

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:09-HC-2160-BR

UNITED STATES OF AMERICA, )  
 )  
 Petitioner, )  
 ) ORDER  
 v. )  
 )  
 GLENN WRIGHT, )  
 )  
 Respondent. )

On 18 December 2009, petitioner United States of America (“the government”) initiated this proceeding seeking to have respondent Glenn Wright (“Wright”) civilly committed as a sexually dangerous person under the Adam Walsh Child Protection and Safety Act of 2006 (“Adam Walsh Act”), codified at 18 U.S.C. §§ 4247-4248. Pursuant to 18 U.S.C. § 4247(d), the court conducted an evidentiary hearing in this matter on 27 November 2012.

**I. BACKGROUND**

Wright was forty-nine years old at the time of the evidentiary hearing. He testified that he lived in a children’s home between the ages of nine to eleven and, during that time, he had “consensual” sexual experiences with two or three boys who were also residents of the home. (See also Gov’t Exs. 3 at 19; 6 at 3.) Wright further testified that he sexually molested his half-brother after moving in with his father at age fifteen. Although the government alleges that Wright also sexually molested his half-sister, Wright denied having sex with her.

With regard to his sexual criminal history, Wright was convicted of his first sexual offense in Los Angeles, California in 1982 at the age of nineteen. (Gov’t Exs. 3 at 3-5; 6 at 6; 12 at 9-10.) He was charged with two counts of Oral Copulation with a Child under 14 and More

Than 10 Years Younger and one count of Lewd or Lascivious Act Upon a Child under 14, by Force. (Id.) He pled guilty to one oral copulation charge, and the other two charges were dismissed. (Id.) His six-month jail sentence was stayed. (Id.) He was also sentenced to thirty-six months of probation and was ordered to participate in counseling. (Id.)

During the latter part of 1984 and the early part of 1985, while Wright was still on probation from the 1982 offense, he repeatedly confronted three boys, ages ten to thirteen, while they delivered the local newspaper in Long Beach, California. (Gov't Exs. 3 at 5-6; 6 at 6; 12 at 10-11.) At the evidentiary hearing, Wright testified that he followed one boy in his car almost daily with the hope that he would have an opportunity to have sex with the child. He also admitted that he grabbed one victim by the buttocks and crotch area "while fondling [his] own crotch." (See also id.) Wright's behavior was eventually reported to a supervisor at the newspaper. (Id.) In April 1985, he was charged with Crimes Against a Child, but instead of being prosecuted, his actions were determined to be a violation of his probation from the 1982 crime. (Id.) Wright pled guilty to the probation violation. (Id.) He was sentenced to spend one hundred thirty-five days in the Los Angeles County jail, and his probation was reinstated to extend to January 1987. (Id.) Wright was also ordered to reinstate counseling upon his release from imprisonment. (Id.)

Despite being placed on probation in California, Wright moved to Nevada in 1985 and used the alias "Todd Shideler." (Gov't Exs. 3 at 6-8; 6 at 6-7; 12 at 11-12.) He was arrested by the Las Vegas Metropolitan Police on 30 April 1987 and was initially charged with two counts of Lewdness with a Minor; one count of Sexual Assault; two counts of Attempted Sexual Assault; and one count of Kidnapping, First Degree. (Id.) On 10 June 1987, Wright pled guilty

to two counts of Lewdness with a Minor. (Id.) He was sentenced to serve a term of four years in the Nevada State Prison on both counts, to run concurrently with each other. (Id.) In relation to these offenses, it was alleged that Wright had sexually assaulted at least five juveniles. (Id.) The victims and their parents reported that Wright, who lived in their neighborhood, offered the children candy, ice cream, small amounts of money, and stickers as enticements to come into his house. (Id.) Once they were inside, he rubbed and fondled the children's genital areas and/or orally copulated them. (Id.) At the evidentiary hearing, Wright admitted that he molested a seven-year-old boy and an eight-year-old boy, but he denied having molested a four-year-old girl.

Wright was paroled in May 1989. (Gov't Exs. 6 at 7; 12 at 12.) He then left Nevada and moved to Baltimore, Maryland, where he was charged with several counts of engaging in sexual acts with young boys between the years of 1994 and 1995. (Gov't Exs. 3 at 13-14; 6 at 7; 12 at 14-15.) Wright allegedly had a twelve-year-old boy and two fourteen-year-old boys over to his residence where he had them undress, performed fellatio on each of them, took several Polaroid pictures of them, and then paid them \$20 each. (Id.) Wright moved to Florida in March 1995, but the criminal charges relating to these offenses were not filed against him in Baltimore until September 1995. (Id.) At the evidentiary hearing, Wright denied that he committed these offenses.

