

NOTICE

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2015 IL App (4th) 140071-U

NO. 4-14-0071

FILED

March 18, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: the Commitment of ROBERT P. SMITH,)	Appeal from
a Sexually Violent Person,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	Sangamon County
Petitioner-Appellee,)	No. 10MR397
v.)	
ROBERT P. SMITH,)	Honorable
Respondent-Appellant.)	Peter C. Cavanagh,
)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Steigmann and Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the evidence was sufficient to establish respondent was a sexually violent person under the Sexually Violent Persons Commitment Act (725 ILCS 207/1 to 99 (West 2010)).

¶ 2 In November 2003, respondent, Robert P. Smith, entered a plea of guilty to aggravated criminal sexual assault (720 ILCS 5/12-14(b)(i) (West 2002)). In January 2004, the trial court sentenced him to eight years' imprisonment. In July 2010, the State petitioned to have respondent adjudicated a sexually violent person (SVP) under the Sexually Violent Persons Commitment Act (Act) (725 ILCS 207/1 to 99 (West 2010)). After a December 2013 bench trial, the court found respondent met the criteria to be considered an SVP and committed him to a secure treatment and detention facility under the custody of the Department of Human Services (DHS). On appeal, respondent argues the State failed to establish beyond a reasonable doubt he

is an SVP under the Act. We affirm.

¶ 3

I. BACKGROUND

¶ 4

In November 2003, respondent entered a plea of guilty to aggravated criminal sexual assault (720 ILCS 5/12-14(b)(i) (West 2002)), a Class X felony, for engaging in multiple forms of sexual penetration with a four-year-old girl, the daughter of respondent's father's girlfriend. In January 2004, the trial court sentenced respondent to eight years' imprisonment.

¶ 5

In July 2010, the State petitioned to have respondent adjudicated an SVP under the Act (725 ILCS 207/1 to 99 (West 2010)). In December 2013, the trial court conducted a bench trial on the petition. By stipulation, four witnesses were accepted as expert witnesses in the area of psychology, particularly in the field of sex offender diagnosis, treatment, and risk assessment. Written evaluations from the four expert witnesses and their *curricula vitae* were entered into evidence. The State presented, and the court took judicial notice of, a certified copy of respondent's conviction for aggravated criminal sexual assault. The State presented the testimony of one expert witness, while respondent presented the testimony of three expert witnesses.

¶ 6

Dr. Martha Bellew-Smith was called by the State to testify as an expert witness. Dr. Bellew-Smith evaluated respondent to determine whether he met the criteria to be considered an SVP under the Act. In July 2010, Dr. Bellew-Smith completed her first evaluation. At that time, respondent was 22 years old. In August 2013, she completed a second, updated evaluation. Dr. Bellew-Smith testified she relied on information gathered from (1) her June 2010 interview with respondent, (2) respondent's Illinois Department of Corrections (IDOC) sex offender prerelease evaluation, (3) respondent's IDOC master file, (4) respondent's IDOC medical file, (5)

police reports from various police departments, (6) respondent's January 2003 sex offender specific evaluation from Midwest Counseling, and (7) a January 2004 presentence investigation report.

¶ 7 Dr. Bellew-Smith consulted these sources in considering respondent's sex offender, disciplinary, and treatment histories. She first considered respondent's sex offender history. The first uncharged incident occurred in December 1999 when respondent was 12 years old. It involved allegations respondent performed sexual acts on two boys, ages five and seven (or eight). The victims reported to the police that within a two-day period, respondent inserted his finger into both of the boys' rectums and performed fellatio on them. Respondent apparently told the police he only touched the boys' penises over their clothing. He also indicated to Dr. Bellew-Smith one of the boys pulled down his pants and respondent considered inserting his finger or penis into the boy's rectum, but ultimately did not do so.

¶ 8 The second uncharged incident occurred two years later when respondent was 14 years old. A police report indicated respondent told the police his neighbor, a six-year-old girl, came to his house. Respondent reported he placed the girl on the floor, removed her underwear, and rubbed his penis on her vaginal area. He stopped doing this after the girl started screaming. During the interview with Dr. Bellew-Smith, respondent denied these events occurred. However, he then contradicted himself by acknowledging he spoke with the police about the incident and asserting the girl was eight years old.

