



Appellant filed a Concise Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b). Appellant raises the following issue on appeal:

1. The Defendant avers that the trial court erred in determining that the Defendant is a Sexually Violent Predator.

In reviewing an SVP designation, the Superior Court must determine whether the Commonwealth presented clear and convincing evidence that the defendant meets the statutory definition of an SVP. *Commonwealth v. Hollingshead*, 111 A.3d 186, 189 (Pa. Super. 2015). “As with any sufficiency of the evidence claim, we view all evidence and reasonable inferences therefrom in the light most favorable to the Commonwealth [as verdict winner].” *Id.* In order to prove Appellant is an SVP following his conviction for the sexually violent offense, the Commonwealth must prove that he has “a mental abnormality or personality disorder that makes [them] likely to engage in predatory sexually violent offenses.” 42 Pa.C.S. § 9799.12. The statute defines “mental abnormality” as “[a] congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.” *Id.* The defendant's conduct must be “predatory,” which the statute defines as “[a]n act directed at a stranger or at a person with whom a relationship has been instituted, established, maintained, or promoted, in whole or in part, in order to facilitate or support victimization.” *Id.*, *Commonwealth v. Lawrence*, 313 A.3d 265, 280 (Pa. Super. 2024).

Both the expert for the Commonwealth and the expert for the Appellant agreed that the Appellant met the criteria for the “predatory behavior” prong of the SVP designation. Additionally, both experts agreed that the Appellant did not display any of the characteristics associated with the known paraphilic disorders and, as a result, did not display the mental

abnormality aspect of the congenital or congenital or acquired condition prong of the SVP designation. Where the two experts differed in their opinions, and the ultimate deciding factor for the Court and reason for this appeal, is whether the Appellant met the personality disorder aspect of the congenital or acquired condition.

C. Townsend Velkoff, in his report and in his testimony at the hearing, opined that, given his lengthy criminal history that began when he was an 11 year old and has continued into adulthood, Appellant did display characteristics of antisocial personality disorder and therefore met the Personality Disorder aspect of the definition of Sexually Violent Predator. Mr. Velkoff testified specifically, “[p]art of the definition – or the diagnostic criteria for antisocial personality disorder is that the individual needs to display problems of conduct before the age of 15, and since his misconducts began when he was 11, that met the criteria.” (Transcript of Sentencing Hearing, 6/4/24, pg. 9). Dr. Dattilio disagreed, testifying that “while he has a history of antisocial behavior starting at a young age, he was not diagnosed with a conduct disorder until after the age of 16, which is required in any diagnosis for antisocial personality disorder” Id. at 19. Additionally, Dr. Dattilio testified “[h]e certainly has engaged in antisocial behaviors, but its not as engrained in the level as we find with a full blown antisocial personality disorder, and it fails to come up on 2 measures, and again the history indicates that he was not issued the diagnostic criteria for conduct disorder until after the age of 16.” Id.

After careful consideration of the reports and testimony of both experts, and the Court found that Appellant met the statutory criteria under both the personality disorder and predatory behavior to be classified as a Sexually Violent Predator. As there was not dispute that the onset of Appellant’s criminal conduct started well before the age of 15, and the Appellant’s expert testified that Appellant was exposed to multiple traumas as a child and adolescent which led to

several different placements and living instability, the fact that the Appellant was not officially diagnosed with a conduct disorder until after the age of 16 was neither surprising to this Court not determinative of whether the Appellant met the Personality Disorder aspect of the definition of Sexually Violent Predator.

For all of the foregoing reasons, this Court submits that it did not abuse its discretion and respectfully requests that the Appellant's appeal be denied and the Order dated June 12, 2024, classifying Appellant as a Sexually Violent Predator be affirmed.

By the Court,

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Ryan M. Tira, Judge

RMT/jel

cc: Superior Court (Original +1)  
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Gary Weber, Esquire