2015 IL App (2d) 140925-U
No. 2-14-0925
Order filed August 13, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. JOHN D. CONLEY, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Lee County. No. 05-CF-73 Honorable Charles T. Beckman, Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Presiding Justice Schostok and Justice Burke concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly denied defendant's petition for discharge or conditional release from commitment as a sexually dangerous person: despite defendant's attacks on the State's expert's finding that defendant remained sexually dangerous, the court was entitled to credit it.

¶ 2 Defendant, John D. Conley, appeals a judgment finding that he is still sexually dangerous under the Sexually Dangerous Persons Act (the Act) (725 ILCS 205/0.01 *et seq.* (West 2014)) and continuing his commitment in the Department of Corrections (DOC). We affirm.

¶ 3 On September 2, 2005, the State petitioned to have defendant adjudicated a sexually dangerous person, defined at all pertinent times as anyone (1) suffering from a "mental disorder"

for at least one year before the filing of a petition under the Act, (2) having "criminal propensities to the commission of sex offenses," and (3) who has "demonstrated propensities toward acts of sexual assault or acts of sexual molestation of children." 725 ILCS 205/1.01 (West 2004). The petition alleged the following facts.

¶ 4 In 1983, defendant, who was born on March 13, 1962, was convicted of taking indecent liberties with a 15-year-old girl. In 1993, he was convicted of aggravated criminal sexual assault and aggravated criminal sexual abuse, his prepubescent daughter being the victim both times. He was sentenced to concurrent prison terms of 18 years and 7 years, respectively. Defendant was on parole in 2004 when he was charged with (1) predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2004)) in that, in 2004, he had committed an act of sexual penetration on D.A.H., a four-year-old whom he had been babysitting; and (2) aggravated criminal sexual abuse (720 ILCS 5/12-16(c)(1)(i) (West 2004)) in that he had engaged in sexual conduct with D.R.K., a seven-year-old whom he had been babysitting. In January 2005, defendant pleaded guilty to possessing child pornography (720 ILCS 5/11-20.1(a)(6) (West 2004)). On May 4, 2006, after the State dismissed the 2004 charges and elected to proceed under the Act, the trial court found that defendant was sexually dangerous and committed him to the DOC.

¶ 5 On May 4, 2007, defendant applied for discharge or conditional release (see 725 ILCS 205/9 (West 2006)). In 2010, the trial court denied the application. Defendant appealed.

¶ 6 On September 28, 2011, this court affirmed the 2010 judgment. *People v. Conley*, 2011 IL App (2d) 100720-U. On June 27, 2011, prior to this court's decision in his first appeal, defendant again petitioned for discharge or conditional release. The trial court ordered the DOC to prepare a socio-psychological report.

¶ 7 The proceedings on defendant's 2011 petition continued as follows. On October 9, 2012, the DOC filed an updated socio-psychiatric report by Jagannathan Srinivasaraghavan, M.D., Kristopher Clounch, Ph.D., and Dale Spitler, LCSW. They based the report partly on an interview they conducted on August 15, 2012. On November 26, 2013, the trial court granted defendant's motion for an updated evaluation. On August 26, 2014, the court held a bench trial.

¶ 8 Clounch testified on direct examination as follows. Since 2012, he had worked for Wexford Health Sources as a clinical psychologist who "provide[d] sexually dangerous persons evaluations." He performed most of these evaluations at Big Muddy River Correctional Center, collecting records from the DOC, the police, and the courts, and interviewing the person. After defendant filed his petition in June 2011, Clounch, a psychologist, Srinivasaraghavan (commonly called Van), a psychiatrist, and Spitler, a social worker, were assigned to evaluate defendant. Van reviewed defendant's medical file and psychiatric history; Spitler worked primarily on defendant's criminal history and background information; and Clounch performed the Static-99R and "dynamic risk factors" assessments on defendant. Next, they interviewed defendant together for 3½ hours and prepared the evaluation. At trial, the court took judicial notice of the evaluation.

