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Court of Appeals  
Division III  
State of Washington

NO. 31210-1

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**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

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In re the Detention of:

KENNETH LONGSDORFF,

Appellant.

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**BRIEF OF RESPONDENT**

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## TABLE OF CONTENTS

I.	ISSUE PRESENTED .....	1
II.	STATEMENT OF THE CASE .....	1
	A. Longsdorff’s Offense History .....	1
	B. Dr. Richards’s Testimony at Trial .....	5
	C. Dr. Wollert’s Testimony at Trial .....	8
III.	ARGUMENT .....	8
	A. Standard of Review .....	9
	B. The State Presented Substantial Evidence That Longsdorff is Likely to Commit Future Sexually Violent Crimes. ....	10
	1. Actuarial Data .....	12
	2. Mental Disorders .....	14
	3. Dynamic Risk .....	16
	4. Protective Factors .....	16
	a. Treatment .....	17
	b. Release Environment .....	18
	5. Other Risk Assessment Evidence .....	19
IV.	CONCLUSION .....	21

**TABLE OF AUTHORITIES**

**Cases**

*In re the Detention of Audett*,  
158 Wn.2d 712, 147 P.3d 982 (2006)..... 9, 10

*In re the Detention of Broten*,  
130 Wn. App. 326, 122 P.3d 942 (2005)..... 10

*In re the Detention of Davis*,  
152 Wn.2d 647, 101 P.3d 1 (2004)..... 10

*In re the Detention of Halgren*,  
156 Wn.2d 795, 132 P.3d 714 (2006)..... 10

*In re the Detention of Henrickson*,  
140 Wn.2d 686, 2 P.3d 473 (2000)..... 14

*In re the Detention of Thorell*,  
149 Wn.2d 724, 72 P.3d 708 (2003)..... 9, 11, 12

*State v. Hughes*,  
154 Wn.2d 118, 110 P.3d 192 (2005)..... 9, 10

**Statutes**

RCW 71.09.020(18)..... 11

RCW 71.09.020(7)..... 11

RCW 71.09.020(8)..... 11

## **I. ISSUE PRESENTED**

Whether there was sufficient evidence at trial that Kenneth Longsdorff is likely to commit future acts of predatory sexual violence if not confined to a secure facility, when: (1) an expert using generally accepted risk assessment methods opined Longsdorff was likely to sexually assault children if released; (2) the expert provided a multi-component basis for that opinion; and (3) other evidence corroborated the opinion.

## **II. STATEMENT OF THE CASE**

On September 10, 2012, a jury trial was held to determine whether Kenneth Longsdorff met civil commitment criteria as a sexually violent predator (SVP).<sup>1</sup> 1 RP 118. Ten days later, a jury returned a verdict finding that Longsdorff was an SVP. CP 452, 6RP at 97. The trial court then entered an Order of Commitment. CP 453. On October 18, 2012, Longsdorff filed a Notice of Appeal. CP 460.

### **A. Longsdorff's Offense History**

Kenneth Longsdorff has a long and extensive history of raping and molesting young boys. 3RP at 73, 2RP at 13. He was born on August 22,

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<sup>1</sup> This was the second trial on this issue. A mistrial was declared during the first trial on July 27, 2012, when it was discovered that the Department of Social and Health Services failed to produce a 2010 evaluation of Longsdorff to the parties. CP 375.

1950. Ex. 32 at 6.<sup>2</sup> During his lifetime, he has sexually assaulted at least nine minor males. Ex. 53 at 31-47. He testified that his sexual urges and fantasies related to young boys started a long time ago. Ex. 45 at 95.

The first evidence of Longsdorff acting on his fantasies and urges to minors was his sexual involvement with three brothers at around age 17. Ex. 53 at 42. Jo.B. was the oldest brother, but was younger than Longsdorff. Ex. 35 at 36. Longsdorff engaged in anal and oral intercourse with Jo.B. until the boy was an adult. Ex. 53 at 42. Once Jo.B. was an adult, Longsdorff lost interest in the relationship. *Id.* Longsdorff engaged in oral intercourse with Jo.B.'s younger brother B.B. on three to six occasions. *Id.* at 43. Longsdorff was also caught attempting to remove the pants of the youngest brother, Ja.B. *Id.* at 44.

