

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In re the Detention of Gary Cameron.)	No. 29385-8-III
)	
STATE OF WASHINGTON,)	
)	
Respondent,)	
)	Division Three
v.)	
)	
GARY LEE CAMERON,)	
)	
Appellant.)	UNPUBLISHED OPINION

Korsmo, A.C.J. — Gary Cameron was civilly committed as a sexually violent predator (SVP) after a bench trial. He challenges the sufficiency of the evidence supporting the trial court’s determination that he has a mental abnormality as defined under chapter 71.09 RCW. We conclude sufficient evidence supports that determination and affirm.

FACTS

Mr. Cameron has a long history of committing sexual crimes against children.

Most recently, he was convicted in 1993 for sodomizing his eight-year-old son over a five-month period. Shortly before Mr. Cameron was scheduled for release in July 2006, the Attorney General filed a petition to commit him as a SVP pursuant to chapter 71.09 RCW.

The State's expert, Dr. Amy Phenix, testified at trial that she believed Mr. Cameron met each of the commitment criteria under chapter 71.09 RCW. She testified that he suffered from as many as four mental abnormalities: pedophilia, anti-social personality disorder (ASPD), mild mental retardation (MMR), and possible alcohol abuse issues. Dr. Phenix also stated, "to a reasonable degree of psychological certainty" that Mr. Cameron's pedophilia, ASPD, and MMR predisposed him to sexual offending. Of the three, pedophilia was the "driving force," and that neither ASPD nor MMD would, on their own, constitute an abnormality. Dr. Phenix also testified that Mr. Cameron "has pedophilia and that for him that is a mental abnormality because it fits the definition of the law and because it causes him some serious difficulty with his volition." Report of Proceedings at 263.

The trial court found that Mr. Cameron suffered from a mental abnormality, pedophilia, and that this abnormality, in conjunction with his prior offenses and testimony meant that he was likely to reoffend if released. The court did not make

findings regarding either ASPD or MMD.

Mr. Cameron then timely appealed the commitment order.

ANALYSIS

Mr. Cameron argues the evidence is insufficient to support the trial court's determination that he suffers from a "mental abnormality" as defined by statute.

Appellate courts apply the criminal standard to sufficiency challenges made to SVP civil commitments. *In re Det. of Thorell*, 149 Wn.2d 724, 744, 72 P.3d 708 (2003), *cert. denied*, 541 U.S. 990 (2004). A commitment order is reviewed to see if, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found that the State has proven each required element beyond a reasonable doubt. *Id.* A claim of insufficiency admits the truth of the State's evidence, along with all reasonable inferences that may be drawn from it. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

A SVP is someone "who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility." RCW 71.09.020(18). A "mental abnormality" is "a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to

the commission of criminal sex acts in a degree constituting such person a menace to the health or safety of others.” RCW 71.09.020(8). A mental abnormality, when coupled with an individual’s history of sexually predatory acts, supports the conclusion that the person has serious difficulty controlling his or her behavior. *Thorell*, 149 Wn.2d at 742.

Mr. Cameron acknowledges that he has a history of committing sexually violent offenses, but challenges the finding that he suffered from a mental abnormality as defined by RCW 71.090.020(8). The crux of his argument is that the evidence was insufficient to find that pedophilia *alone* is a mental abnormality under chapter 71.09 RCW, since the expert’s testimony was that his pedophilia, ASPD, and MMD acted *together* to create a mental abnormality.

However, his argument is not well taken. Dr. Phenix testified that pedophilia was one of four mental abnormalities she observed. Moreover, she testified that pedophilia was the “driving force” behind his abnormality, and was “primarily responsible for his sex offending.” Although she extensively discussed how the various abnormalities interacted to create a “mental abnormality” under chapter 71.09 RCW, Dr. Phenix also expressly testified that for Mr. Cameron, pedophilia standing alone was a “mental abnormality” under RCW 71.09.020(8) because it fits the definition of the law and it causes him serious difficulties with his volition. She concluded that if Mr. Cameron was

to be released, he would likely engage in further predatory acts of sexual violence.

When construing this testimony most strongly in the State’s favor, we conclude that sufficient evidence supports the trial court’s finding that Mr. Cameron suffers from pedophilia, and that it is a “mental abnormality” within the meaning of RCW 71.09.020(8).¹ *See, e.g., In re Det. of Audett*, 158 Wn.2d 712, 728-729, 147 P.3d 982 (2006) (affirming a SVP commitment where pedophilia was the sole diagnosed “mental abnormality” and defendant had previous incidents of sexually violent behavior).

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, A.C.J.

WE CONCUR:

¹ Mr. Cameron also argues that the trial court was not qualified to choose which part of Dr. Phenix’s testimony to adopt in order to find a mental abnormality under chapter 71.09 RCW. This proposition is simply contrary to the well-settled principle that a trial court may reject expert testimony in whole or in part in accordance with its views as to the persuasiveness of the evidence. *See, e.g., Brewer v. Copeland*, 86 Wn.2d 58, 74, 542 P.2d 445 (1975).

No. 29385-8-III
In re Det. of Cameron

Brown, J.

Siddoway, J.