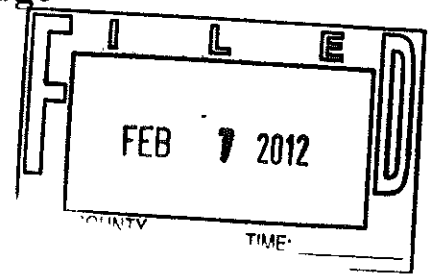


IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI
PROBATE DIVISION

Honorable Larry D. Harman, Judge



IN THE MATTER OF THE CARE)
AND TREATMENT OF)

VANCE MOLLER,)
a/k/a VANCE R. MOLLER)
a/k/a/ VANCE R. LAWHORN,)

Respondent.)

) Case No. CV204-117P

_____)
Pursuant to MO.REV.STAT.§632.480)
through §632.513, Sexually Violent)
Predator, Civil Commitment.)

ORDER AND JUDGMENT

The Petitioner, State of Missouri, by the Attorney General for the State of Missouri, has caused to be filed a Petition seeking to have the Respondent, Vance Moller, to be declared a Sexually Violent Predator, pursuant to Section 632.480, through Section 632.513, R.S.Mo.

The motion that is subject to this Order and Judgment, was filed by the State of Missouri on January 20th, 2012, seeking a hearing and order for involuntary administration of psychotropic medication. The issue of whether a Respondent in a civil proceeding of this nature can be involuntarily administered psychotropic medications seems to be a matter of first impression in Missouri.

A “Westlaw” search for similar cases revealed only one. In that case, the respondent exhibited characteristics of paranoid schizophrenia while engaged in the MoSOP treatment program *within the Department of Corrections*. (emphasis added) *See In re Care and Treatment of Spencer* 171 S.W.3d 813 (Mo. App. S.D., 2005).

In *Spencer*, the respondent exhibited characteristics of paranoid schizophrenia while engaged in the MoSOP treatment program within the Department of Corrections. *Spencer* is distinguished in that the involuntary medication occurred under a physician’s direct order, as provided for in the Department of Mental Health Operating Regulation 4.152., as allowed by Section 630.050 R.S.Mo. In *Spencer*, no court order was sought. The issue of the involuntary medication of the respondent did not figure on the ultimate outcome of the case and was only mentioned to give the factual background of the Sexually Violent Predator proceedings.

Now on this 7th day of February, 2012, the State appears by Assistant Attorney General, and the Respondent appears in person and with counsel. Evidence is received. The Court makes the following FINDINGS, ORDERS, AND JUDGMENT:

FACTUAL HISTORY

(1.) The original Petition seeking the civil commitment of the Respondent as a sexually violent predator was filed March 4th, 2004.

(2.) Among the allegations contained within the original Petition, are that the Respondent was found guilty on April 30th, 1998, of a sexually violent offense, specifically; Child Molestation in the First Degree. The State further alleged that the Respondent suffered from a mental abnormality which would make it more likely than not that he would engage in predatory acts of sexual violence if not confined for treatment, control, and care.

Among the attachments to the original petition is an “End of Confinement Report.” This report outlined the findings of the Missouri Department of Corrections, Section of Behavioral Health, relating to the conduct of the Respondent while incarcerated and serving his sentence for the criminal conduct earlier described. Respondent was given a six year sentence and served it fully.

Included in the “End of Confinement Report” was information that alleged Respondent refused to participate in the MoSOP Treatment Program. Also included was a brief recitation of the criminal history of the Respondent. It is alleged that Respondent, at age 36 committed Sexual Misconduct in the Third Degree for multiple offenses against a 16 year old victim.

Respondent was on parole for an unrelated burglary at the time he was convicted of two sexual misconduct charges.

It is further alleged that, again while Respondent was age 36, he committed another sexual misconduct crime against a 14 year old female victim. During the course of that assault, it is alleged that Respondent threatened the victim's 14 year old boyfriend with various acts of forcible sodomy. It is further alleged that while the Respondent was between the ages of 32 and 36, he committed Child Molestation in the First Degree against a male victim between the age of 6 and 10. The report also alleges that the Respondent has sexually assaulted as many as six other victims who were between the ages of 4 and 5. The identities of those victims are unknown.

It is further alleged at the time of his "End of Confinement Report," the Respondent had been arrested, or charged, approximately 22 times with various offenses, ranging from municipal ordinance violations relating to possession of marijuana, to felony distribution and selling of narcotics, burglary in the second degree, assault in the second degree, various sexual offenses, and multiple misdemeanor liquor law violations.

(3.) It is now alleged by the State that Respondent actually suffers from several mental abnormalities, including schizophrenia,

paranoid type, delusional disorder, pedophilia, and in the past has been alcoholic and cannabis dependent.