When Longsdorff was 20 years old, he lived in California with one of his brothers. Ex. 36 at 40. A boy of 8 to 10 years lived next door with his mother. Ex. 53 at 45-46. Longsdorff explained that, "like a predator does, once he sees a young boy, he's going to get to know him, so I did." *Id.* Over approximately the next four years, Longsdorff sexually assaulted this boy more times than he could count in a variety of locations. *Id.*

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<sup>2</sup> On November 13, 2013, the State designated several exhibits for transmittal to this Court. The exhibits designated include published deposition testimony of Dr. Robert Wheeler (Ex. 53 published, IRP at 127), deposition testimony of Kenneth Longsdorff (Ex. 32-45, published, IRP at 131-135), testimony of J.B (Ex. 55, published, IRP at 103), and other exhibits admitted into evidence (Exhibits 2-7, 9, 10, 13, and 48 admitted, 4RP at 146). The published testimony was admitted into the record, IRP at 140.

Around 1980, Longsdorff married a woman he could not communicate with because she spoke Spanish. Ex. 33 at 20. She had a son who was 9 years old. *Id.* Over the nearly three years Longsdorff was married to this woman, he engaged in multiple assaults on his step-son. Ex. 53 at 47, 2RP at 17. These assaults included the oral and anal rape of the boy. *Id.* While he was never charged for these offenses, Longsdorff reported that law enforcement did interview him. Ex. 37 at 45-46.

In 1985, Longsdorff met A.N., the 10 year-old son of a woman who lived on the farm of a mutual friend. Ex. 53 at 37. Within weeks of knowing A.N., Longsdorff was permitted to take the boy on a fishing trip, where the first of many anal rapes occurred. 2RP at 14-15. Longsdorff orally and anally raped A.N. multiple times over a period of years. Ex. 53 at 37, 2RP at 12. In 1992, Longsdorff was convicted of Rape of a Child in the Second Degree and Rape of a Child in the Third Degree in Benton County for his offenses against A.N. Ex. 39 at 64, Ex. 5-7.

Longsdorff met J.L., an 8 year-old boy, through the boy's mother. Ex. 53 at 34, Ex. 40 at 68. Longsdorff described J.L. as "a good friend" and claimed he "was like a father image to him." Ex. 40 at 68. Longsdorff subjected J.L. to multiple oral and anal sexual assaults over a sustained period of time. Ex. 53 at 35, 2RP at 17. In 1992, Longsdorff was convicted of Rape of a Child in the First Degree for assaulting J.L.

Ex. 40 at 71, Ex. 2-4.

R.L. was the son of Longsdorff's farmer friend. Ex. 38 at 46. Longsdorff knew R.L. since he was a baby and was named as the boy's godfather. *Id.*, Ex. 38 at 51-52. On one occasion, Longsdorff performed oral sex on R.L. during a fishing trip. *Id.*, Ex. 38 at 48-49. In 1993, a Walla Walla County trial court convicted Longsdorff of Child Molestation in the First Degree for his offense against R.L. Ex. 9-10, 13.

Longsdorff was introduced to J.B. at age 4 as a friend of the family. Ex. 55 at 5. Longsdorff babysat J.B., A.N., and other kids. *Id.* After knowing J.B. for only months, Longsdorff began a pattern of sexually abusing J.B. that persisted for years. Ex. 53 at 32. When asked if J.B. enjoyed the sexual interactions with him, Longsdorff stated, "At first they may not like it, but they turn around and start to like it." *Id.*

On one occasion, Longsdorff traveled alone with J.B. from the tri-cities area to Seattle for what was advertised as a fun summer vacation. Ex. 55 at 10. Instead, 9-year-old J.B. was subjected to anal rape by Longsdorff. *Id.* J.B. tried to resist being sexually assaulted, but Longsdorff held the boy down to their hotel room bed and forcefully sodomized him. *Id.*, Ex. 55 at 10-11. Longsdorff also orally and anally raped a peer-aged friend of J.B.'s named Ja.B. Ex. 53 at 33. Longsdorff was convicted of Rape of a Child in the first Degree in Franklin County

for his offenses against J.B. Ex. 2-4. His offenses against Ja.B. were not adjudicated.