¶ 9 The third incident, which led to respondent's subsequent arrest and conviction for aggravated criminal sexual assault (720 ILCS 5/12-14(b)(i) (West 2002)), occurred when respondent was 15 years old. Approximately four weeks prior to the incident, respondent was

released from a juvenile facility for an unrelated offense. A police report setting forth respondent's account of the incident indicated that on or about July 14, 2003, respondent was babysitting his father's girlfriend's children. A 4-year-old girl and her brother were in the living room with respondent. Respondent and the boy were sitting on the same couch. The girl was wearing a two-piece bikini. Respondent told the girl to come over to him on the couch. He pulled down her bikini and his pants and then placed her on his erect penis. His penis went into her rectum about a half-inch. He then stopped because he knew it was inappropriate and he was bothered by her brother watching. He then took the girl into the bathroom alone and partially penetrated her vaginally with his penis.

¶ 10 The brother reported the incident to the girl's mother and the girl was taken to the hospital. The medical reports indicated she had redness around her rectum and redness and scratches around the labial folds. The medical reports also indicated the child had contracted gonorrhea as a result of the sexual assault.

¶ 11 Dr. Bellew-Smith also considered respondent's disciplinary and treatment history while in custody. Following his conviction, respondent began serving his sentence at a juvenile detention center. While there, respondent received nearly 100 disciplinary violations and was repeatedly placed in segregation. Respondent participated in sex offender treatment while in the juvenile detention facility, but his progress was significantly impaired because he was often in trouble. He did not complete sex offender treatment.

¶ 12 Upon turning 17 years old, respondent was transferred to an adult prison under the custody of IDOC. While there, respondent received approximately 20 disciplinary violations. Respondent was later transferred to an SVP facility and placed under the custody of DHS.

There, he committed multiple rule violations. In February 2012, respondent was convicted of one count of aggravated battery (720 ILCS 5/12-3.05(g)(3) (West 2010) for throwing urine on a correctional officer and sentenced to five years' imprisonment. While in the custody of DHS, respondent completed orientation, but he did not receive sex offender treatment because of his behavioral problems.

¶ 13 Respondent was later transferred back into the custody of IDOC. While there, he received three additional disciplinary violations. Respondent did not complete sex offender treatment while in the custody of IDOC.

¶ 14 In 2010, after gathering the above historical information, Dr. Bellew-Smith consulted the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), and diagnosed respondent with (1) "Paraphilia, NOS, Sexually Attracted to Both, Non-consent," and (2) "Antisocial Personality Disorder." In 2013, Dr. Bellew-Smith updated her evaluation. Based on the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-V-TR), she diagnosed respondent with (1) "Other Specified Paraphilic Disorder, Non-Exclusive, Attracted to Both, In a Controlled Environment," and (2) "Antisocial Personality Disorder."

¶ 15 Dr. Bellew-Smith concluded respondent's paraphilic disorder and antisocial personality disorder were mental disorders as defined by the Act. Dr. Bellew-Smith testified these mental disorders are considered chronic conditions, which respondent will struggle with throughout his entire life, requiring coping skills acquired through treatment.

¶ 16 As part of the sex offender evaluation, Dr. Bellew-Smith applied several actuarial tools to determine respondent's risk of reoffending in a sexually violent manner. She first used

the Static-99R, a tool used to predict sexual recidivism in males who have been previously convicted of a sex offense. Dr. Bellew-Smith noted the Static-99R should be used with caution when evaluating individuals under age 18. However, according to Dr. Bellew-Smith, if the individual is 16 or 17 years of age and commits an adult crime, the Static-99R can be useful in predicting sexual recidivism (respondent was 15 years 8 months old at the time). She acknowledged that if an individual is younger than 16 or 17 years and commits a juvenile-type sex crime, other tools would be more reliable. Dr. Bellew-Smith opined the Static-99R was proper in her assessment of respondent as the crimes committed against the 4-year-old and 6-year-old girls were profoundly adult-type sex crimes. In applying the Static-99R, respondent scored a 4. If Dr. Bellew-Smith included the incident with the two male victims, respondent scored a 5. A score of 4 or 5 indicates the risk of sexual offense recidivism is "moderately high."

