

Call vs. Gomez (1995)

Nature: Discharge standard for psychopathic personality commitment.

Facts: In 1993, Gordon Call was committed as a psychopathic personality to MSH, while serving two concurrent sentences for three sexual assaults that occurred in Minnesota and South Dakota. He had a long history of sexually assaultive and predatory behavior, admitting to committing at least 36 sexual assaults between 1978 and 1980. He initiated several relationships during his imprisonment at MCF-Lino Lakes, a minimum security facility, and continued to commit sexual assaults while incarcerated during visits and after earning decreased supervision. He received sex offender treatment at a number of facilities while continuing to commit sexual offenses. Procedure: Call's initial commitment as a psychopathic personality occurred in February 1993. The Minnesota Court of Appeals affirmed the initial commitment in June 1993. While his appeal of the initial commitment was pending with the Supreme Court of Minnesota, his commitment was finalized in November 1993. The Supreme Court of Minnesota affirmed the initial commitment in February 1994. He again appealed to the court of appeals, challenging the sufficiency of the evidence with respect to his indeterminate commitment. They affirmed the commitment in May 1994. The Supreme Court of MN and SCOTUS subsequently denied review. In May 1995, Call petitioned the SRB, requesting full discharge and a transfer to Anoka Metro Regional Treatment Center. The SRB denied his request, subsequently denied by the commissioner in August 1994. Call then petitioned for a review of his request for discharge before the SCAP. In February 1995, with one judge dissenting, SCAP ordered Call be fully discharged, because as in Linehan, "the county did not prove the utter lack of control/uncontrollable element of the Pearson test."

Issue: Did the appeal panel err in ordering Call's full discharge?

Holding: Yes – Reversed and remanded

Rationale: The Court argued the Pearson standard is for determining whether an individual should be committed and not for determining discharge criteria, outlined by the legislature. Although at the time of Call's commitment the psychopathic personality statute did not set forth discharge procedures, the statute provided that, "except as otherwise provided in this section or in chapter 253B...pertaining to persons mentally ill and dangerous to the public shall apply

with like force and effect to persons having a psychopathic personality.” The Court indicated: We believe that so long as application of the statutory criteria comports with the basic constitutional requirement that “the nature of commitment bear some reasonable relation to the purpose for which the individual [was originally] committed,” the statutory discharge criteria set forth in section 253B.18, subdivision 15, should apply to persons committed as psychopathic personalities. The Court held that commitment and treatment should continue if the state proves by clear and convincing evidence that the individual does not meet the discharge criteria because he continues to need treatment and supervision for his sexual disorder and continues to be a danger to the public

Implication: The discharge criteria from a commitment as a psychopathic personality are the same as those for a commitment as mentally ill and dangerous.