¶ 9 Clounch testified further that defendant had been evaluated twice in October 2005 and again in October 2007; he had studied the reports on all three evaluations. These reports were pertinent to the present evaluation, as was defendant's criminal history, including the frequency and types of offenses and any offenses involving his veracity. Defendant's disciplinary history was pertinent to his ability to follow rules, which was relevant to whether he had recovered. Defendant's medical and substance-abuse history, his sex-offender-treatment history, including his levels of participation in various programs, and his psychiatric history were also pertinent. In

the 2012 evaluation, defendant was diagnosed with paraphilia not otherwise specified (NOS) and personality disorder NOS with antisocial and narcissistic features.

¶ 10 Clounch testified as follows about the Static-99R assessment that he had performed on defendant in August 2012. The Static-99R is an actuarial tool used to predict the risk of a person committing sex offenses. It includes 10 factors that have been shown to relate to sex-offender recidivism. Clounch identified a State exhibit as the results of his Static-99R evaluation of defendant. He explained that the Static-99R has a scoring range of -3 (lowest risk) to 12 (highest risk). He agreed with the State's counsel that "anything over 6 is considered high[risk]." Defendant's total score was 6. He had received a one-point reduction based on his age range (40-59.9). When a person turns 60, he receives a three-point reduction, as risk decreases with age. The court admitted the Static-99R results into evidence.

¶ 11 Clounch testified next about the "dynamic" risk factors that he had considered in evaluating defendant. One was "sexual preoccupation"; Clounch took account of defendant's "shear [*sic*] number of offenses," including sexual contact with his niece when he was 15, his 2004 offenses, and the storage of 500 or more images of child pornography on his computer even while his parole required him to abstain from pornography. Another dynamic factor was defendant's "deviant sexual interest," *i.e.*, his sexual preference for children and his "offense supportive attitudes and beliefs." As to the former, defendant had had four victims who had been under 13 years old, and he had also stored pornographic images of prepubescent children on his computer. As to the latter, defendant had revealed, partly through the interview, that he believed that "the victims can be sexually provocative." Defendant had attributed his 1983 offense in part to the victim's sexually provocative behavior.

¶ 12 Clounch also testified that deficient "general self[-]regulation" was a third dynamic risk factor for defendant. This was reflected in his "life style impulsivity"; he was fired for misconduct from two jobs and had moved in with his future wife on the day they met. Also figuring into this factor was "the shear [*sic*] length of [defendant's] criminal history." Defendant's fourth risk factor, resistance to rules and supervision, consisted of both a history of oppositional behavior and difficulty in following authority. Defendant's long criminal history involved not only sexual offenses but also forgery, theft, and battery. At Big Muddy in 2009, he had admitted having difficulty with female authority figures, and his primary therapist now reported that he still had difficulties at times dealing with authorities.

¶ 13 A fifth risk factor was defendant's "grievance thinking and hostility." He tended to believe that the outside world had mistreated him and that some people were out to get him. During the interview, and at other times, defendant indicated that he believed that most of his convictions were someone else's fault, or he denied any wrongdoing. He did admit to his 1983 offense, but he minimized his responsibility by blaming the victim for provoking him sexually. He also admitted that one reason he had sex with her was to get revenge on his unfaithful girlfriend. He also blamed another man for framing him for theft and on later sexually related charges.

¶ 14 Clounch then testified about the three "protective factors" in risk analysis. One is age; defendant had had a point deducted from his Static-99R score for this reason. Two others, dynamic factors, are "health condition" and significant progress in cognitive behavioral treatment. The health factor did not apply; defendant did not have the sort of problems (such as being bedridden) that would decrease his likelihood of committing sexual offenses. The treatment factor did not apply to defendant either, as he had not made significant progress.