On 26 September 1995, Wright was arrested by the Sheriff's Office in Palm Beach County, Florida pursuant to a warrant issued by the Baltimore Police Department. (Gov't Exs. 3 at 8-10; 6 at 7; 12 at 15-16.) The subsequent investigation by the Florida sheriffs resulted in the discovery that Wright had sexual contact with three boys, ages eight, eleven, and fourteen, in

Palm Beach County during the summer of 1995. (Id.) His conduct included rubbing the victims' backs, buttocks, and thighs, as well as grabbing the genitals of the youngest boy. (Id.) Wright was charged with three counts of Lewd Assault in Florida, and he pled guilty to all three counts. (Gov't Exs. 3 at 8; 6 at 7; 14.)

Six federal charges of Transportation of Child Pornography were also brought against Wright as a result of his arrest, subsequent admissions, and searches of his residence in Florida in 1995. (Gov't Exs. 3 at 10-12; 6 at 7-8; 12 at 3-6.) He pled guilty to three of the charges, and the others were dismissed. (Id.) On 24 May 1996, Wright was sentenced by the United States District Court for the Southern District of Florida to serve a total term of one hundred sixty-eight months imprisonment and a supervised release term of three years. (Gov't Exs. 3 at 10-11; 6 at 8; 13.) Subsequently, on 13 February 1997, Wright was sentenced to six and a half years imprisonment on the 1995 Lewd Assault charges that he pled guilty to in Florida state court. (Gov't Exs. 3 at 8; 6 at 7; 14.) This sentence was served concurrently with his federal sentence. (Id.) Wright remained in the custody of the Florida Department of Corrections until he was transferred to the federal Bureau of Prisons in July 1998. (Gov't Exs. 3 at 11; 6 at 8.) He has remained in federal custody since that time.<sup>1</sup>

The court notes that beginning in 1982 and continuing through 1991, Wright participated in intermittent sex offender treatment as part of his probation requirements for his sexual offenses. (Gov't Exs. 3 at 36-39; 6 at 4; 12 at 23-24.) He also attended weekly individual and group sex offender therapy while incarcerated in the Nevada Department of Corrections between

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<sup>1</sup> With respect to the charges that had been brought against Wright in Baltimore for engaging in sexual acts with young boys between the years of 1994 and 1995, Baltimore authorities stated in a November 2008 letter that they would not be seeking Wright's extradition nor would they be placing a detainer on him following the completion of his federal sentence. (Gov't Exs. 3 at 14; 6 at 7.)

1987 and 1989. (Id.) In June 1989, Wright was admitted to the Johns Hopkins Hospital Sexual Disorders Clinic in Baltimore, Maryland, but he was discharged from the program in 1991 for noncompliance with conditions of his treatment. (Id.) Wright testified that while he was in the Johns Hopkins treatment program, he masturbated almost daily to sexual fantasies involving minor males. (See also Gov't Exs. 6 at 4; 12 at 23.)

Wright has no history of non-sexual criminal offending. (Gov't Exs. 3 at 23-25; 6 at 6.) During his periods of incarceration, he has received a few disciplinary infractions, such as accepting money for a prohibited purpose, being insolent to a staff member, and unauthorized use of the mail. (See, e.g., Gov't Exs. 3 at 30-32; 6 at 8; 36.) There were also instances in which Wright's incoming mail was rejected by the warden. (See, e.g., Gov't Exs. 3 at 30-32; 6 at 8; 28; 31.) The government has further alleged that Wright attempted to hack into a prison computer system. (Gov't Exs. 34, 37.)

Finally, at the evidentiary hearing, Wright admitted that in addition to the acts of child molestation for which he was apprehended, he also molested approximately thirteen to twenty-three children between the ages of six and twelve without being detected by the authorities.

## **II. DISCUSSION**

The Adam Walsh Act provides for the civil commitment of "sexually dangerous person[s]." 18 U.S.C. § 4248. Under 18 U.S.C. § 4247(a)(5), a "sexually dangerous person" is one "who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others." A person is "sexually dangerous to others" if he "suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if

released.” 18 U.S.C. § 4247(a)(6); see also United States v. Wooden, 693 F.3d 440, 442 (4th Cir. 2012).