**B. Dr. Richards's Testimony at Trial**

At trial, the State presented expert testimony from Dr. Henry Richards, a forensic psychologist. 3RP at 23, 39. Dr. Richards has over 20 years of experience conducting risk assessments, served as the superintendent of the Special Commitment Center for over four years and currently has a private practice treating sex offenders.<sup>3</sup> 3RP at 32-36.

Dr. Richards was asked to conduct an SVP evaluation of Longsdorff in November 2011. 3RP at 46. He reviewed extensive historical documentation of Longsdorff's criminal, institutional and mental health history, the records of which are of the type commonly relied upon by experts who evaluate SVPs. *Id.* Dr. Richards also conducted a clinical interview and psychological testing of Longsdorff. 3RP 50, 55.

Dr. Richards diagnosed Longsdorff with several mental disorders: Pedophilia, Alcohol Abuse, Anxiety Disorder Not Otherwise Specified (NOS), Cognitive Disorder NOS, Borderline Intellectual Functioning, and Personality Disorder NOS. 3RP at 68. He held his diagnostic impressions to a reasonable degree of psychological certainty. 3RP at 69.

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<sup>3</sup> The Special Commitment Center is a secure facility that houses most SVPs in Washington State.

Pedophilia is characterized by an individual's sexual attraction to children. 3RP at 68. Longsdorff's pedophilia is evidenced by his 25-year history of sexual interest in, and offending against, children. 3RP at 73. Pedophilia tends to be a permanent, life-long sexual orientation. 3RP at 81.

Longsdorff's Cognitive Disorder NOS impairs his memory, attention, concentration, and abstraction. 3RP at 68, 84. A borderline intellectual functioning diagnosis means that Longsdorff's has a below normal IQ. 3RP at 69. These disorders cause Longsdorff to require a highly structured living environment. 3RP at 86. They also undermine any steps he might take to create and implement a plan to avoid future sexual offending. 3RP at 95.

The personality disorder diagnosis is indicative of a "complex combination of personality elements" in Longsdorff. 3RP at 69. His dependent traits make him highly reliant on others and cause others to relate to him in "a caretaking way." 3RP at 90. Longsdorff's antisocial traits cause him to be highly manipulative and resentful towards authority. 3RP at 91. Dr. Richards found that this mixture of personality problems causes Longsdorff additional dysfunction. *Id.*

Dr. Richards opined that Longsdorff suffers from a mental abnormality that causes him serious difficulty controlling his sexually

violent behavior. 3RP at 95-96. Longsdorff's pedophilia is chronic by nature and severe, as indicated by his willingness to act on his attraction to children. 3RP at 96. His cognitive and intellectual disorders limit his emotional capacity and make managing his pedophilia more challenging. 3RP at 93-94. His alcohol abuse disinhibits any barriers Longsdorff may have to molesting children; and, his anxiety may cause him to seek alcohol or sexual activity to relieve stress. 3RP at 95. All these factors contribute to Longsdorff's mental abnormality. 3RP at 96.

Dr. Richards also opined, to a reasonable degree of psychological certainty, that Longsdorff's mental abnormality makes him likely to engage in predatory acts of sexual violence if released into the community. 3RP at 98. His opinion was based on a risk assessment that utilized the generally accepted "multi-component approach." 3RP at 98. This approach considers actuarial instruments; dynamic, or changeable, risk factors; and the nature of Longsdorff's mental disorders. 3RP at 98-100. Dr. Richards also considered protective factors that may reduce Longsdorff's risk of offending. 3RP at 116.

Based on this multi-faceted assessment, Dr. Richards determined that Longsdorff presents a very high risk to children if not confined in a secure facility. 4RP at 141. He concluded that Longsdorff is at high risk for reoffending. *Id.*

### C. Dr. Wollert's Testimony at Trial

Longsdorff presented testimony from his expert, Dr. Richard Wollert. 4RP at 153. Dr. Wollert testified that he normally testifies on behalf of respondents in SVP cases. 5RP at 61. He disagreed with Dr. Richards's pedophilia diagnosis, but conceded he saw evidence of pedophilia in the records he reviewed. 5RP at 85-86. He also acknowledged the possibility that Longsdorff may currently have sexual urges about children. *Id.*

Dr. Wollert's risk assessment consisted of a single actuarial instrument. 5RP at 117. He acknowledged that developers of the instrument believe that actuarials cannot take into account all potentially relevant risk factors in SVP cases. 5RP at 122. He testified that actuarial data cannot determine whether a person is likely to reoffend. 5RP at 116. Instead, he opined, a person with a "robust" mental abnormality is likely to reoffend. 5RP at 117. Dr. Wollert concluded that Longsdorff was not likely to reoffend. 5RP at 167.