¶ 15 Clounch testified about two final dynamic risk factors that are case-specific: (1) callousness and lack of concern for others; and (2) externalized coping. As to the first factor, defendant had engaged in negative behaviors even toward members of his "in group." He had committed a sexual offense against his daughter; had a 1992 conviction of battery to his wife; and, according to her, had also engaged in abuse and mental cruelty that caused her to seek a divorce in 1992. He had also stolen a social security check from a neighbor because he was short of money at the time. The second factor, externalized coping, refers to reckless and impulsive responses to stress and problems. When defendant was in the military and learned that his fiancée had been killed in an accident, he had a "nervous breakdown" (in defendant's words) and attacked other military personnel. Since then, he had engaged in some instances of reckless and impulsive behavior, notably toward his wife and his 15-year-old daughter.

¶ 16 Clounch returned to the Static-99R and defendant's results on it. He agreed with the State's counsel that the test had "score[d] him as high risk to reoffend." Offenders with his score (6) "have been found to re-offend at a rate at [*sic*] 3.77 times the rate of the average sex offender." For individuals with this score, there is a 31.2% risk of reoffending within 5 years and a 41.9% risk of reoffending within 10 years. Clounch stated that, when the dynamic risk factors were considered in addition to the static ones, "ultimately [defendant's] risk [did] increase." Of the protective factors, defendant's age was already considered in the Static-99R score. His overall risk level could fall if he developed health problems or made significant progress in treatment.

¶ 17 Clounch testified that, in 2012, he, Van, and Spitler concluded, to a reasonable degree of psychological and psychiatric certainty, that defendant remained sexually dangerous. To update the evaluation, as the court had ordered, Clounch spoke to treatment staff, including Jessica

Stover, defendant's primary therapist, reviewed treatment notes, and completed an addendum in January 2014. Parenthetically, we note that, by this time, the law had changed so as to require one evaluator only. The static and dynamic factors for defendant remained the same; the only change was that he was now diagnosed with "pedophilic disorder sexually attracted to females nonexclusive," based on his history of child sexual victims and possession of child pornography. Pedophilia qualifies as a mental disorder under the Act, and defendant's pedophilia had persisted for more than a year and affected his ability to control his behavior in regard to committing sex offenses.

¶ 18 Clounch testified to what he had learned about defendant's treatment in the DOC. In December 2013, Stover told him that defendant had made no significant progress since the initial evaluation. He had not done a significant amount of work on "his own issues," although he was "working on his deviant cycle" and was on the waiting list to present it. Stover told Clounch that there were "at least a few behavioral issues": in January 2013, defendant was ticketed for a dress-code violation, and in October 2013, he was cited for "reviewing his personal calendar during a group [therapy session]." Defendant had been elected "wing chairman," a liaison position, but he was removed from the position because he had "misrepresented information."

¶ 19 Clounch explained that a person must go through four phases of treatment in the DOC. As of the most recent semiannual program evaluation, covering the first half of 2014, defendant was still in phase one, in which an individual accepts responsibility for his offenses and begins to learn the program rules. Of the 26 areas measured, defendant had met expectations in only 2 and was rated "unsatisfactory" or "in considerable need [of] improvement" in 14. The court admitted the addendum report and the semiannual program evaluation for the first half of 2014.

¶ 20 Clounch testified that, in the week before trial, he received information from defendant's primary therapist. The information included treatment notes for May through August 2014. The therapist reported that, although defendant did present his "deviant cycle," she stopped him partway through because of indications that he was refusing to accept responsibility for his behaviors. Since then, she related, he had become "more withdrawn from treatment groups." He participated, but he did not necessarily address "issues of his own," although he did assist others.

¶ 21 Clounch testified that in his opinion defendant remained sexually dangerous and that it was substantially probable that he would reoffend if not confined in an institutional environment. The recent treatment update did not affect Clounch's opinion.

¶ 22 Clounch testified on cross-examination as follows. The evaluators did not independently verify defendant's "rap sheet." Clounch had last spoken to defendant in August 2012. He was not involved in the development or staffing of the treatment program at Big Muddy. Of the 61 prisoners whom he had had a role in evaluating under the Act, the evaluators had recommended 10 for release; these prisoners had been in the program for at least six years, and some had been in since the early 1990s or late 1980s.