¶ 17 Dr. Bellew-Smith also used the Minnesota Sex Offender Screening Tool (MnSOST-R) to determine respondent's risk of reoffending in a sexually violent manner. She testified respondent scored a 5, indicating a "moderate" risk of reoffending. (We note Dr. Bellew-Smith's 2010 written evaluation indicates respondent scored a 3, indicating a "low" risk of reoffending.)

¶ 18 Dr. Bellew-Smith further evaluated respondent using the Hare Psychopathy Checklist, Revised (PCL-R). The PCL-R is an actuarial tool used to investigate a personality factor called psychopathy. Psychopathy refers to an antisocial and unstable lifestyle, and the complete remorseless use of other people for one's own gain. Dr. Bellew-Smith testified the PCL-R does not directly predict sexual recidivism, but rather general criminal recidivism. Respondent scored a 27, indicating respondent appeared to manifest some psychopathic traits

relative to incarcerated adult male offenders. However, a score of 27 does not meet the threshold of 30 to diagnose psychopathy.

¶ 19 In addition to the above actuarial tools, Dr. Bellew-Smith looked at respondent's "dynamic risk factors" in evaluating, from a clinical standpoint, his sexual recidivism risk. These dynamic risk factors consist of risk, protective, and case-specific factors. As to the risk and case-specific factors, Dr. Bellew-Smith noted in her 2010 written sex offender evaluation respondent had sexual contact with four children ranging in ages from 4 to 8 years old during a three-year period when respondent was 12 to 15 years old. Dr. Bellew-Smith found respondent's dynamic risk factors included his (1) lack of sexual regulation, noting respondent had around 25 sexual partners when he was between the ages of 12 and 15; (2) general criminality, as shown by his misbehavior in school, membership in a gang, and use of drugs and alcohol; (3) lack of general self-regulation, noting his disciplinary issues while incarcerated; (4) youth when he first offended (at age 12); (5) lack of participation in sex offender treatment programs as an adult; and (6) antisocial personality disorder. Dr. Bellew-Smith noted the lack of any protective factors such as age, health, or completion of sex offender treatment which would lower his risk for sexual offense recidivism.

¶ 20 In reviewing the results from the actuarial instruments and her clinical assessment of respondent's dynamic risk factors, Dr. Bellew-Smith opined respondent presented a substantial and continuing risk for sexual offense recidivism.

¶ 21 Respondent presented the testimony of three expert witnesses: (1) Dr. Barry Leavitt, (2) Dr. Edward Smith, and (3) Dr. Lesley Kane. All three doctors opined respondent did not meet the criteria to be civilly committed under the Act.

¶ 22 Dr. Leavitt was initially retained by the State to conduct a sex offender evaluation of respondent. Dr. Leavitt relied on similar information as Dr. Bellew-Smith in his evaluation. However, respondent refused to participate in an interview with Dr. Leavitt. Dr. Leavitt diagnosed respondent with alcohol and cannabis abuse and antisocial personality disorder. Dr. Leavitt opined respondent did not possess a mental disorder that predisposed him to future sexually violent behavior as required by the Act. He testified he could not use the Static-99R because of respondent's age when he committed the offenses. However, he did note it was a "very close call" because of the nature of the sexual offenses involved.

¶ 23 On cross-examination, Dr. Leavitt acknowledged he reviewed a January 2004 sex offender specific evaluation from Midwest Counseling. The evaluation indicated respondent stated although he was not attracted to children, he needed help with his behavior "so that he didn't do it again." The evaluation also indicated respondent was assessed using the Juvenile Sex Offender Assessment Protocol 2, which indicated respondent was at a significant risk to reoffend. Dr. Leavitt testified he found several clinical factors indicating an increased risk of sexual reoffending, including early onset of sexual offending, prior criminal history, prior sexual offenses, antisocial personality disorder, low motivation for treatment, impulsivity, poor problem solving, anger, resistance to rules, lack of personal sexual regulation, lack of concern with regard to other people, sexual offenses committed against two or more victims, antisocial orientation, sexual drive relating to inappropriate targets or focus for sexual gratification, sexual entitlement, and poor impulse control. Finally, Dr. Leavitt acknowledged he found no protective factors and believed respondent would benefit from sex offender treatment.