### III. ARGUMENT

Longsdorff argues that the State did not prove beyond a reasonable doubt that he was likely to engage in predatory acts of sexual violence if not confined in a secure facility. Brief of Appellant at 9. Substantial evidence of Longsdorff's likelihood of reoffending, however, was

presented at trial and was more than sufficient to meet the applicable standard. Mr. Longsdorff's commitment as an SVP should be affirmed.

**A. Standard of Review**

The criminal standard of review applies to sufficiency of the evidence challenges under the SVP statute. *In re the Detention of Thorell*, 149 Wn.2d 724, 744, 72 P.3d 708 (2003). "Under this approach, the evidence is sufficient if, when viewed in the light most favorable to the State, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.*

A challenge to the sufficiency of the evidence necessarily admits the truth of the State's evidence. *In re the Detention of Audett*, 158 Wn.2d 712, 727, 147 P.3d 982 (2006). This Court views the evidence in a light most favorable to the State and the commitment should be affirmed if any rational trier of fact could have found the essential elements beyond a reasonable doubt. *Id.* at 727-28. The Court does not, however, determine whether *it* believes the evidence at trial was proven beyond a reasonable doubt. *State v. Hughes*, 154 Wn.2d 118, 152, 110 P.3d 192 (2005), *overruled on other grounds by Washington v. Recuenco*, 548 U.S. 212, 126 S. Ct. 2546, 165 L. Ed. 2d 466 (2006).

Additionally, all reasonable inferences from the evidence are drawn in favor of the State and interpreted most strongly against

Longsdorff. *Audett*, 158 Wn.2d at 727. An appellate court should not second guess the credibility determinations of the fact-finder. *In re the Detention of Halgren*, 156 Wn.2d 795, 811, 132 P.3d 714 (2006); *see also In re the Detention of Davis*, 152 Wn.2d 647, 680, 101 P.3d 1 (2004) (“A trial court’s credibility determinations cannot be reviewed on appeal, even to the extent there may be other reasonable interpretations of the evidence.”) Appellate courts defer to the trier of fact regarding a witness’s credibility, conflicting testimony, and the persuasiveness of the evidence. *In re the Detention of Broten*, 130 Wn. App. 326, 335, 122 P.3d 942 (2005). “Determinations of credibility are for the fact finder and are not reviewable on appeal.” *Hughes*, 154 Wn.2d at 152.

**B. The State Presented Substantial Evidence That Longsdorff is Likely to Commit Future Sexually Violent Crimes.**

The State presented sufficient evidence for the trial court to find, beyond a reasonable doubt, that Longsdorff meets the SVP criteria. Viewed in a light most favorable to the State, that evidence strongly supported a finding that Longsdorff’s mental abnormality causes him serious difficulty controlling his behavior and makes him likely to engage in predatory acts of sexual violence if not confined in a secure facility.

An SVP is an individual “who has been convicted of or charged with a crime of sexual violence and who suffers from a mental

abnormality<sup>4</sup> or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.”<sup>5</sup> RCW 71.09.020(18). Additionally, the “mental abnormality” or “personality disorder” coupled with the person’s history of sexually predatory acts must support the conclusion that the person has serious difficulty controlling his behavior. *In re the Detention of Thorell*, 149 Wn.2d 724, 742, 72 P.3d 708 (2003).

Longsdorff argues there was insufficient evidence for a rational jury to find that his mental abnormality makes him likely to reoffend. He argues that the actuarial data Dr. Richards considered did not demonstrate a sufficient probability he would reoffend. Brief of Appellant at 10-11. He is incorrect. Dr. Richards explained why some instruments showed

higher risk than others. Longsdorff overlooks other important data Dr. Richards relied on as part of his generally accepted, “multi-component approach” to risk assessment. 3RP at 98. There was also other evidence that demonstrated Longsdorff’s risk to children. Viewing all the evidence in the light most favorable to the State, with all reasonable inferences

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<sup>4</sup> “Mental abnormality” means “a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.” RCW 71.09.020(8).

