AFFIRM; Opinion Filed August 5, 2020

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-19-00702-CV

IN RE: THE COMMITMENT OF KENNETH PAUL BARNES

On Appeal from the 15th Judicial District Court
Grayson County, Texas
Trial Court Cause No. CV-18-1148

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Molberg, and Justice Carlyle
Opinion by Justice Carlyle

A jury determined appellant Kenneth Paul Barnes is a sexually violent predator. On appeal, he argues (1) the evidence is factually insufficient to prove beyond a reasonable doubt that he suffers from a behavioral abnormality making him likely to engage in a predatory act of sexual violence and (2) the trial court prohibited him from asking a proper voir dire question. We affirm.

Sufficiency of the Evidence

Barnes argues the evidence is factually insufficient to prove beyond a reasonable doubt that he suffers from a behavioral abnormality making him likely to

engage in a predatory act of sexual violence. The State responds the jury's verdict is factually sufficient when all the evidence is viewed in a neutral light.[1]

The Texas Civil Commitment of Sexually Violent Predators Act (SVP Act) provides for the civil commitment of sexually violent predators based on legislative findings that "a small but extremely dangerous group of sexually violent predators exists and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory actions of sexual violence." TEX. HEALTH & SAFETY CODE § 841.001. The legislature expressly found that "a civil commitment procedure for the long-term supervision and treatment of sexually violent predators is necessary and in the interest of the state." *Id.*

Chapter 841 requires the State to prove beyond a reasonable doubt that a person is a sexually violent predator. *Id.* § 841.062. Under the SVP Act, a person is a sexually violent predator if the person (1) is a repeat sexually violent offender and (2) suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence. *Id.* § 841.003(a). A behavioral abnormality is "a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person." *Id.*

[1] We discuss the relevant facts within our review of the evidence to avoid redundancy. *See* TEX. R. APP. P. 47.1.

§ 841.002(2). A predatory act is "an act directed toward individuals, including family members, for the primary purpose of victimization." *Id.* § 841.002(5).

Here, Barnes challenges the factual sufficiency of the evidence supporting the second element, which remains an appropriate challenge in these cases though the Court of Criminal Appeals has abandoned it in criminal appeals. *See In re Commitment of Day*, 342 S.W.3d 193, 208–13 (Tex. App.—Beaumont 2011, pet. denied) (explaining that intermediate appellate courts have a constitutional duty to review factual sufficiency when the issue is raised on appeal and that the Texas Supreme Court, not the Court of Criminal Appeals, construes the Texas Constitution as applied in civil cases). When reviewing a challenge to the factual sufficiency of the evidence in a civil commitment case, we weigh all of the evidence to determine whether a verdict that is supported by legally sufficient evidence nevertheless reflects a risk of injustice that would compel ordering a new trial. *Id.* at 213; *see also In re Commitment of Rogers*, No. 05-17-00010-CV, 2018 WL 360047, at *5 (Tex. App.—Dallas Jan. 11, 2018, pet. denied) (mem. op.). We view all of the evidence in a neutral light and ask whether a jury was rationally justified in finding guilt beyond a reasonable doubt. *In re Commitment of Mendoza*, No. 05-18-01202-CV, 2019 WL 5205710, at *6 (Tex. App.—Dallas Oct. 16, 2019, pet. denied) (mem. op.). We will reverse only if, after weighing the evidence, we determine that "the risk of an injustice remains too great to allow the verdict to stand." *Commitment of Day*, 342 S.W.3d at 213.

Barnes's first run-in with the law occurred when he was fifteen years old. He spent a few days in jail after getting caught in a park smoking marijuana. He later spent a week in jail for breaking into a school. In March 1985, he was arrested for robbery, though he later described the robbery as a "joke" and claimed he did not know his co-defendant had a BB gun with him. Barnes received ten years' probation for the offense. In May 1992, at age 31 and while on probation, he committed the first sexual offense against his six-year-old niece by forcing her to touch his penis. He was convicted of indecency of a child by sexual contact.

In June 2009, when he was forty-nine years old, Barnes was again convicted of indecency with a child by sexual contact, his six-year-old granddaughter. While she was asleep on the floor beside him, he reached into her underwear, touched just above her vagina, but stopped when she woke up. He admitted he would have touched her vagina had she not woken up and found her "appealing."