(4.) When the underlying petition seeking sexually violent predator confinement was filed, counsel was immediately appointed.

(5.) This Court set the petition for jury trial, commencing on November 5th, 2007.

(6.) Before the petition seeking involuntary confinement for care, control, and treatment was heard on its merits, Mr. Moller became convinced that he was suffering from a variety of serious medical illnesses. He has become convinced that he is suffering from end stage stomach cancer. In the past he has claimed he suffered from colon cancer. None of Respondent's concerns that he suffers from cancer are true.

(7.) Respondent has been examined multiple times by various medical Doctors, and no medical test, evaluation, or examination has revealed that the Respondent has any significant health issues, except elevated cholesterol and mild gastric reflux. He has suffered from a variety of sexually transmitted diseases in the past.

(8.) Respondent allegedly stated to multiple parties that he would be treated for his medical condition if he would be returned to the Department of Corrections, rather than being confined by the

Department of Mental Health. Respondent, in order to be returned to the Department of Corrections, stabbed a Department of Mental Health staff member in the neck with a pen. Respondent allegedly told his treating psychiatrist that he intended to kill the staff member (in self-defense) because the staff member was administering poison to him, rather than treating his cancer. He was convicted of Assault in The Second Degree and sentenced to 7 years in the Missouri Department of Corrections. He was incarcerated on that criminal conviction until November, 2011.

(9.) The proceedings under the sexually violent predator petition were suspended by agreement due to Respondent's incarceration in the Department of Corrections.

(10.) The State of Missouri now wishes to proceed on the original petition under the sexually violent predator law, since Respondent, has served his sentence for Assault in the Second Degree, and would be discharged.

(11.) Respondent is now a detainee under the Court's original order in the sexually violent predator action.

(12.) The instant motion alleges that the Respondent's psychosis will worsen with time if untreated. Respondent has allegedly made threats of violence within the last 30 days. An inventory of his belongings revealed that he had hidden an extra

toothbrush. Staff was concerned that the toothbrush handle could be sharpened into a weapon.

(13.) Respondent has threatened suicide in the recent past.

(14.) The Respondent has been treated by several psychiatrists, and the current treatment plan is to administer Zyprexa Zydis, an antipsychotic medication. Respondent has refused to take the medication.

(15.) During his confinement in the Department of Corrections, Respondent was forcefully treated with Zyprexa Zydis, under a Doctor's direct order. According to the testimony received at the hearing on this motion, Respondent reacted well to that medication and his condition improved. He has also been treated with several other psychotropic medications.

(16.) The State of Missouri now seeks a Court order to medicate defendant involuntarily, as authorized by Section (2) (B) of the Department of Mental Health Operating Regulation 4.152.

(17.) Respondent, although represented by counsel, was allowed to orally move *pro se* for a medical release so that he could go home.

FINDINGS

This Court, for purposes of the instant motion, finds that credible evidence exists that Respondent, Vance Moller, suffers

from at least two mental abnormalities or illnesses, specifically schizophrenia, paranoid type, and delusional disorder.

THIS COURT FURTHER FINDS that the Respondent's mental condition will continue to deteriorate if not medically treated.

THIS COURT FURTHER FINDS that the medication that has been used successfully with the Respondent before is the least restrictive treatment available to assist Mr. Moller with his mental illness.

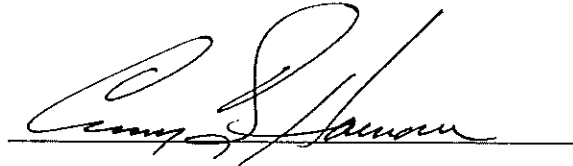
The Court finds from the evidence presented, that adequate pre-administration laboratory testing has been conducted by the Department of Mental Health, and it is the treating psychiatrist's opinion that antipsychotic psychotropic medication may be administered safely to the Respondent.

THIS COURT FURTHER FINDS that if untreated, the Respondent presents an immediate and significant risk of substantial harm to himself or others.

Since Respondent has refused to consent to the administration of the antipsychotic psychotropic medications, this Court finds that the medications should be administered to the Respondent involuntarily by means determined by the Department of Mental Health to be safe and appropriate under all of the circumstances. In the event other antipsychotic psychotropic

medications are determined by the Department of Mental Health to be more effective, the Department is not limited to the administration of Zyprexa Zydis, but alternatives may be utilized in the judgment of the treating psychiatrist.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion For Involuntary Administration of Psychotropic Medication, filed by the State of Missouri, is hereby granted, and the Department of Mental Health is hereby authorized to administer such antipsychotic medications as in the judgment of the treating psychiatrist is appropriate and necessary. Respondent's *pro se* motion for medical release is denied.



Larry D. Harman
Circuit Judge – Probate Division
Seventh Judicial Circuit

Date: February 7, 2012