Under the Adam Walsh Act, the government has the burden of proving that Wright is sexually dangerous by clear and convincing evidence. 18 U.S.C. § 4248(d). “The clear and convincing evidence standard is an ‘intermediate standard,’ lying somewhere ‘between preponderance of the evidence and proof beyond a reasonable doubt.’” United States v. Hunt, 643 F. Supp. 2d 161, 179 (D. Mass. 2009) (quoting Addington v. Texas, 441 U.S. 418, 425 (1979)). The government must produce “[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.” Id. (alteration in original) (quoting Black’s Law Dictionary 596 (8th ed. 2004)).

Thus, in order to prove that Wright is a “sexually dangerous person,” the government must prove three elements by clear and convincing evidence: (1) that Wright engaged in or attempted to engage in sexually violent conduct or child molestation; (2) that Wright suffers from a serious mental illness, abnormality, or disorder; and (3) that, as a result of the serious mental illness, abnormality, or disorder, Wright would have serious difficulty in refraining from sexually violent conduct or child molestation if he were to be released. See 18 U.S.C. § 4247(a)(5)-(6); 18 U.S.C. § 4248.

Three experts testified at the evidentiary hearing. Amy Phenix, Ph.D., and Manuel Gutierrez, Psy.D., testified on behalf of the government. Leonard A. Bard, Ph.D., testified on behalf of Wright as an additional examiner selected pursuant to 18 U.S.C. § 4247(b). (See DE # 48.) The only other witness who testified at the hearing was Wright, who was called as a witness during the government’s case-in-chief.

A. Past Violent Sexual Conduct or Child Molestation

The court finds that the first criterion for commitment under the Adam Walsh Act, that Wright has “engaged or attempted to engage in sexually violent conduct or child molestation” in the past, is satisfied. 18 U.S.C. § 4247(a)(5). All three experts in this case agree that Wright has committed acts of child molestation, and Wright stipulated at the evidentiary hearing that the government has proven the first element. (See also Joint Pretrial Order, DE # 62, at 1 ¶ 7; Resp’t Proposed Findings of Fact and Conclusions of Law, DE # 64, at 10 ¶ 41.)

B. Serious Mental Illness, Abnormality, or Disorder

The court finds that the second criterion for commitment under the Adam Walsh Act, that Wright “suffers from a serious mental illness, abnormality, or disorder,” is also satisfied. 18 U.S.C. § 4247(a)(6). In this case, all three experts agree that Wright suffers from pedophilia (Gov’t Exs. 3 at 41-42; 6 at 8-9; Resp’t Ex. 2 at 10), which constitutes a serious mental illness, abnormality, or disorder for the purposes of the Adam Walsh Act. See Kansas v. Hendricks, 521 U.S. 346, 360 (1997); Wooden, 693 F.3d at 452. Furthermore, Wright has stipulated that the government has proven this element.<sup>2</sup> (Joint Pretrial Order, DE # 62, at 1 ¶ 8; Resp’t Proposed Findings of Fact and Conclusions of Law, DE # 64, at 10-11 ¶ 42.)

C. Serious Difficulty Refraining

The real point of dispute in this case involves the third element under the Adam Walsh Act, *i.e.*, whether the government has proven, by clear and convincing evidence, that Wright, if

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<sup>2</sup> The court also notes that Dr. Gutierrez has provided an additional diagnosis of antisocial personality disorder (Gov’t Ex. 6 at 8-9), while Dr. Phenix has stated that Wright also suffers from paraphilia, not otherwise specified (Gov’t Ex. 3 at 41-42). The court finds that the government has failed to prove by clear and convincing evidence that Wright suffers from either of these other conditions.

released, “would have serious difficulty in refraining from sexually violent conduct or child molestation” as a result of his serious mental illness, abnormality, or disorder. 18 U.S.C. § 4247(a)(6). The determination under this prong requires the court to consider Wright’s volitional control over his actions understood in relation to his mental illness, and it is also informed by the constitutional constraints on the civil commitment scheme. In Kansas v. Crane, 534 U.S. 407 (2002), the United States Supreme Court held that in order to civilly commit someone for sexual dangerousness “there must be proof of serious difficulty in controlling behavior.” Id. at 413. The Supreme Court noted that this standard allows courts wide discretion in relying on a number of different factors relevant to sexual dangerousness. The standard does not have “a particularly narrow or technical meaning;” nor is it demonstrable with “mathematical precision.” Id.