<sup>5</sup> “Likely to engage in predatory acts of sexual violence if not confined in a secure facility” means that “the person more probably than not will engage in such acts” if unconditionally released. RCW 71.09.020(7).

drawn in favor of the State, a rational trier of fact would have easily found that Longsdorff's mental abnormality makes him likely to reoffend.

### **1. Actuarial Data**

Dr. Richards considered actuarial data in assessing Longsdorff's risk. 3RP at 104. Actuarial assessment involves statistical analysis to identify a number of risk factors that assist in the prediction of future dangerousness. *In re Det. of Thorell*, 149 Wn.2d 724, 753, 72 P.3d 708 (2003). While actuarial instruments have shortcomings because they are based on statistical analysis of small sample sizes, they nevertheless provide useful information as one component of a complete SVP risk assessment. 3RP at 98-100.

Four commonly used actuarial tests were employed by Dr. Richards: Static-99R, Static-02R, MnSOST-R, and SORAG. 3RP at 105. The Static-99R and Static-02R were designed to assess factors that are objective and easy to measure. 3RP at 105, 109. Longsdorff's score on the Static-99R places him in a group of offenders of whom 9% recidivated within 10 years. 3RP at 108. His Static-02R score compared him to a group where 18% of the offenders recidivated within 10 years. *Id.*

The MnSOST-R and SORAG take clinical factors into account and require more clinical judgment by the assessor. 3RP at 105. Longsdorff

was most similar to a group of offenders who had a 57% recidivism rate within 6 years using the MnSOST-R. 3RP at 109. His score on the SORAG placed him in a group that recidivated at a rate of 59% within 10 years.<sup>6</sup> *Id.*

Dr. Richards analyzed the differences in Longsdorff's actuarial data.<sup>7</sup> 3RP at 112. He concluded that lower recidivism rates from the Static instruments indicated that Longsdorff's risk was more related to clinical factors. *Id.* The average sex offender does not have clinical factors; therefore, static and objective measures fail to capture Longsdorff's risk. *Id.*

Dr. Richards also indicated that actuarial numbers "greatly underestimate" risk. 3RP at 110. These instruments can only measure

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<sup>6</sup> Longsdorff argues that the actuarial data does not constitute evidence of his current risk, but rather only provides "an assignment of risk many years into the future." Brief of Appellant at 10. He misunderstands the evidence. Actuarial data compares offenders to a group of offenders who received a similar score on the instrument. The data cannot tell an evaluator anything unique about the offender being scored. 3RP at 106. The actuarial information merely informs the evaluator that the offender currently resembles a group of other offenders, of which a certain percentage recidivated. For example, according to the MnSOST-R, Longsdorff's risk is similar to a group of offenders that were likely to reoffend within 6 years of release.

<sup>7</sup> Longsdorff combines the actuarial data provided by Dr. Richards and argues that the numbers constitute "a preposterously wide range of probability." Brief of Appellant at 11. The record clearly indicates that these numbers were derived from four separate instruments measuring varying aspects of future risk. The data was not presented as a "range of probability" and it is improper to construe it as such.

crimes resulting in a charge or conviction.<sup>8</sup> 3RP at 111. Longsdorff, like others, has committed multiple unadjudicated offenses that would not be included in actuarial data. *Id.* As such, actuarial data provides “moderate or worse” predictability of future offending. 4RP at 105.

## **2. Mental Disorders**

Longsdorff’s mental status was also considered by Dr. Richards in determining his likelihood of reoffense. 3RP at 113. This includes analysis of Longsdorff’s mental abnormality and attachment pattern. *Id.* The definition of mental abnormality is tied directly to present dangerousness. *In re the Detention of Henrickson*, 140 Wn.2d 686, 692, 2 P.3d 473 (2000). Dr. Richards opined that all of Longsdorff’s disorders contributed to increasing his high risk of future offending. 3RP at 123-124.