Given these two prior convictions, Barnes concedes he is a repeat offender with a predisposition as evidenced by his two offenses against young children in his family; however, he argues he has not acted on his pedophilic impulses for most of his life; therefore, "there is little reason to think he is so unable to control himself as to pose a continuing danger to the public." As such, we focus our review of the evidence as to whether Barnes has a behavioral abnormality that is likely to make him engage in a predatory act of sexual violence. *See* TEX. HEALTH & SAFETY CODE § 841.003(a)(2).

Barnes relies on the following evidence to support the unlikelihood he will engage in a predatory act of sexual violence:

1. His two prior offenses are separated by seventeen years and despite admitting that he has been attracted to prepubescent children since he was a child, he refrained from offending for many years.

2. His second and last offense involved a single incident of inappropriate touching, which "pales" in comparison to the first offense; these "isolated incidents separated by decades do not amount to a pattern of offending."

3. His offenses do not rise to a "worst of the worst" justifying indefinite confinement.

The jury heard from two witnesses at trial: Dr. Darrel Turner, a clinical psychologist who provided expert testimony for the State, and Barnes.

Dr. Turner explained "behavioral abnormality" is a legal term with a mental health connotation. He paraphrased the definition as "some kind of condition that makes a person likely to engage in repeated acts of sexual violence against other people." In fifty percent of the cases he has evaluated, he has determined a person suffers from a behavioral abnormality.

Dr. Turner was the first psychologist to evaluate Barnes for a behavioral abnormality. Dr. Turner reviewed approximately one hundred pages of Barnes's records prior to first interviewing him. Dr. Turner continued to receive records up until a few weeks before trial. He explained he considers information about non-sexual offending as well as sexual offending "because one of the biggest risk factors for whether or not someone is going to re-offend sexually is the presence of anti-

sociality," which is a "criminal way of thinking" or a "sense of entitlement . . . lack of remorse."

Dr. Turner interviewed Barnes for over three hours on April 4, 2018. He described Barnes as sidestepping and not directly answering questions. Barnes often rephrased Dr. Turner's questions and then answered his own question rather than the one actually asked.

Based on his expert opinion, Dr. Turner believed Barnes suffered from a behavioral abnormality predisposing him to engage in predatory acts of sexual violence. In reaching his conclusion, he relied, in part, on Barnes's prior sexual offenses and certain risk factors. He explained a research-supported risk factor as "something that if it's present actually increased that offender's likelihood of re-offending above that of the average sex offender."

When Dr. Turner interviewed Barnes, he asked Barnes about his prior offenses because it was important to get his perspective and see if he was "accepting responsibility for his own actions, how does he look at the victims, what are his versions of things." When Dr. Turner discussed the 1992 incident with Barnes, Barnes indicated his niece was "very interested in sex . . . and him." Barnes described her as "hypersexual," and he would move her hand away when she tried to touch him. Barnes described the incident as one in which his penis "fell out of his shorts," and she grabbed him. He let her fondle him for "a little while" only because he found "girls that were sexually knowledgeable or curious to be intriguing." Dr. Turner

described Barnes as painting himself to be the victim and his niece as the aggressor, which is "just not believable." But, Dr. Turner explained such rationalization is common in a pedophile, who often attributes sexual motivations to a child.

During the interview, Dr. Turner also discussed the June 2009 incident. Dr. Turner testified the similarity in age and sex of the victims "establishes a pattern of sexual attraction to prepubescent females" and "gives a lot of information about his sexually deviant focus and sexually deviant interests." He also emphasized that the time gap between offenses showed Barnes was still experiencing deviant sexual urges and "still antisocial enough to act out on them." Barnes admitted to Turner he had been attracted to female prepubescent children since he was a child.

Dr. Turner testified that he considered Barnes a sexual deviant because his sexual interest required him to victimize another individual to satisfy himself, and further classified Barns as "non-exclusive" because he has a history of sexual attraction to adult women as well as prepubescent females. Barnes met all criteria in the DSM-V for pedophilia, defined as a pattern of at least six months of sexual fantasies or attraction to prepubescent children. Although Barnes claimed he used the Bible to stop his behavior, Dr. Turner testified that in his training, education, and experience, pedophilia is a lifelong condition that does not go away. By continuing to victim-blame and characterize his niece as the sexual aggressor as recently as a few months before trial, Barnes indicated his pedophilia remained active.

