004)
- In re Detention of Henrickson, 140 Wash. 2d 686, 2 P.3d 473 (2000)
- In re Detention of Harris, 98 Wash. 2d 276, 654 P.2d 109 (1982)
- In re Detention of Albrecht, 147 Wash. 2d 1, 51 P.3d 73 (2002)
- Kansas v. Hendricks, 521 U.S. 346, 117 S. Ct. 2072, 138 L. Ed. 2d 501 (1997)
- Kansas v. Crane, 534 U.S. 407, 122 S. Ct. 867, 151 L. Ed. 2d 856 (2002)
- Foucha v. Louisiana, 504 U.S. 71, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992)
- In re Detention of Pugh, 68 Wash. App. 687, 845 P.2d 1034 (1993)
- In re Detention of Meistrell, 47 Wash. App. 100, 733 P.2d 1004 (1987)
- In re Detention of A.S., 91 Wash. App. 146, 955 P.2d 836 (1998), aff'd, 138 Wash. 2d 898, 982 P.2d 1156 (1999)
- In re Detention of Froats, 134 Wash. App. 420, 140 P.3d 622 (2006), review denied, 160 Wash. 2d 1022, 163 P.3d 795 (2007)
- In re Detention of Hovinga, 132 Wash. App. 16, 130 P.3d 830 (2006)
- In re Detention of Robinson, 135 Wash. App. 772, 146 P.3d 451 (2006), review denied, 161 Wash. 2d 1028, 172 P.3d 360 (2007)
- In re Detention of Broten, 130 Wash. App. 326, 122 P.3d 942 (2005)
- In re Detention of Lewis, 163 Wash. 2d 188, 177 P.3d 708 (2008)
- Erwin v. Cotter Health Centers, 161 Wash. 2d 676, 167 P.3d 1112 (2007)
- State v. Ortega-Martinez, 124 Wash. 2d 702, 881 P.2d 231 (1994)
- In re Detention of LaBelle, 107 Wash. 2d 196, 728 P.2d 138 (1986)
- State v. Wilson, 125 Wash. 2d 212, 883 P.2d 320 (1994)

- Howell v. Winters, 58 Wash. 436, 108 P. 1077 (1910)
- Hayes v. City of Seattle, 131 Wash. 2d 706, 934 P.2d 1179, 943 P.2d 265 (1997)

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