As a result, the court does not construe this criterion for commitment to require proof of any statistical probability of reoffense. The Adam Walsh Act does not ask the finder of fact to determine exactly how likely the respondent is to reoffend, but whether he will have “serious difficulty” in refraining from doing so. “Recidivism rates are circumstantially relevant to the serious difficulty inquiry because offenders who continually expose themselves to punishment may be presumed to have the most difficulty refraining from sexual reoffending.” Wooden, 693 F.3d at 461 (citation omitted). But the ultimate question called for by the Adam Walsh Act concerns the self-control of an individual, not the statistical re-arrest patterns of a given population. Thus, the court considers the recidivism rates associated with Wright’s actuarial scores,<sup>3</sup> but affords them less weight than Wright’s past and current conduct, and the testimony

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<sup>3</sup> Dr. Phenix gave Wright a score of 7 on the Static-99R actuarial instrument and a 9 on the Static-2002R. (continued...)



of the experts as a whole.

Here, both Dr. Phenix and Dr. Gutierrez testified that, in their opinions, Wright would have serious difficulty in refraining from sexually violent conduct or child molestation if released. In contrast, Dr. Bard opined that Wright would not have serious difficulty in refraining from sexually violent conduct or child molestation. At the evidentiary hearing, Drs. Phenix and Gutierrez identified several factors that they believe significantly increase Wright's risk of sexual reoffense, including his failure to cooperate with supervision; his commission of offenses while under supervision; his emotional identification with children; his impulsiveness; and his failure to complete sex offender treatment. The court finds that the conclusions of Dr. Phenix and Dr. Gutierrez are based to a large extent on Wright's behavior at the time that he committed the sexual offenses at issue. Although the court acknowledges the serious and extensive nature of Wright's history of sexual misconduct, "[t]his final step of the [sexual dangerousness] inquiry, focused as it is on future behavior, must appropriately take into account the current status of the respondent." United States v. Caporale, 5:08-HC-2037-BO, 2012 WL 1389666, at \*6 (E.D.N.C.) (emphasis in original), aff'd, 701 F.3d 128 (4th Cir. 2012). Because Drs. Phenix and

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<sup>3</sup>(...continued)

(Gov't Ex. 3 at 43-47.) These scores place Wright in the high risk category for sexual reoffense. (Id.) Dr. Phenix also scored Wright on the Structured Risk Assessment - Forensic Version (SRA-FV). (Id. at 48-51.) He received a Total Need Score of 4.41 on the SRA-FV. (Id.) The group of offenders with this level of need are expected to have a recidivism rate above that indicated by the Static-99R high risk/need norms. (Id.) In her initial evaluation of Wright, Dr. Phenix had also relied on the Minnesota Sex Offender Screening Tool-Revised in assessing his future risk of reoffense, but at the evidentiary hearing she testified that she no longer uses this instrument due to recent discoveries regarding its lack of validity.

Dr. Gutierrez gave Wright a score of 6 on the Static-99R actuarial instrument, which indicates a high risk of reoffense. (Gov't Ex. 6 at 10-11.) He testified that offenders from a preselected high risk and needs sample with the same score as Wright have been found to sexually reoffend at a rate of 31.2% within five years and 41.9% within ten years. (Id.)

Dr. Bard did not score Wright on any actuarial instruments for the estimation of the risk of sexual recidivism because of "numerous negative comments" in recent cases decided under the Adam Walsh Act relating to the assessment of serious difficulty in refraining from sexually violent conduct or child molestation through the use of actuarial tools. (Resp't Ex. 2 at 11.)