Dr. Turner also testified Barnes suffered from adult anti-social characteristics. Dr. Turner described such individuals as not respecting others or authority. They do not care about the welfare or safety of others because they feel entitled. "They want what they want, and they are willing to con, manipulate, even physically coerce others to get it." He explained these personality constructs often engage in illegal behaviors, such as the sexual criminal history here. Moreover, as another example, despite victimizing a six-year-old girl and receiving punishment for it, he victimized another six-year-old girl later in life to satisfy his sexual urge, indicating his continued behavioral abnormality.

Dr. Turner also relied on Barnes's non-sexual criminal history in forming his opinion about a behavior abnormality. Barnes had prior convictions for criminal trespassing, driving while intoxicated, failing to comply with sex offender registration, and robbery by assault. In addition to those prior convictions, he violated numerous conditions of his probation for failing drug tests and failing to pay fines. Turner emphasized these circumstances were also important when considering someone's anti-sociality.

Barnes displayed certain behaviors in prison that indicated a continued behavior abnormality. For example, Barnes was caught with marijuana, and Dr. Turner emphasized the importance of this incident because Barnes was intoxicated on marijuana when he committed the sexual offenses. Further, Barnes had used the drug as recently as 2014, showing his continued poor judgment and insight.

Barnes attacked an officer in a violent outburst and engaged in fights with other inmates as recently as 2017. Dr. Turner testified this was not surprising given that child molesters often do not do well in prison, and he did not consider this a complete negative factor against Barnes. Dr. Turner said he was "trying to give him credit where credit is due," but he still believed there was strong evidence that Barnes is a psychopath.

In addition to interviewing Barnes, Dr. Turner also administered different scoring instruments to determine if Barnes suffered from a behavior abnormality. Dr. Turner first explained to the jury the Psychopathy Checklist Revised (PCLR), the most widely used measure for determining the degree to which someone possesses psychopathic traits. He described psychopathy as an extreme form of anti-sociality in which someone lacks an ability to empathize based on the neuro construct of the brain. He opined there is a strong connection between anti-sociality and sexual re-offending.

The PCLR consists of twenty questions scaled from zero to two. A zero means the characteristic is not present; a one means it may be present but not enough evidence to give a "firm" yes; and a two means the trait is present. Barnes scored a thirty-one out of forty. Based on Dr. Turner's training, Barnes fell into the "severe degree of psychopathic characteristics." Dr. Turner described Barnes as artificially charming, overinflating his sense of self, conning and manipulative, and lacking remorse. Dr. Turner testified that Barnes showed the most remorse in his interviews

when talking about himself and how badly he feels about being in prison as opposed to showing remorse for his victims. Barnes also exhibited a parasitic lifestyle, meaning he lived off other people, particularly his family. He failed to take responsibility for his own actions, which was most evident by continuing to blame his six-year-old niece for his sexual offense. He further showed a lack of responsibility for his own actions by blaming the co-defendant involved in the 1985 robbery.

Dr. Turner also administered the Static-99R that measures the likelihood that a sex offender will be arrested or convicted for another sex offense. He explained it is not a measure of a person's likelihood of re-offending because many repeat offenders do not get caught. Barnes scored a two on the Static-99R, meaning he was an average risk for being arrested or convicted for another sexual offense. However, Dr. Turner explained the two biggest risk factors considered in a behavioral abnormality evaluation or in a sex offender risk assessment are anti-sociality and sexual deviance, both of which are present in Barnes. He has shown an inability to control his behavior because he committed both sexual offenses while under supervision for other offenses.

Dr. Turner gave Barnes credit for continuing to participate in treatment classes and providing feedback, but there were indications Barnes was "still fighting the process." Dr. Turner believed Barnes had accepted some responsibility for the offense against his granddaughter but not his niece. Dr. Turner credited Barnes for

participating in faith-based and other courses that have helped him adjust to institutionalization. He also credited Barnes for admitting to his pedophilia tendencies, which most pedophiles do not do. Dr. Turner agreed Barnes had family support, but Barnes also offended and re-offended against family members so that mitigated the factor.

