

# RECORD IMPOUNDED

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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4360-15T5

IN THE MATTER OF THE  
CIVIL COMMITMENT OF  
W.C. SVP-282-02.

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Submitted November 15, 2017 – Decided December 11, 2017

Before Judges Koblitiz and Manahan.

On appeal from Superior Court of New Jersey,  
Law Division, Essex County, Docket No. SVP-  
282-02.

Joseph E. Krakora, Public Defender, attorney  
for appellant, (Susan Remis Silver,  
Assistant Deputy Public Defender, of counsel  
and on the brief).

Christopher S. Porrino, Attorney General,  
attorney for respondent (Melissa H. Raksa,  
Assistant Attorney General, of counsel; Amy  
Beth Cohn, Deputy Attorney General, on the  
brief).

PER CURIAM

W.C. appeals from an April 26, 2016 order continuing his  
commitment to the Special Treatment Unit (STU) under the Sexually  
Violent Predator Act, N.J.S.A. 30:4-27.24 to -27.38. W.C. was  
first involuntarily committed on April 22, 2003. On appeal from

this initial commitment order, we affirmed in an unpublished opinion. In re Civil Commitment of W.E.C., No. A-5115-02 (App. Div. April 21, 2005). We also affirmed the August 9, 2006 order continuing his commitment. In re Civil Commitment of W.E.C., No. A-1625-06 (App. Div. June 21, 2007). We now affirm his continued commitment in the STU, based on the clear and convincing findings of Judge Philip M. Freedman that W.C. has a high likelihood of future dangerousness.

W.C. committed a sexual offense against his three-year-old niece in 1989. The predicate offense involved a 1999 conviction for second-degree sexual assault against a ten-year-old girl who he knew through church. N.J.S.A. 2C:14-2(b). He was sentenced to a four-year term of imprisonment, which he served at the Adult Diagnostic and Treatment Center.

Judge Freedman heard the testimony of three expert witnesses. Dr. Roger Harris, the State's psychiatrist, testified that W.C. denied his guilt in the 1999 crime, although he had acknowledged in the past having sexual interactions with young girls. W.C. takes anti-psychotic medication that control his schizophrenia, has some cognitive limitations, and continuing seizures in spite of anti-seizure medication. He has a history of using illegal substances. Dr. Harris opined that, although, "he's attempting to address his deviant arousal," W.C. "remains strongly in the

throes of his arousal to children at this time, which he is unable to really modulate and regulate." W.C. cannot control his urges when viewing girls on television who are from five to ten years old. Dr. Harris stated that W.C. could progress if he remained at STU. He diagnosed W.C. as a pedophile unable to control his behavior whose use of illegal drugs would enhance the likelihood of acting upon his attraction to young girls. Dr. Harris opined that W.C. would have "serious difficulty controlling his sexual offending behavior if released." Dr. Harris stated that a conditional discharge to the program sought by W.C. would offer insufficient safeguards.

Psychologist Dr. Paul Dudek also testified for the State, reporting on W.C.'s progress in treatment, which has been slow due to his intellectual limitations and refusal to acknowledge fully his deviant attraction to young girls. Dr. Dudek opined that W.C. would be "highly likely to reoffend" and the program offered by W.C. would not reduce the risk sufficiently.

W.C. presented the testimony of psychologist Dr. Timothy Foley who opined that W.C. would not benefit from further treatment at the STU and should be released to the Amani House center. Dr. Foley did not believe W.C.'s "volitional controls are currently compromised," and said that W.C. was "less than highly likely" to pose a risk to the community if discharged.

Judge Freedman allowed the program director of Amani House to testify over the objection of the State. She explained that people staying at Amani House typically go to a special treatment program called "Phoenix" every morning, and return to Amani House around 3:30 p.m. She testified that the doors at Amani House are always locked and people cannot enter or exit without being "buzzed out" by security. Amani House provides housing and food for its residents, and offers Bible study, meetings held by non-profit groups in the area, and various other activities and workshops to entertain and educate the residents.

Judge Freedman found significant that until recently, W.C. felt that the ten-year-old victim had been aggressive toward him. W.C. is only beginning to realize that "the child might have been afraid of him." The judge found, based on Harris' testimony, that W.C. continues to be aroused by young children and is "ambivalent . . . about learning how to control his arousal because he does not want to let go of it. He . . . finds it pleasurable." The judge also noted W.C.'s history of cocaine use and his admission to abusing two other victims. Judge Freedman found that W.C.'s personality disorder and substance abuse issues greatly increase his risk of reoffending.

Judge Freedman concluded "[t]here is really no dispute between the State's expert and Dr. Foley that [W.C.] does suffer

from a mental abnormality and a personality disorder that does predispose him to engage in acts of sexual violence, and that he could not be released . . . without a conditional discharge plan." The judge disagreed with Foley that putting W.C. on the proposed conditional discharge plan at Amani House would reduce his risk of reoffending "below highly likely." The judge also found that W.C. was continuing to benefit from the treatment at the STU.


The judge found W.C. was predisposed to and highly likely to engage in acts of sexual violence. Judge Freedman did not find that W.C. "will not be likely to engage in acts of sexual violence because [he] is amenable to and highly likely to comply with a plan to facilitate [his] adjustment and reintegration into the community so as to render involuntary commitment as a sexually violent predator unnecessary." N.J.S.A. 30:4-27.32(c)(1). Thus, Amani House was not an option.

The standard governing our review of the trial court's commitment decision is well settled. We must give the trial court's decision the utmost deference; the court's decision should only be modified where the record reveals a clear abuse of discretion. In re Civil Commitment of V.A., 357 N.J. Super. 55, 63 (App. Div.), certif. denied, 177 N.J. 490 (2003). We are satisfied that the record amply supports Judge Freedman's findings and conclusions. We thus affirm substantially for the reasons

expressed by Judge Freedman in his oral opinion delivered from the  
bench on May 5, 2016.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION