

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-14-00403-CV**

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**IN RE COMMITMENT OF BRUCE GLEN BASSETT**

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**On Appeal from the 435th District Court**  
**Montgomery County, Texas**  
**Trial Cause No. 14-02-01835 CV**

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**MEMORANDUM OPINION**

Bruce Glen Bassett appeals from a jury verdict that resulted in his civil commitment as a sexually violent predator. *See* Tex. Health & Safety Code Ann. § 841.001-.151 (West 2010 & Supp. 2015) (the SVP statute). In two issues, Bassett contends the evidence is legally and factually insufficient to support the jury's verdict. We conclude Bassett's issues are without merit, and we affirm the trial court's judgment.

To prove that a person is a sexually violent predator who should be civilly committed as a sexually violent predator, the State must prove that the person is a

sexually violent predator, as that term is defined by the SVP statute, beyond a reasonable doubt. *See* Tex. Health & Safety Code Ann. § 841.062(a) (West 2010). “[T]he burden of proof at trial necessarily affects appellate review of the evidence.” *In re C.H.*, 89 S.W.3d 17, 25 (Tex. 2002); *see City of Keller v. Wilson*, 168 S.W.3d 802, 817 (Tex. 2005). Therefore, when reviewing challenges to the legal sufficiency of the evidence supporting a jury’s verdict that a person is a sexually violent predator, we assess all the evidence in the light most favorable to the verdict to determine whether any rational trier-of-fact could find, beyond a reasonable doubt, each of the elements the State must prove to support a judgment in an SVP case. *In re Commitment of Mullens*, 92 S.W.3d 881, 885 (Tex. App.—Beaumont 2002, pet. denied). To prevail on his legal sufficiency issue, Bassett is required to demonstrate that no evidence supports the jury’s finding. *See Croucher v. Croucher*, 660 S.W.2d 55, 58 (Tex. 1983); *Christus St. Mary Hosp. v. O’Banion*, 227 S.W.3d 868, 873 (Tex. App.—Beaumont 2007, pet. denied).

Bassett relies on the same arguments to advance his factual sufficiency claim that he makes to argue his legal sufficiency issue. Therefore, we will also address both claims together. In reviewing a challenge to the factual sufficiency of the evidence supporting the jury’s verdict that a person is a sexually violent predator, we weigh the evidence to determine whether a verdict supported by legally sufficient evidence is nevertheless a verdict that reflects a risk of injustice that

would require a new trial. *In re Commitment of Day*, 342 S.W.3d 193, 213 (Tex. App.—Beaumont 2011, pet. denied). However, given the burden the State is required to meet to obtain a favorable verdict in an SVP case, the risk of an injustice arising from the evidence that might have been contrary to the jury’s verdict is necessarily slight where the evidence is determined to be legally sufficient to support the jury’s conclusion that the defendant is a sexually violent predator. *Id.* Nonetheless, “if in the view of the appellate court after weighing the evidence, the risk of an injustice remains too great to allow the verdict to stand, the appellate court may grant the defendant a new trial.” *Id.*

Under Texas law, a person can be found to be a “sexually violent predator” if the person is a repeat sexually violent offender,<sup>1</sup> and he suffers from a behavioral abnormality that makes him likely to engage in a predatory act of sexual violence. Tex. Health & Safety Code Ann. § 841.003(a) (West Supp. 2015). Bassett’s legal and factual sufficiency argument focuses on whether the evidence admitted during his trial was sufficient to show that he has a behavioral abnormality. A behavioral abnormality is defined as “a congenital or acquired condition that, by affecting a person’s emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the

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<sup>1</sup> The trial court granted the State’s request for a directed verdict on the question of whether Bassett was a repeat offender, and Bassett does not challenge that ruling on appeal.

health and safety of another person.” *Id.* § 841.002(2) (West Supp. 2015). A predatory act is “an act directed toward individuals, including family members, for the primary purpose of victimization.” *Id.* § 841.002(5) (West Supp. 2015).

Bassett’s sufficiency argument addresses the adequacy of the testimony of the State’s expert witness, Dr. Sheri Gaines, a psychiatrist. Bassett does not challenge Dr. Gaines’s credentials; instead, he argues that her testimony is wholly conclusory, speculative, and legally insufficient to support the jury’s finding that he is a sexually violent predator. Wholly conclusory or speculative opinion testimony amounts to no evidence “because it does not tend to make the existence of a material fact ‘more probable or less probable.’” *City of San Antonio v. Pollock*, 284 S.W.3d 809, 816 (Tex. 2009) (quoting *Coastal Transp. Co., Inc., v. Crown Cent. Petroleum Corp.*, 136 S.W.3d 227, 232 (Tex. 2004)). Thus, “[b]are, baseless opinions will not support a judgment even if there is no objection to their admission in evidence.” *Id.*

However, complaints that concern how the State’s expert considered mitigating risk factors in assessing whether the individual the State sought to have committed generally concern what weight the jury chose to give the expert’s testimony, and the fact that the expert may not have considered some factors as significant, or may have considered others as significant in evaluating the risk that the individual might commit another sexually violent offense, is not evidence that

proves the opinion the expert rendered was either wholly conclusory or speculative. *In re Commitment of Vines*, No. 09-12-00337-CV, 2014 WL 887123, at \*2 (Tex. App.—Beaumont Mar. 6, 2014, no pet.) (mem. op.).

