

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Sanford

580 Pa. 604 (2004) (Pa. 2004) · No. No. 44 MAP 2003 · Decided December 21, 2004

SUMMARY

The Supreme Court of Pennsylvania considered whether the Superior Court properly reversed a trial court's determination that Michael L. Sanford was a sexually violent predator under Megan's Law II. The court held that the Superior Court improperly disregarded the expert's testimony when evaluating the sufficiency of the evidence and remanded for reconsideration under the proper standard, while distinguishing sufficiency review from challenges to evidentiary admissibility.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Pennsylvania                                                                                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Chief Justice Cappy; Cappy, C.J.; Castille, J.; Nigro, J.; Newman, J.; Saylor, J.; Eakin, J.; Baer, J.                                                                                                                                                                                                                                                           |
| JURISDICTION          | Pennsylvania                                                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | December 21, 2004                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 44 MAP 2003                                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | The Commonwealth petitioned for allowance of appeal from the Superior Court's reversal of a trial court order designating Sanford a sexually violent predator under Megan's Law II. The Supreme Court granted allocatur, reversed the Superior Court, and remanded for reconsideration of the sufficiency claim under the proper legal standard.                 |
| STANDARD OF REVIEW    | The question whether the Commonwealth presented sufficient evidence to establish SVP status is reviewed de novo, with plenary scope of review. In assessing sufficiency, the reviewing court must consider all evidence presented and view it in the light most favorable to the Commonwealth, without excluding evidence merely because it may be inadmissible. |
| PRECEDENTIAL VALUE    | Published opinion of the Supreme Court of Pennsylvania; precedential.                                                                                                                                                                                                                                                                                            |
| PARTIES               | Commonwealth of Pennsylvania v. Michael L. Sanford                                                                                                                                                                                                                                                                                                               |

## TOPICS

criminal procedure

evidence

appellate procedure

standard of review

preservation of error

## PRACTICE AREAS

criminal procedure

evidence

sexually violent predator proceedings

appellate procedure

## QUESTIONS PRESENTED

1. Whether the Superior Court erred by reversing the trial court's SVP designation on sufficiency grounds after disregarding the Commonwealth expert's testimony because it relied on facts contained in the affidavit of probable cause and charging documents.
2. Whether, in reviewing the sufficiency of the evidence at an SVP hearing, an appellate court may exclude evidence from consideration because the evidence may have been inadmissible.

## HOLDINGS

1. An appellate court reviewing the sufficiency of the evidence may not eliminate evidence from consideration merely because it deems that evidence inadmissible. Admissibility is distinct from sufficiency; if improperly admitted evidence was considered, the appropriate remedy is a new hearing or trial rather than a finding that the remaining evidence was insufficient.
2. The Superior Court must reconsider whether the evidence was sufficient to establish Sanford as a sexually violent predator by considering the entire body of evidence introduced at the SVP hearing, including the entirety of Valliere's testimony, and viewing that evidence in the light most favorable to the Commonwealth.

## KEY QUOTATIONS

*“The question of sufficiency is not assessed upon a diminished record. Where improperly admitted evidence has been allowed to be considered by the jury, its subsequent deletion does not justify a finding of insufficient evidence. The remedy in such a case is the grant of a new trial.” (431-432)*

## FACTUAL BACKGROUND

Sanford pleaded guilty to sexually assaulting a fifteen-year-old girl after ignoring her request to stop intercourse. At the subsequent SVP hearing, Commonwealth psychologist Veronique N. Valliere relied on police reports, the affidavit of probable cause, charging documents, Sanford's criminal history, and other behavioral information. Valliere opined that Sanford was an SVP based on, among other things, antisocial personality disorder, the circumstances of the assault, and his prior assaultive conduct; the trial court credited her testimony and also considered Sanford's expert's view that he was borderline for SVP status.

## PROCEDURAL HISTORY

Sanford pleaded guilty to sexual assault. After an SVP hearing, the trial court found by clear and convincing evidence that he was a sexually violent predator. The Superior Court reversed, concluding that the evidence was insufficient because the Commonwealth's expert relied on allegations in the affidavit of probable cause and

charging documents that were not established in the guilty plea. The Supreme Court reversed and remanded, holding that the Superior Court improperly conflated admissibility with sufficiency and had to consider all evidence introduced at the hearing.

#### **DISPOSITION**

reversed\_and\_remanded

#### **REMAND INSTRUCTIONS**

The Superior Court was directed to reconsider the sufficiency-of-the-evidence claim by considering all evidence introduced at the SVP hearing, including the entirety of Valliere's testimony, and viewing the evidence in the light most favorable to the Commonwealth. The Superior Court could also address Sanford's other claims preserved and presented in his appellate brief. Jurisdiction was relinquished.

#### **CASES CITED**

- Commonwealth v. Weston, 561 Pa. 199, 749 A.2d 458, 460 n. 8 (2000)
- Commonwealth v. Smith, 523 Pa. 577, 568 A.2d 600, 603 (1989)