¶ 23 Clounch testified that the "relapse prevention model" used in the treatment program might be difficult to administer when an individual denies that he committed a given offense. Clounch had recommended release for one individual who had denied committing one of the offenses ascribed to him. Defendant had not indicated to the evaluators that he took full responsibility for the 1983 offense, and Stover had indicated that he still had not done so. When Clounch spoke to Stover in December 2013, she had been defendant's primary therapist since June or July. Although Clounch had reviewed Stover's treatment notes for defendant, he had not reviewed any of defendant's homework or other information that he had submitted.

¶ 24 Clounch testified that the updated diagnosis of pedophilia, as opposed to the 2012 diagnosis of paraphilia NOS, did not indicate a change in the assessment of defendant's risk of reoffending. Since 2012, defendant had received only two tickets for violating institutional rules (as noted in Clounch's earlier testimony).

¶ 25 On redirect examination, Clounch testified that, when someone is committed as sexually dangerous, he can opt out of treatment. Whether a person who has chosen treatment has been doing his homework is of interest to an evaluator such as Clounch, but completing an entire workbook perfectly does not imply that a person is no longer sexually dangerous and is ready to be released. Beyond completing homework, an offender must be able to show, through verbal articulation, that he understands his offense's effect on the victim and that he takes responsibility for his offense. Defendant had recently denied that he still suffered from sexual preoccupation, but he had refused to talk about his previous sexual preoccupation. To Clounch's knowledge, defendant had not talked about these matters in any type of treatment setting.

¶ 26 The State rested. Defendant testified on direct examination as follows. He had been in Big Muddy since 2006. Despite what the 2012 evaluation stated, he was not convicted of forgery in 1978; the case was dismissed. He also was not convicted of unlawful use of a weapon in Cook County in 1986; he had never been in Cook County.

¶ 27 Defendant identified an exhibit as a workbook that he had completed in the treatment program. He started the workbook on October 15, 2008, and finished it on December 16, 2009. The workbook "include[d] the RP2 cycle which is the advanced cycle, life history which is the advanced life history and anger management." Defendant finished the RP2 cycle on October 15, 2008, and presented it in group with his primary therapist, Toni Isaac, on July 29, 2011. On July 29, 2011, he also presented the "life history," which he had started and completed in 2009.

Defendant noted that, on page one of the workbook, he had written a "sexual offenses letter of responsibility," in which he accepted full responsibility for the 1983 offense. He also presented the letter in his group therapy session of July 29, 2011.

¶ 28 Defendant identified the second defense exhibit as a group of letters that his daughter had written to him just before and on her eighteenth birthday in March 2007. In one letter, she expressed her hope that she could visit him soon and tell him "[her] feelings about everything." In another, she said that defendant "never touched [her] when [she] was little." In a third, she wrote, "Why can't I just go talk to Beckman cuz [*sic*] I don't know what to wright [*sic*] him" and added that her mother had admitted to her that the charges against defendant had been fabricated. Defendant testified that Isaac had reviewed the letters but Stover had not, despite defendant's request. Defendant had also asked the treatment staff to talk to his daughter, but that request had been refused also. Defendant still denied that he had molested his daughter, even though the treatment staff saw that as impeding his recovery. Defendant had asked several times to be given a polygraph examination on the matter, but his request had not been honored.

¶ 29 Defendant identified the third defense exhibit as a group of quarterly program evaluations issued between 2006 and 2014. Defendant did not receive his first treatment plan until February 2012, and he received a more advanced plan in January 2014. Stover became defendant's primary therapist in January 2014 and returned him to phase one.