Gutierrez did not fully consider Wright's recent conduct and present mental state, the court affords less weight to their opinions with regard to the third criterion for commitment under the Adam Walsh Act.<sup>4</sup>

In this case, although Wright admits that he remains sexually attracted to children, he informed Dr. Bard that he has not engaged in any sexual fantasies involving children since 2002 (see also Gov't Ex. 3 at 19), and the government has not offered any evidence to disprove Wright's self-reports. Furthermore, Wright has been in custody in relation to his most recent offenses since 1995, a lengthy period of approximately seventeen years. During this time, he has not engaged in any violent conduct. There is also no evidence that he has attempted to cultivate relationships with children from prison; possessed child pornography; engaged in homosexual conduct; or engaged in any other conduct that would suggest that he has sexual urges that are difficult for him to control. An individual experiencing great difficulty conforming his conduct to the rules of society would likely exhibit a pattern of bad behavior while incarcerated, but Wright has not done so. In contrast to many inmates, his conduct during his recent incarceration indicates that he does not have difficulty obeying general rules, even the strict regulations of the prison environment.<sup>5</sup>

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<sup>4</sup> In reaching this conclusion, the court emphasizes that it has thoroughly considered the nature of Wright's history of sexual offenses, both adjudicated and unadjudicated, as a "critical part" of its analysis of the serious-difficulty prong. Caporale, 701 F.3d at 142 (quoting Wooden, 693 F.3d at 458). The court also notes that, unlike the situation in Caporale, Dr. Phenix was granted access to Wright and therefore was not constrained to rely solely on her forensic view of the record in formulating her opinion on the issue of whether Wright will have serious difficulty in refraining from sexually violent conduct or child molestation if released. Cf. id. at 141-42.

<sup>5</sup> The court acknowledges that Wright has received a few disciplinary infractions since he was incarcerated seventeen years ago but finds that these violations do not demonstrate that he has a significant behavioral management problem. Moreover, although Wright's incoming mail was rejected by the warden on a couple of occasions due to its sexual nature, none of the material contained images of children or depicted violence. (See, e.g., Gov't Exs. 28; 31.) Wright has not received any disciplinary reports related to sexual misconduct or consenting sexual relations with other inmates. Thus, the nature of Wright's infractions weighs in favor of concluding that he

(continued...)

In addition, Wright has participated in various educational, spiritual, and vocational programs while incarcerated. Wright testified that he completed a three hundred hour Residential Values Program and that he participated in a Life Connections Program for approximately ten months just prior to being transferred to the Federal Correctional Institution in Butner, North Carolina (“FCI-Butner”). (See also Resp’t Ex. 4.) He has successfully completed numerous other courses, including classes in anger management, decision making and problem solving, effective communication, and interpersonal relationships.<sup>6</sup> (Id.)

At the evidentiary hearing, Wright provided testimony regarding what he has gained from participating in these programs. He stated that he has learned how to challenge and change his distorted ways of thinking through the use of cognitive behavioral therapy. Thus, although it is clear that Wright suffered from sexual cognitive distortions in the past, his testimony at the hearing indicates that he now understands that he was not giving pleasure to his child victims, that his victims had not consented to engaging in sexual activity with him, and that he was in fact harming them both physically and emotionally. Wright testified that he has acquired empathy for his victims and has come to understand the impact and consequences of his actions. He has learned how to manage his deviant sexual arousal by controlling who he associates with, what he watches on television, what he reads, and what he says. Participating in these programs has also caused Wright to recognize that it is important for him to have a support network upon release.

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<sup>5</sup>(...continued)

would not have serious difficulty in refraining from child molestation or sexually violent conduct if released.

<sup>6</sup> The government has emphasized that prior to 2002, Wright masturbated to sexual fantasies of minor children even after he had completed or participated in some of the programs at issue (see, e.g., Gov’t Ex. 17 at 001037), and Wright admitted to this conduct at the evidentiary hearing. However, the fact that Wright’s fantasies did not cease immediately upon the completion of any particular program is understandable, as it takes time to master the lessons learned in treatment. As Wright testified at the hearing, he has been on a “journey” to make lasting changes.

He testified that in the past, he isolated himself and tried to keep his problems a secret.

However, he now realizes that he needs to be accountable to someone for his actions.<sup>7</sup>

Dr. Phenix and Dr. Gutierrez both testified at the evidentiary hearing that Wright's participation in the programs at issue is not an adequate substitute for specific sex offender treatment. Dr. Phenix testified that she views Wright as being "untreated." In contrast, Dr. Bard testified that Wright has learned important skills that appear to be similar to those taught in FCI-Butner's Commitment and Treatment Program. (See also Resp't Ex. 3.) The court declines to credit the testimony of the government's experts with respect to this issue and finds that they have erroneously discounted the significant progress that Wright has made in acquiring self-management and interpersonal skills that will allow him to maintain positive change and avoid sexual reoffending. Thus, the court finds that while Wright has not completed a sex offender treatment program, he has in fact seriously and meaningfully engaged in treatment for his problems during his most recent period of incarceration. The treatment that he has received is likely to reduce his risk of sexual reoffense.<sup>8</sup>