¶ 24 Dr. Smith was initially retained by the State to conduct a sex offender evaluation

of respondent. Dr. Smith relied on similar information as Dr. Bellew-Smith in his evaluation.

However, respondent refused to participate in an interview with Dr. Smith. Dr. Smith diagnosed respondent with (1) "Paraphilia, Not Otherwise Specified, Sexually Attracted to Non-Consenting Males and Females, Nonexclusive Type[,] Polysubstance Dependence, With Physiological Dependence, In A Controlled Environment"; and (2) "Antisocial Personality Disorder."

Although Dr. Smith diagnosed respondent with a mental disorder under the Act, he concluded he could not find it was substantially probable respondent would commit future sexual offenses due in part to his use of a "guided clinical judgment approach." He explained he was not comfortable using actuarial instruments such as those used by Dr. Bellew-Smith as they are to be utilized in assessing risk only in those who commit sexual offenses as adults, whereas respondent was under 16 years of age at the time of the sex incidents.

¶ 25 On cross-examination, Dr. Smith testified he reviewed a January 2004 sex offender specific evaluation from Midwest Counseling. Dr. Smith acknowledged respondent agreed with the following responses in a questionnaire: (1) young boys want sex as much as adult men do, (2) young girls want sex as much as adult women do, and (3) the innocent look of young girls makes them attractive. The evaluation also noted respondent had tremendous difficulty in managing his anger and violent sexual impulses and was not motivated to change his behavior. The evaluator found respondent to be an appropriate candidate for inpatient sex offender treatment. Dr. Smith agreed respondent would still benefit from such treatment.

¶ 26 Dr. Kane relied on similar information as Dr. Bellew-Smith in evaluating respondent, including an interview with respondent. Dr. Kane opined respondent did not have a mental disorder as defined by the Act. She found insufficient evidence to diagnose respondent

with a paraphilic disorder. She did diagnose respondent with antisocial personality disorder. Dr. Kane opined respondent committed the offense for which he was convicted not because of a mental disorder under the Act, but rather because of a combination of his antisocial personality disorder, substance abuse, and early exposure to pornography. She also found the use of actuarial tools to assess respondent's risk of reoffending to be improper due to his age at the time of the offenses. On cross-examination, Dr. Kane acknowledged she did not discuss with respondent his prior uncharged sex offenses. Overall, she concluded respondent presented some risk to sexually reoffend but not enough to be substantially probable.

¶ 27 In January 2014, the trial court entered a judgment finding respondent was an SVP under the Act and committed him to a secure treatment and detention facility under DHS custody. Respondent filed a posttrial motion alleging the evidence was insufficient to support the trial court's finding. In March 2014, the court denied respondent's motion.

¶ 28 This appeal followed.

¶ 29 II. ANALYSIS

¶ 30 On appeal, respondent argues the State failed to establish beyond a reasonable doubt he is an SVP under the Act. We disagree.

¶ 31 In reviewing a claim challenging the sufficiency of the evidence in an SVP proceeding, we consider whether, in viewing the evidence in the light most favorable to the State, any rational trier of fact could find the elements proved beyond a reasonable doubt. *In re Commitment of Fields*, 2014 IL 115542, ¶ 20, 10 N.E.3d 832. "To establish that respondent was an SVP, the State had to prove beyond a reasonable doubt that (1) respondent was convicted of a sexually violent offense; (2) he has a mental disorder; and (3) the mental disorder makes it

substantially probable that he will engage in acts of sexual violence." *Id.*; see 725 ILCS 207/5(f), 35(d) (West 2010).

¶ 32 The first element in an SVP proceeding requires proof that respondent was convicted of a sexually violent offense. 725 ILCS 207/5(e), 35(d) (West 2010). Respondent does not dispute this element was proved beyond a reasonable doubt.