¶ 30 Defendant testified that he had recently been in two groups, but that only one, the discovery group, had been meeting for the last two months; the other one, the cycle group, had been canceled for various reasons. The discovery group met only once a week, for 1 hour and 15 minutes. Defendant wanted to enter the two advanced groups, intervention and relapse prevention. He had "done all the work for the program for those groups," but there was no space

available and the waiting list was long. Defendant first had to go through a relapse-prevention cycle, but Stover had stopped him in the middle the last time, and she would not tell him why.

¶ 31 Defendant identified the fourth defense exhibit as a request slip to Stover, dated October 1, 2013, stating that, on November 29, 2012, he had given her several volumes of his homework to review and they had agreed that, if she found that he had done the work satisfactorily and he presented his cycle in her group, he would "advance to RP" and she would talk to the evaluation team about an updated evaluation. On the slip was Stover's response, dated October 7, 2013, stating in part, "I made no agreement. This [updated evaluation] was not even discussed." She added that she had not reviewed defendant's workbooks "for content" before she returned them but had noted what was included. Stover also told defendant that an updated evaluation was for the court to order and, once defendant presented his cycle, the staff would consider his "appropriateness for RP group."

¶ 32 Defendant identified the various materials in the fifth defense exhibit. One was the "autobiography" that he started on May 2, 2006, and completed in June 2006. Another was a certificate of completion of a parenting program at the Henry C. Hill Correctional Center in July 1996. Also in the group exhibit was the DOC's printed summary of the four-phase treatment process, along with several "blue books" that he had completed and handed in for review in 2006, 2007, and 2008. Defendant testified that he gave Stover all of these documents on November 2012 and that she returned them without comment on September 25, 2013. On May 6, 2014, Stover returned to defendant all the homework that counselors had placed into the file.

¶ 33 Defendant identified the sixth defense exhibit as more materials that he had given Stover. One document was a copy of "the advanced 6 stage cycle" that he had presented in a group and that she had "stopped [him] from reading." This had happened in February 2014. Defendant

identified several workbooks relating to advanced relapse prevention; he had completed these workbooks between 2009 and 2013.

¶ 34 Defendant testified about his semiannual evaluation form for January through June 2014 (part of a previously introduced exhibit). According to defendant, Stover had filled out the form but had failed to check all of the boxes marked "assignment completion," even though he had done all the homework listed. Defendant also stated that Clounch had not reviewed any of his work and that defendant was not allowed to bring any of it to his evaluation interview in 2012.

¶ 35 Defendant identified the defense's seventh exhibit as a letter to his parole officer from Sinnissippi Mental Health Center, stating that he had successfully completed the sex-offender treatment program in July 2012. His treatment staff had refused to review the document. The defense's eighth exhibit consisted of copies of all of the disciplinary tickets that defendant had ever received in his current treatment program. According to defendant, all of the incident reports had findings of "not guilty."

¶ 36 Defendant identified the defense's ninth exhibit as a copy of an incident report filed by Dixon police officers. The report was printed on January 7, 2005. It stated that, on February 12, 2004, Allan T. and his two stepchildren told the officers that defendant had sexually assaulted the children when he was babysitting them for Allan T. and his wife Sarah. The report detailed the follow-up investigation of the complaints, including interviews with the couple and the stepchildren. The report also stated that the police had interviewed defendant and searched his residence. Defendant had handwritten notes on the copy of the report. He testified that the report showed that Allan T. had his stepchildren fabricate the accounts of sexual molestation.

¶ 37 Asked whether there was anything else that he wanted to say, defendant testified as follows. Since Stover became his primary therapist in January 2014, his group therapy had

addressed only "communication" and not "core issues." The group therapy sessions had 20 to 30 people and lasted slightly more than an hour, giving him little time to speak. Stover would not let him raise "core issues" at these sessions. Defendant took full responsibility for the offenses that he actually committed, but he denied molesting his daughter or Alan T.'s stepchildren.