Dr. Gaines diagnosed Bassett with pedophilic disorder, which Dr. Gaines explained required the person to have experienced “sexual thoughts, behaviors, or urges involving prepubescent children that cause problems in your life” for a period of six months or longer. According to Dr. Gaines, a diagnosis of pedophilic disorder requires a history showing the person acted on his sexual urges, or a history showing that the person’s sexual urges or fantasies caused marked distress or interpersonal difficulty. In a personal interview, Bassett revealed to Dr. Gaines that he started fantasizing about children as soon as he started having sexual urges at age 12 or 13, and these fantasies continued throughout his life. Bassett’s records established that he was imprisoned more than once based on the acts he committed due to his sexual urges. Bassett was convicted for acts that occurred when he was 32 and 37 years old; the children involved in Bassett’s offenses were not yet ten years old when the assaults occurred. There was also evidence showing that Bassett had been unable to control his conduct despite the criminal consequences that resulted from his acts, as after he was released and placed on mandatory supervision for committing the first of his sexually violent offenses, he reoffended and committed another sexually violent offense.

Dr. Gaines stated that Bassett told her he had received regular therapy while he was on mandatory supervision, but he felt the therapy had not helped him because it was not structured. According to Dr. Gaines, Bassett offered the type of therapy he had received as an excuse to explain why he reoffended, and showed that he was not willing to take full responsibility for his acts. According to Dr. Gaines, “somebody on mandatory supervision has already received a harsh consequence for what they did in the first place. So he’s got all these monitors on him, all these eyes on him, and he was still unable to control his urges.”

Dr. Gaines testified that in her opinion, Bassett’s most important risk factor was “[l]ifetime fantasies of sexual acts on little girls.” In his trial testimony, Bassett admitted that before he received sex-offender treatment, he had fantasies involving children. Bassett admitted seeing or thinking about young girls is a trigger that creates an urge to act. Although Bassett indicated that he had started a sex-offender treatment program approximately five months before the trial, he indicated that he continued to engage in acts of self-gratification based on the sexual urges he had toward young girls. Bassett also testified that he only stopped engaging in these acts recently. Bassett stated that he recently discovered that he could redirect his thoughts to controlling and eliminating his fantasies, but he admitted that his fantasies about children sometimes still occur. Dr. Gaines testified that when she interviewed Bassett, Bassett had been in sex-offender

treatment for approximately one month. During the interview, Bassett told Dr. Gaines that he regularly had trouble falling asleep, and that often he could only fall asleep if he fantasized about young girls and then engaged in an act of self-gratification. Dr. Gaines expressed the opinion that Bassett's pedophilic disorder is longstanding and ingrained. While Dr. Gaines indicated that Bassett's sex-offender treatment notes showed that he had made some progress in developing insight into what made him reoffend, she did not state that Bassett, in her opinion, would not likely reoffend. Instead, Dr. Gaines stated that although Bassett had made progress in his sex-offender treatment program, his improvement was insufficient to change her opinion that he has a behavioral abnormality. Dr. Gaines indicated that her opinions were based on her education, training and experience, her review of Bassett's records, and interview with Bassett. The testimony before the jury included Dr. Gaines's opinion that Bassett suffers from a behavioral abnormality that makes him likely to engage in a predatory act of sexual violence.

The testimony and evidence before the jury provides ample support for Dr. Gaines's opinion; consequently, we disagree with Bassett's characterization of her opinions as wholly conclusory and without foundation. *See In re Commitment of Kalati*, 370 S.W.3d 435, 438-39 (Tex. App.—Beaumont 2012, pet. denied). Viewing the evidence in the light most favorable to the verdict, a rational jury could have found, beyond a reasonable doubt, that Bassett suffers from a

behavioral abnormality that makes him likely to engage in a predatory act of sexual violence. *See In re Commitment of Barbee*, 192 S.W.3d 835, 842 (Tex. App.—Beaumont 2006, no pet.). We conclude that the testimony of Dr. Gaines, together with the other evidence before the jury, offers legally sufficient evidence to support the jury’s verdict. *See Mullens*, 92 S.W.3d at 885. Additionally, weighing all of the evidence in a neutral light, the verdict does not reflect a risk of injustice that would compel ordering a new trial. *See Day*, 342 S.W.3d at 213. We overrule issues one and two, and we affirm the trial court’s judgment and order of civil commitment.

AFFIRMED.

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HOLLIS HORTON  
Justice

Submitted on May 1, 2015  
Opinion Delivered February 11, 2016

Before McKeithen, C.J., Horton and Johnson, JJ.