¶ 33 The second element in an SVP proceeding requires proof that the individual suffers a "mental disorder" as that term is defined under the Act. 725 ILCS 207/5(b), 35(d) (West 2010). A mental disorder "means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence." 725 ILCS 207/5(b) (West 2010). It is not clear from his brief whether respondent challenges this element of the trial court's adjudication. Nevertheless, we find both Dr. Bellew-Smith and Dr. Edward Smith opined respondent suffers from a paraphilic disorder and an antisocial personality disorder which, in combination, are considered mental disorders according to the Act. Both experts opined in their written evaluations that their diagnoses fit the criteria set forth in the DSM-IV-TR and DSM-V-TR. Although Dr. Kane and Dr. Leavitt did not diagnose respondent as suffering from a paraphilic disorder, the trial court, as the trier of fact in this case, was free to find the opinions of Dr. Bellew-Smith and Dr. Edward Smith more credible. Therefore, we find the second element was sufficiently proved.

¶ 34 The third element in an SVP proceeding requires proof that the mental disorder makes it substantially probable that the respondent will engage in acts of sexual violence. 725 ILCS 207/5(f), 35(d) (West 2010). Respondent argues the State failed to prove this element beyond a reasonable doubt given that (1) he presented three expert witnesses who testified it was

not substantially probable he would engage in acts of sexual violence in the future, while the State presented only one expert witness who testified to the contrary; and (2) the State's expert, Dr. Bellew-Smith, improperly based her opinion on respondent's "past conduct" and actuarial instruments.

¶ 35 At the outset, we reject respondent's argument that "[t]he *quantity* of experts who testified that [he] is not a sexually violent person" (his emphasis) is somehow dispositive in determining whether the State has met its burden of proof. It is axiomatic that it is the domain of the trier of fact to weigh the testimony of expert witnesses and assess their credibility. *People v. Wheeler*, 226 Ill. 2d 92, 114-15, 871 N.E.2d 728, 740 (2007). The trial court heard the testimony of four expert witnesses and chose to credit the opinion of Dr. Bellew-Smith in determining respondent was substantially probable to engage in acts of sexual violence. Simply because respondent's experts outnumbered the State's on this issue does not dictate the result respondent urges. *People v. Smith*, 185 Ill. 2d 532, 541, 708 N.E.2d 365, 369 (1999) ("The testimony of a single witness, if it is positive and the witness credible, is sufficient to convict.").

¶ 36 We note neither Dr. Leavitt nor Dr. Smith conducted an interview with respondent. Further, even though Dr. Kane interviewed respondent, she acknowledged on cross-examination she did not discuss with respondent his prior uncharged sex offenses. Thus the trier of fact could have discounted the testimony of respondent's witnesses on this basis. We will not substitute our judgment for that of the trier of fact. *In re Detention of Welsh*, 393 Ill. App. 3d 431, 456, 913 N.E.2d 1109, 1130 (2009).

¶ 37 Next, we consider respondent's claim that Dr. Bellew-Smith improperly relied on respondent's "past conduct" and actuarial instruments in rendering her opinion it was

substantially probable he would engage in acts of sexual violence. It is not entirely clear whether respondent claims the court erred in *admitting* the opinion of Dr. Bellew-Smith or if he simply asserts it erred in the *weight* it accorded the opinion. If the former, the argument is forfeited since respondent not only failed to object to the testimony of Dr. Bellew-Smith at trial (*People v. Ceja*, 204 Ill. 2d 332, 353, 789 N.E.2d 1228, 1242 (2003) (defendant's failure to object to the State's expert testimony resulted in forfeiture of the issue on appeal)), he stipulated to Dr. Bellew-Smith's qualifications and her 2010 sex offender evaluation in advance of trial. If the latter, we are further limited in our ability to address the issue since respondent fails to specify the "past conduct" upon which Dr. Bellew-Smith erroneously relied in rendering her opinion. Without knowing which prior acts he claims were erroneously relied on by Dr. Bellew-Smith, we are unable to address his argument. Ill. S. Ct. R. 341(h)(7) (Feb. 6, 2013); *Sexton v. City of Chicago*, 2012 IL App (1st) 100010, ¶ 79, 976 N.E.2d 626 (" '[A] reviewing court is entitled to have the issues clearly defined and supported by pertinent authority and cohesive arguments' [Citations.], and that failure to develop an argument results in [forfeiture].").