¶ 38 Defendant testified that the evaluations he had received were "commitment evaluations, not recovery evaluations"; the evaluators brought up almost nothing about what he had done in treatment. His treatment opportunities in the DOC were severely limited; he could "get more therapy on the street." Isaac had advanced defendant to phase two in the treatment process, but, after she resigned, Stover returned him to phase one, with no explanation. Stover refused to look at his homework and was severely overworked herself, so she could not give defendant the attention he needed.

¶ 39 Defendant testified on cross-examination as follows. He had had no problems with Isaac, who had always listened to him. He did not talk to Stover until he gave her his paperwork to review, shortly before January 2014. Stover did sign off on his evaluation for January through June 2013. He had had sex-offender therapy outside the DOC, but all of it took place before his 2006 adjudication as a sexually dangerous person. The last semiannual program evaluation (admitted into evidence earlier) did state, "Cycle prevention stopped due to lack of awareness."

¶ 40 The trial court admitted defendant's exhibits and heard arguments. On September 11, 2014, the trial court found that the State had proved that defendant was still sexually dangerous, and it denied his petition for release. The judge explained as follows. Defendant had completed much of the "book work and testing that [was] done." Defendant had a "conscious awareness" of his 1983 offense, but he persisted in maintaining his innocence of the charges of molesting his daughter and Allan T.'s stepchildren. Defendant "did present that information in a manner that

show[ed] that he [had] made some progress towards recovery," as indicated by the work that he had done and some of the comments made by personnel at Big Muddy. Nonetheless, the State had met its burden of proof. Clounch had testified that, in his opinion, defendant was "still a sexually dangerous person, that he still rank[ed] a 9 [*sic*] on the Static-99," and Clounch believed that defendant would reoffend unless confined. Defendant appealed.

¶ 41 On appeal, defendant contends that the State did not prove by clear and convincing evidence that he is still sexually dangerous as defined by the Act. Defendant argues that the State's case rested wholly on Clounch's testimony but that Clounch's opinion that defendant was still sexually dangerous was flawed in crucial respects. For the following reasons, we disagree.

¶ 42 The State was required to prove by clear and convincing evidence that defendant was still sexually dangerous. See 725 ILCS 205/9(b) (West 2014); *People v. Craig*, 403 Ill. App. 3d 762, 767-68 (2010). However, we may not disturb the trial court's finding that defendant was still sexually dangerous unless it was against the manifest weight of the evidence. *In re Commitment of Sandry*, 367 Ill. App. 3d 949, 978 (2006).

¶ 43 Defendant makes the following attacks on Clounch's opinion. First, he argues, Clounch had little contact with him and did not directly evaluate defendant's progress, instead relying on reports from others. Second, neither Clounch nor Stover personally reviewed the substantial homework that defendant had done. Third, Clounch relied on "unproven assumptions" about defendant's past conduct, primarily his criminal record. Fourth, the State did not prove that conditional release would not sufficiently protect the public.

¶ 44 Before we discuss defendant's arguments, we note the evidence that supported the trial court's finding. Clounch testified that, in his professional opinion, defendant was still sexually dangerous in that he had a "mental disorder" and criminal propensities toward the commission of

sex offenses and had demonstrated propensities toward sexual assault or acts of sexual molestation of children. See 725 ILCS 205/1.01 (West 2014). Clounch relied in part on defendant's score of 6 on the Static-99R actuarial tool, which placed him in the high-risk range of reoffending. Moreover, even by his own admission, defendant had been guilty of a sexual offense against a 15-year-old and also of possessing a large amount of child pornography on his computer when he was on parole and barred from possessing pornography at all. Finally, although defendant maintained his innocence of several offenses, judicial proceedings had found that he committed sexual offenses against his prepubescent daughter and against Allan T.'s stepchildren. Finally, the most recent semiannual program evaluation stated that defendant had met expectations as to only 2 of the 26 areas measured in the first phase of the recovery process.