Longsdorff’s pedophilia limits his empathy towards children and impairs his ability to avoid situations that would lead to sex offending. 3RP at 92-93. It causes him to have a strong sexual and emotional connection with children. 3RP at 123-124. As of trial, Longsdorff evidenced a strong emotionally-held belief that child sex is a form of love or nurturance. 3RP at 80. Records reflect that the most meaningful relationships Longsdorff has ever had were with children. 3RP at 80. His

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<sup>8</sup> For example, only one seventh of the sex offenses committed against children are reported to authorities. 3RP at 111.

pedophilia causes him to relate to children and seek them for his sexual needs. 3RP at 113. This disposition greatly affects Longsdorff's risk for future offenses against children. *Id.*

Longsdorff's other disorders also make it difficult for him to avoid future sex offending. 3RP at 94. His cognitive disorder makes it difficult for him to apply any treatment concepts he has been exposed to. 3RP at 123-124. His anxiety disorder causes him to act impulsively rather than think through issues he encounters. *Id.* Longsdorff reported that many of his offenses took place while under the influence of alcohol. 3RP at 81. Yet, his alcohol abuse problem remains untreated. 3RP at 123-124. Each of these are harbingers of future offenses.

Dr. Richards also scored Longsdorff on the PCL-R, an instrument that measures psychopathy. 3RP at 109. Its results show Longsdorff has little empathy, lack of remorse and high capacity to manipulate others. 3RP at 109, 4RP at 108-111. His lack of remorse is demonstrated through his claims that he did more for his victims than their parents did. 3RP at 109. His impaired empathy is manifested by his obliviousness to the extreme pain his victims reported while being anally raped. 4RP at 111, 1RP at 10-11. His attempts at manipulating evaluators were also noted. Ex. 53 at 29-30. These traits contribute to the high risk Longsdorff poses to children.

### **3. Dynamic Risk**

Dr. Richards assessed Longsdorff's risk by evaluating dynamic risk factors. 3RP at 100. Unlike static factors that tend not to change, dynamic risk factors assess aspects of an individual that may change. *Id.* Consideration of these factors enable evaluators to make an assessment of an offender's current risk. 3RP at 114-115.

In evaluating Longsdorff's dynamic risk, Dr. Richards used the factors listed in the Stable 2007 test. 3RP at 114. The most important of these related to intimacy. 3RP at 115. For example, Longsdorff has no history of, and limited capacity to form, appropriate stable relationships. *Id.* His relationships with adults have been more shallow than with children. 3RP at 80.

Other dynamic factors also increase Longsdorff's risk. He has very limited resources in the community. *Id.* His sense of rejection has led him to justify some of his past offending. *Id.* This type of social rejection is a dynamic risk factor. *Id.* Longsdorff's deviant sexual preference is also a dynamic risk factor. *Id.*

### **4. Protective Factors**

Dr. Richards considered factors that reduce on offender's chances of reoffending. 3RP at 116. For example, an offender's advanced age or health may mitigate their risk. *Id.* Dr. Richards found Longsdorff to be in

adequate health. 3RP at 117. He also explained that while rapists rarely reoffend after age 60, pedophiles like Longsdorff often reoffend despite advancing age. *Id.* Dr. Richards also considered Longsdorff's participation in treatment and proposed release environment in his risk assessment. 3RP at 118, 120.

**a. Treatment**

If an offender learns to manage their risk better through treatment gains, their risk for reoffense is mitigated. 3RP at 118. Research indicates that sex offender treatment is a protective factor against recidivism if the offender "got it," or understood the curriculum. *Id.* Dr. Richards found that Longsdorff had limited treatment gains. 3RP at 123-124.

Despite years of treatment, Longsdorff has never come to terms with his pedophilic disorder. 3RP at 80. He is still emotionally oriented towards children. *Id.* He still believes that he has done more for his victims than their mothers did. *Id.* Longsdorff does not understand why he has offended and lacks skills to control his risk. 3RP at 120.

While Longsdorff was compliant in treatment, it was conditioned by his limitations. 3RP at 119. Dr. Richards found that a combination of Longsdorff's personality, cognitive limitations, and pedophilia, cause him to have various kinds of denial and avoidance that greatly reduce any treatment gains. *Id.* Dr. Richards concluded that Longsdorff has "very

minimal skills” and has failed to acquire the skills achievable within his limitations. 4RP at 141.