¶ 38 Forfeiture issues aside, we dispose of respondent's broad assertion that "[r]espondent's past conduct cannot form the basis for involuntary commitment under the Act" by looking to not only case law, but also the Act itself. Indeed, section 35(b) of the Act states, "[a]t the trial on the petition it shall be competent to introduce evidence of the commission by the respondent of any number of crimes together with whatever punishments, if any, were imposed." 725 ILCS 207/35(b) (West 2010). Thus, the Act permits the *substantive* admission of past offenses for the trier of fact to consider in SVP proceedings. See *In re Detention of Hardin*, 238 Ill. 2d 33, 51, 932 N.E.2d 1016, 1026 (2010) ("While the presence of prior convictions cannot be

determinative of whether the subject of a SVP petition suffers from a mental disorder, those convictions may, however, provide substantial evidence of the presence of underlying behaviors and psychological traits that combine to meet the diagnostic criteria for a particular mental disorder.").

¶ 39 It is also clear that experts may rely on a respondent's prior acts in rendering opinions as to his sexually violent or dangerous propensities. Our supreme court stated in *In re Detention of Stanbridge*, as follows:

"The State's experts opinion was that [the respondent] continues to have a mental disorder and that he continues to be dangerous. To the extent that the experts relied on prior criminal conduct to make that determination, the experts opinions when viewed in context used 'such conduct *** solely for evidentiary purposes, either to demonstrate that a ' "mental abnormality" exists or to support a finding of future dangerousness.' [Citation.] The evidence presented did not seek to 'affix culpability for prior criminal conduct.' [Citation.] Rather, it used the prior acts 'solely for evidentiary purposes' to support a finding of [the respondent's] mental disorder and future dangerousness. [Citation.] As [one expert] testified, he considered not merely the convictions, but the pattern of behaviors, the frequency, and other related considerations to determine if the driving force behind the rape-type behavior was a specific urge toward nonconsenting sexual

contact. As *Hendricks* explained, evidence of a prior criminal act in a civil commitment proceeding may represent an "important indicator of future violent tendencies." [Citations.]" *In re Detention of Stanbridge*, 2012 IL 112337, ¶ 85, 980 N.E.2d 598.

¶ 40 Further, in *In re Detention of Hunter*, 2013 IL App (4th) 120299, ¶¶ 34-35, 982 N.E.2d 953, an action brought pursuant to the Illinois Sexually Dangerous Persons Act (725 ILCS 205/0.01 to 12 (West 1998)), this court noted that the State's experts had considered police reports, witness statements, health records, and mental-health records, all of which "contained competent factors for the experts to consider in conducting their evaluations." We stated, "[e]ach expert testified he relied upon the information contained in these police reports and other documents in making his overall determination of respondent's sexual dangerousness, as is typical of experts in the field of psychiatry." *Id.* ¶ 35, 982 N.E.2d 953; see also *In re Commitment of Hooker*, 2012 IL App (2d) 101007, ¶ 85, 968 N.E.2d 1087 ("[W]e find no error in the trial court's permitting the State's experts to testify to respondent's past misconduct as it pertained to their evaluations.").

¶ 41 Finally, respondent asserts Dr. Bellew-Smith's opinion regarding his risk to sexually reoffend should be given little weight since it was based, in part, on actuarial instruments which, according to respondent, should have been "cautiously utilized" due to his age. As stated before, it is the province of the trier of fact to weigh the evidence and assess the witnesses' credibility. Here, the trial court considered the sex offender evaluations not only of Dr. Bellew-Smith, but also the evaluations prepared by respondent's three experts. Within the sex offender evaluations, each expert opined as to the relative utility of the mentioned actuarial

instruments. We also note Dr. Bellew-Smith stated in her 2010 sex offender evaluation that her opinion respondent "is a *substantial* and continuing risk for sexual offense recidivism" (her emphasis) was based not only on the actuarial instruments, but also respondent's risk factors. It was for the trial court to judge Dr. Bellew-Smith's credibility and determine the proper weight to be given her testimony, including her testimony regarding the actuarial instruments. Here, we find no error in its consideration of the evidence.

¶ 42 Therefore, we find, in viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements sufficiently proved to determine respondent was an SVP.

43 III. CONCLUSION

¶ 44 We affirm the trial court's judgment, concluding the evidence was sufficient to find respondent was an SVP under the Act.

¶ 45 Affirmed.