Dr. Turner noted that perpetrators are more likely to re-offend against strangers than family members and that as sex offenders age, their likelihood of re-offending decreases. He noted that pedophilic interests decrease at age forty and significantly decrease at age sixty. At the time of trial, Barnes was almost fifty-nine. Despite some of these positive factors, after considering the weight of all the factors, Dr. Turner concluded Barnes suffered a behavioral abnormality that predisposes him to engage in predatory acts of sexual violence.

Barnes testified after Dr. Turner. When asked about the incident with his niece, he said she reached up and grabbed his penis when it "unintentionally" came into view. When asked to explain why he described his niece as promiscuous, he said that "her dad . . . left dirty magazines all over the house. She was able to look at them whenever she chose to." Barnes admitted he thought it was "intriguing" she looked at pornography. He admitted that allowing his niece to touch him occurred with the intent to arouse and gratify his sexual desire.

He denied fighting a correctional officer and called it a "bogus" case. He denied fighting another prisoner. He also testified someone planted the marijuana on

him. He testified he would never, "absolutely not," hurt anyone ever again. He claimed he understood it is never appropriate for an adult to have a sexual relationship with a child, and he no longer had an attraction to children.

The jury was the sole judge of the credibility of the witnesses and the weight to be given their testimony. *Commitment of Mendoza*, 2019 WL 5205710, at *6. It was the jury's responsibility to fairly resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from basic to ultimate facts. *Commitment of Day*, 342 S.W.3d at 207. After weighing all the evidence, the jury could reasonably have determined Barnes has a behavioral abnormality making him likely to engage in a predatory act of sexual violence. We conclude that the evidence is factually sufficient to support the jury's finding and therefore, is not so weak that it "reflects a risk of injustice that would compel ordering a new trial." *Id.* at 213.

We overrule Barnes's second issue.[2]

[2] In reaching this conclusion, we reject Barnes's implicit assertion that this Court's opinion in *Commitment of Mendoza* reduced the State's burden of proof in these cases. *See* 2019 WL 5205710, at *8. As we noted in that case, expert testimony can sometimes demonstrate that a "repeat sexually violent offender" does not "suffer from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence." *Id.* Barnes cites Justice Anthony Kennedy's critique of the civil commitment scheme for repeat sex offenders. *See Kansas v. Hendricks*, 521 U.S. 346, 373 (1997) (Kennedy, J., concurring) ("If the civil system is used simply to impose punishment after the State makes an improvident plea bargain on the criminal side, then it is not performing its proper function."). But we have no discretion to abandon settled law upholding the Texas scheme constitutional. *See In re Commitment of Fisher*, 164 S.W.3d 637 (Tex. 2005); *Beasley v. Molett*, 95 S.W.3d 590 (Tex. App.—Beaumont 2002, pet. denied); *In re Commitment of Petersimes*, 122 S.W.3d 370 (Tex. App.—Beaumont 2003, pet. denied).

Limitation of Voir Dire

Barnes also argues the trial court erred by prohibiting him from asking a proper question during voir dire. The State responds the trial court properly sustained its objection to an improper commitment question because the question inquired about opinions concerning particular evidence and did not seek to identify potential bias.

Litigants may question potential jurors to discover biases and to properly use peremptory challenges. *See In re Commitment of Hill*, 334 S.W.3d 226, 228 (Tex. 2011) (per curiam). Generally speaking, the scope of voir dire examination is a matter which rests largely in the sound discretion of the trial court. *Id.*; *see also Babcock v. Nw. Mem'l Hosp*., 767 S.W.2d 705, 709 (Tex. 1989). A court abuses its discretion when its denial of the right to ask proper voir dire questions prevents determination whether grounds exist to challenge for cause or denies intelligent use of peremptory challenges. *Commitment of Hill*, 334 S.W3d at 229. To obtain a reversal, an appellant must show the trial court abused its discretion and the error was calculated to cause and probably did cause the rendition of an improper judgment. TEX. R. APP. P. 44.1; *Babcock*, 767 S.W.2d at 709; *see also McCoy v. Wal-Mart Stores, Inc*., 59 S.W.3d 793, 797 (Tex. App.—Texarkana 2001, no pet.).