**b. Release Environment**

The environment an offender is released into can mitigate reoffense risk if it is supportive and dissimilar to the environment where the person previously committed offenses. 3RP at 120. Longsdorff’s release plan involved him acquiring a pet dog, renting an apartment near a racetrack whereupon he would keep to himself and “kick back and retire.” Ex. 44 at 87, 93. He believed that finding a job was not likely, so he planned on living off of Supplemental Security Income (SSI) despite owing the SSI program money. Ex. 44 at 88-89. Longsdorff also plans on supplementing his income with gambling winnings from horseracing. 3RP at 121.

Dr. Richards opined that this release plan was unrealistic and not protective. 3RP at 121-122. It fails to provide Longsdorff with the high degree of supervision he requires in the community, at least initially. 4RP at 142. Alcohol is served at racetracks. 3RP at 122. Children are drawn to dogs and horses. *Id.* This plan will cause him to gravitate back to bars and “marginal women” with children who need help. 4RP at 142. This is the same environment in which Longsdorff committed sex offenses when he was last living in the community. *Id.* Dr. Richards opined that instead

of a relapse prevention plan, Longsdorff had presented a relapse plan. 4RP at 140.

### **5. Other Risk Assessment Evidence**

Longsdorff argues that the State's risk assessment evidence consisted solely of Dr. Richards's testimony about the actuarial instruments he relied on. Brief of Appellant at 10. He is incorrect. As discussed above, Dr. Richards relied on far more than just actuarial data. Nor was Dr. Richards's testimony the only risk assessment evidence presented at trial. Significant evidence proving Longsdorff's high risk of future sexual offending was presented by other witnesses as well.

In 2006 Longsdorff told an evaluator he had a 65% chance of committing a new sex crime if released. Ex. 48. The evaluator questioned Longsdorff's motives in making this statement, and took additional measures to make him confident that Longsdorff was communicating his own appraisal of his risk if released. Ex. 53 at 53-61. In 2009, Longsdorff told an SCC treatment provider, "If I'm not committed I should be. I wouldn't trust myself in the community." 2RP at 52. Even Longsdorff's expert, Dr. Wollert, testified that an evaluator should not ignore statements from an offender indicating belief of future reoffense. 5RP at 114.

Evidence also indicated Longsdorff currently lacks insight into his mental disorders and the nature of his offending. During a treatment

session in 2010, when discussing his victims, he reported, “I really thought those boys loved me.” 2RP at 56. In his current treatment, Longsdorff describes his victims as “friends” and asserts “that they loved him.” 2RP at 172.

Longsdorff testified that he doesn’t know why he committed sex offenses. Ex. 42 at 81. He stated that his 8-year-old victim J.L. was a good friend and that Longsdorff “was like a father image to him.” Ex. 40 at 68. He described his feelings for his victims by stating, “In my heart and mind I loved them.” Ex. 40 at 71.

Longsdorff also demonstrated a troubling lack of insight into his offending by blaming his victims for his crimes. He testified that offenses occurred because “He would like to show me his penis all the time” or because his victim wanted to play football with him or go swimming. Ex. 38 at 50, Ex. 39 at 57. The fact that Longsdorff cannot articulate or understand why he sexually assaulted children is evidence of his significant risk for future offending. A rational trier of fact would have easily found that Longsdorff is likely to commit future sex offenses against children if not confined in a secure facility.

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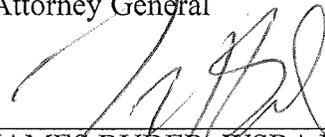
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**IV. CONCLUSION**

For the foregoing reasons, the State requests that this Court affirm Longsdorff's civil commitment as a sexually violent predator.

RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of November, 2013.

ROBERT W. FERGUSON  
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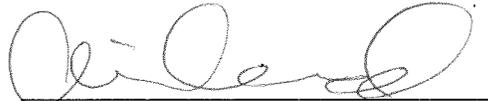
CERTIFICATE OF SERVICE

I certify that on the 22<sup>nd</sup> day of November, 2013, I sent via electronic mail and deposited a copy of the foregoing document into the United States Mail, first-class postage prepaid addressed as follows:

PETER TILLER  
[ptiller@tillerlaw.com](mailto:ptiller@tillerlaw.com)  
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Centralia, WA 98531-0058

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of November, 2013.



ALLISON CLEVELAND