¶ 45 This abundant evidence makes defendant's task on appeal formidable. Further, although there might be merit to his complaints that the treatment program was understaffed and that he received neither sufficient therapy nor sufficient attention to his homework, those matters are not at issue here. The only issue is whether the trial court's finding that defendant remained sexually dangerous was against the manifest weight of the evidence.

¶ 46 We turn to defendant's arguments. He argues first that Clounch's opinion was undermined by his minimal contact with defendant and his reliance on others, primarily Stover (who had been defendant's primary therapist for less than a year), for insight into whether defendant had made progress in treatment. We conclude that any weaknesses in Clounch's testimony were for the trial court to weigh and did not require the court to discredit Clounch.

¶ 47 Defendant does not explain how spending more time with him or his prior therapists would have changed Clounch's opinion or even give him much more insight into defendant's mental condition or risk factors. Although Clounch relied to some degree on Stover and others,

he, along with Van and Spitler, also interviewed defendant, and much of what they used to form their opinion did not require contact with him. Most notably, defendant does not contend that the Static-99R risk-measurement tool was defective in any way—and the Static-99R placed defendant in the high-risk range for reoffending. Moreover, Clounch recognized a variety of dynamic risk factors, none of which defendant addresses on appeal, that indicated that the Static-99R result underestimated defendant's risk of reoffending. Thus, we cannot say that Clounch's lack of more direct contact with defendant undermined his testimony to the point where the trial court could not rely on it.

¶ 48 Defendant argues second that Clounch paid insufficient attention to defendant's homework and admitted that he had not independently reviewed it. But, as Clounch testified, completing the homework is one means toward an end, not an end in itself. That defendant performed his assignments diligently did not establish that he had overcome the psychological and attitudinal deficiencies that the homework addressed. According to Stover, defendant's presentations in therapy sessions were unsatisfactory. According to Clounch, defendant's interview showed that he refused to address his sexual preoccupation.

¶ 49 Defendant argues third that Clounch's opinion was flawed because he based it on the "unproven assumption[]" that defendant actually committed all of the offenses listed in his "rap sheet," including those that a jury and a trial judge (respectively) had found that he did commit—(1) the sexual assault and sexual abuse of his prepubescent daughter; and (2) the predatory criminal sexual assault and aggravated criminal sexual abuse of Allan T.'s stepchildren. Defendant also notes that the State has refused to grant his request for a polygraph examination, which, he claims, would support his protestations of innocence.

¶ 50 As the State observes, defendant made the same argument in his previous appeal, and we rejected it then. We explained, "If someone is alleged to be sexually dangerous, based in part upon a judicial finding beyond a reasonable doubt that he committed a sex offense, then it would be strange policy to allow him to neutralize that evidence merely by saying that he is really innocent." *Conley*, 2011 IL App (2d) 100720-U, ¶ 60. We noted that defendant had been convicted of the offenses against his daughter, convictions that this court had affirmed, and that defendant had given us no basis to theorize that, in adjudicating him sexually dangerous, the trial court nonetheless discredited the allegations as to Allan T.'s stepchildren. *Id.* ¶ 61. Defendant's argument does not persuade us any more than it did the first time.

¶ 51 Finally, defendant argues that the State failed to prove that a conditional release would not adequately protect the public. Again, defendant makes an argument that we rejected in his prior appeal. There, we noted that the Act authorizes a trial court to order conditional release *if* it finds that the person appears no longer to be sexually dangerous. *Id.* ¶ 63 (citing 725 ILCS 205/9(e) (West 2010)). Because the trial court did not make this predicate finding, the option of conditional release was not available and the State had no burden to prove anything about it. *Id.* Of course, the Act's pertinent language has remained the same (see 725 ILCS 205/9(e) (West 2014)), and the trial court again refused to make the predicate finding for any conditional release. Thus, defendant's argument is equally meritless this time around.

¶ 52 For the foregoing reasons, we affirm the judgment of the circuit court of Lee County. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for the appeal. 55 ILCS 5/4-2002(a) (West 2014); see also *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978).

¶ 53 Affirmed.