A commitment question attempts to "bind or commit a prospective juror to a verdict based on a hypothetical set of facts." *Standefer v. State*, 59 S.W.3d 177, 179 (Tex. Crim. App. 2001). Commitment questions "require a venireman to promise

that he will base his verdict or course of action on some specific set of facts before he has heard any evidence, much less all of the evidence in its proper context." *Sanchez v. State*, 165 S.W.3d 707, 712 (Tex. Crim. App. 2005); *Standefer*, 59 S.W.3d at 179. Counsel may "question jurors about bias or prejudice resulting from a societal influence outside the case," and "it is not unusual for jurors to hear the salient facts of the case during the voir dire." *See Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743, 753 (Tex. 2006).

But, "a trial court does not abuse its discretion in refusing to allow questions that seek to determine the weight to be given (or not be given) a particular fact or set of relevant facts." *Id.* This is so because the answer to the question would not be disqualifying, but would reveal a "fact-specific opinion," not "improper subject-matter bias." *Id.* The "long-established practice of voir dire inquiry" cannot "be bounded by inflexible rules of thumb, for of all the delicate psychological factors inherent in a jury trial perhaps none is more essentially subjective and hence less submissive to dogmatic limitations." *Id.* at 750 (citing 4 Roy W. McDonald & Elaine A. Grafton Carlson, TEXAS CIVIL PRACTICE, § 21:19 at 116 (2d ed. 2001)). Not all commitment questions are improper. *Standefer*, 59 S.W.3d at 181.

We apply *Standefer*'s three-part test to determine whether the voir dire question is an improper commitment question. *See Hyundai Motor Co.*, 189 S.W.3d at 753 (because the statutory standards for bias and prejudice are the same in civil and criminal cases, "voir dire standards should remain consistent."). First, is the

question a commitment question? Second, if so, is it proper? Third, does the question contain only the facts necessary to test whether a prospective juror is challengeable for cause? *Standefer*, 59 S.W.3d at 179–82.

Normally, we would first discuss the question that is the subject of the appeal, but Barnes bases his argument on the context provided by the State's voir dire. During the State's voir dire, it asked whether anyone would have trouble following the court's instructions and following a fair process knowing that they would be determining whether Barnes was a sexually violent predator. The State inquired, "Would anybody find it hard to give someone a fair trial who has been diagnosed by an expert as having what's called pedophilic disorder? If you heard evidence of a diagnosis of pedophilic disorder, you would not be able to follow that process?" Several jurors raised their hands to each of these questions. Some stated it would influence their decision, and they could not follow a fair process.

During Barnes's voir dire, defense counsel asked the following question: "If you hear evidence of a pedophilic disorder diagnosis, if you hear evidence of child victims, are you going to automatically assume that the person has a behavioral abnormality as defined by what you hear in this case?" The State objected, "[t]hat's getting into a commitment issue," and the trial court sustained the objection.

Barnes's counsel then rephrased:

> If you are presented with evidence by an expert that the diagnosis of a person is pedophilic disorder, are you going to automatically assume that that person has a condition

> that by [a]ffecting the emotional or volitional capacity predisposes the person to commit a sexually violent offense to the extent that they become a menace to the health and safety of another person?

The State again objected and the court again sustained the "improper commitment" objection because "[t]hey are not entitled to get into what they believe the evidence is going to show."

We start with step one of the *Standefer* analysis: whether this is a commitment question, meaning one to which "one or more of the possible answers is that the prospective juror would resolve or refrain from resolving an issue in the case on the basis of one or more facts contained in the question." 59 S.W.3d at 180. Barnes's question was a commitment question because one answer is that the juror would automatically find a behavioral abnormality if the juror hears evidence of pedophilic disorder or child victims.

Step two: is this commitment question proper, meaning one of the possible answers gives rise to a valid challenge for cause. *Id.* at 181–82. The law requires a "certain type of commitment from jurors" in every trial, and that includes following the law. *Id.* at 181. Here, counsel's inquiry, seeking to learn if jurors would hear "child victim" or "pedophilic disorder" and automatically assume a finding against Barnes on an element instead of listening to the State's evidence and also Barnes's evidence, could give rise to a valid challenge for cause. *Id.* at 182. If a juror answered that she would stop listening to additional evidence regarding "behavioral

abnormality" after hearing a diagnosis of pedophilic disorder or hearing of prior child victims, that juror would be committing to not listening to all the evidence. It would not be a "fact-specific opinion," but rather evidence of a disqualifying and "improper subject-matter bias." *See Hyundai Motor Co.*, 189 S.W.3d at 753. Voir dire exists to locate and identify exactly this. *See id.* at 749–50.