The government also contends that Wright will have serious difficulty in refraining from child molestation because he does not have a relapse prevention and release plan. Although the court acknowledges that Wright has not developed a written relapse prevention and release plan, there is no requirement for him to do so. At the evidentiary hearing, Wright testified that he has contacted various organizations in North Carolina in an attempt to locate and secure housing, job

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<sup>7</sup> The court notes that Wright made statements similar to those detailed hereinabove to Dr. Phenix during their interview (Gov't Ex. 3 at 39), but she apparently attributed little significance to this information.

<sup>8</sup> At the hearing, Wright also expressed a strong desire to obtain sex offender treatment upon his release into the community. He further explained that he declined to participate in FCI-Butner's Sex Offender Treatment Program because he does not trust the treatment providers who administer the program.

opportunities, counseling, and other community resources upon his release.<sup>9</sup> Wright's testimony tends to show that upon his release from custody, he will have a system in place that may provide additional support for his own ability to control his sexual impulses.<sup>10</sup>

Most importantly, the court finds Wright to be a very credible witness. At the evidentiary hearing, he testified that prior to his most recent period of incarceration, he did not think that he had any sexual problems, and he was living his life under the illusion that everything was fine. He was able to maintain this illusion because he had only received "slaps on the wrist" for his early convictions. For example, he testified that he received a sentence of only one hundred thirty-five days imprisonment for his 1985 probation violation, and he served only two years of the four-year sentence that he received in Nevada in 1987. However, after receiving a sentence of one hundred sixty-eight months imprisonment for his most recent pornography offenses, he testified that he finally "woke up" and realized the seriousness of his problems. Since that time, Wright stated that he has gained insight and awareness into his sexual triggers and his cycle of offending. He admitted that he groomed some of his victims. He also testified that he is sickened by the fact that he harmed so many children over the years. He expressed genuine remorse and sorrow for his past behavior, and his attitude reflects accountability for the crimes he has committed. His testimony at the evidentiary hearing

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<sup>9</sup> Specifically, Wright testified that he has contacted organizations such as Wake County Social Services, Catholic Charities, Community Success Initiative, and COSA. It is the court's understanding that the acronym COSA stands for Circles of Safety and Accountability. See <http://dcia.org/DOCS/DurhamCOSABrochure.pdf>.

<sup>10</sup> The court has also considered the fact that Wright's three-year term of supervised release was expected to expire on 7 January 2013. (See Gov't Ex. 30; Gov't Proposed Findings of Fact and Conclusions of Law, DE # 67, at 7-8 ¶ 8; Certificate of a Sexually Dangerous Person, DE # 1-1, at 1 ¶ 2.) Although the court believes that a period of supervised release would be of value in this case to allow Wright to have a smoother transition from custody to life in the community, the absence of such a protective factor does not change the fact that the government has failed to prove by clear and convincing evidence that Wright will have serious difficulty in refraining from sexually violent conduct or child molestation if released.

demonstrates his abandonment of the kind of logic that a pedophile might engage in to justify or rationalize his offenses against children.

Wright has grown and matured since he committed his last offenses in 1995. He knows that he will face challenges upon release, but he appears to have a genuine desire and ability to conform his behavior to the law. The court realizes that it is possible that Wright may commit an act of child molestation in the future. “However, in the absence of clear and convincing proof that a serious mental impairment causes an individual to have serious difficulty in controlling his behavior, the constitution requires reliance on the criminal law, rather than a civil commitment, to deal with that risk.” United States v. Wilkinson, 646 F. Supp. 2d 194, 209 (D. Mass. 2009). As the government has not presented such clear and convincing proof, Wright may not be civilly committed.

### **III. CONCLUSION**

For the foregoing reasons, the government has failed to show by clear and convincing evidence that Wright suffers from a serious mental illness, abnormality, or disorder, as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released. Accordingly, the court concludes that Wright is not a sexually dangerous person under the Adam Walsh Act and ORDERS that the government release Wright forthwith.

The Clerk is DIRECTED to close this case.

This 15 January 2013.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is written above a horizontal line.

W. Earl Britt  
Senior U.S. District Judge