The very concept of pedophilia may in some people summon such moral disapprobation as to prevent them from proceeding as unbiased or unprejudiced jurors after hearing evidence of it. *See Commitment of Hill*, 334 S.W.3d at 228 (trial court erred by not allowing defense counsel to ask whether potential jurors could be fair to a person they believed to be homosexual); *In re Commitment of Kalati*, 370 S.W.3d 435, 440–41 (Tex. App.—Beaumont 2012, pet. denied) (concluding "Would anybody on the first row find it hard to give someone who has been diagnosed by an expert as a pedophile a fair trial?" was a proper question); *cf. Hyundai Motor Co.*, 189 S.W.3d. at 757 (information that plaintiff was not wearing seatbelt in products liability case was fact-specific and proved too verdict-predictive, rendering commitment questions improper). These sex offender commitment proceedings are a small, unique subset of cases, nominally classified as civil but with many features of criminal cases. In this context, we conclude the question, seeking to learn whether jurors are so biased against pedophilia that they will not listen to evidence beyond such a diagnosis, is a proper commitment question.

Finally, step three, does the question contain "only those facts necessary to test whether a prospective juror is challengeable for cause." *Standefer*, 59 S.W.3d at 182. The subject matter of the case was child victims and a pedophilic disorder diagnosis. The question added no more, especially in light of what the State had previously introduced to the venire, and thus contained only the facts necessary to test whether the juror is challengeable for cause. *See id.*

We find the supreme court's opinion in *Commitment of Hill* especially informative. 334 S.W.3d at 228. *Commitment of Hill* approved voir dire questions that asked whether jurors would find against Hill based only on evidence that Hill had committed two or more violent sexual offenders or whether they "would also require the State to prove the statute's second element," behavioral abnormality. *Id.* The court so held because those questions solicit a promise from jurors "to follow the law the Legislature enacted," one that is "essential to the empaneling of a fair jury." *Id.* at 230. Barnes's questions here sought to answer whether jurors would stop listening to evidence regarding the "behavioral abnormality" prong of the applicable statutory framework after hearing only the State's evidence. Jurors may be asked to commit to follow law and statute, and render "a true verdict according to the law and to the evidence." *Commitment of Hill*, 334 S.W.3d 229–30 (quoting TEX. R. CIV. P. 236 and citing *Wainwright v. Witt*, 469 U.S. 412, 419–20 (1985)).

That said, we decline to find an abuse of discretion here because the error did not probably cause "the rendition of an improper judgment," nor did it probably

prevent Barnes from "properly presenting the case to the court of appeals." *See* TEX. R. APP. P. 44.1(a). The trial court ultimately permitted a question, which in substance asked jurors for the same information the purportedly objectionable questions did. Without objection, Barnes's counsel asked, "If you hear evidence of child victims, is that going to make it to where you turn everything off and don't listen to the rest of the facts and you are done? Anyone?" Barnes's counsel repeated the question to the other side of the courtroom, again without objection. Thus, the court did not "foreclose a proper line of questioning," and we are unable to say the court's ultimate decision was arbitrary, unreasonable, or without reference to any guiding rules and principles. *See Hyundai Motor Co.*, 189 S.W.3d at 758, 766; *Commitment of Hill*, 334 S.W.3d at 229; *see also* TEX. R. APP. P. 44.1(b) (if error affects part but not all of the matter in controversy, and that part is separable without unfairness to the parties, judgment must be reversed and new trial ordered only as to the part affected by the error). We overrule Barnes's first issue.

* * *

We affirm the trial court's judgment and order of civil commitment.

/Cory L. Carlyle/
CORY L. CARLYLE
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

IN RE: THE COMMITMENT OF KENNETH PAUL BARNES	On Appeal from the 15th Judicial District Court, Grayson County, Texas
No. 05-19-00702-CV	Trial Court Cause No. CV-18-1148. Opinion delivered by Justice Carlyle. Chief Justice Burns and Justice Molberg participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 5th day of August, 2020.