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IN THE COURT OF APPEAL OF THE STATE OF  
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ELZA ORIN PITTMAN,

Defendant and Appellant.

B272308

(Los Angeles County  
Super. Ct. No. ZM020087)

APPEAL from a judgment of the Superior Court of Los Angeles County, Henry J. Hall, Judge. Affirmed.

Lori E. Kantor, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Elza Orin Pittman (Pittman) appeals from a judgment finding him to be a sexually violent predator (SVP) (as defined as in Welfare and Institutions Code section 6600 et seq.) and committing him to the custody of the California Department of State Hospitals (DSH) for an indeterminate term of appropriate treatment and confinement in a secure facility.

In 1958, Pittman pleaded guilty to fondling a nine-year-old boy (Pen. Code, § 288); at the time, Pittman was 19 years old. In 1959, just one year later, Pittman pleaded guilty to fondling two 13-year-old boys (Pen. Code, § 288).

In 2001, more than 30 years after his last molestation conviction, Pittman again pleaded guilty to sexually molesting a male child (Pen. Code, §§ 288, 288.5). In this instance, the molestation continued for approximately six years, from when the victim was 10 until he was 16 years old. The People also charged Pittman with molesting the victim's younger stepbrother for approximately four years; those charges, however, were dismissed as a result of Pittman's guilty plea to the charges regarding the older stepbrother.

In November 2012, after screening, review, and evaluation by the Department of Corrections, the Board of Prison Terms, and DSH, the People filed a petition seeking to have Pittman committed as a SVP.

At trial, the People's experts opined that all of Pittman's sex-related convictions were both violent and predatory in nature—*violent* because the victims were all

under the age of 13 when the molestation began and the boys were subjected to duress due to the substantial nature of the sexual acts, their young age, and the discrepancy in age between them and Pittman; *predatory* because either the victims were strangers, or Pittman initiated and promoted the contact in order to molest the victims. Although Pittman was 76 years old at the time of trial, the People's experts did not believe his advanced age to be a protective factor because, inter alia, Pittman's mental disorder and love of little boys was deeply ingrained, as evidenced by the fact that his offenses spanned from when he was in his late teens to late middle age. In addition, the People's experts found Pittman to be a risk taker—he goes after “victims in high risk pools” (“strangers and boys”) and he is willing to defy the law—twice before, once in 1959 and again in 1963, he violated parole. According to the People's experts, the single most important risk factor “bar none” for reoffense is a prior history of parole violations.

Pittman's lay and expert witnesses focused on three related factors that arguably militated against a commitment decision: first, Pittman's advanced age—studies show that as age increases, recidivism rates decline; second, the unreliability of actuarial assessments—with so few sex offenders in their 60's and 70's, actuarial tests, such as the Static-99R, are unreliable in assessing Pittman's risk of reoffense; and third, Pittman's conduct in prison—there was no evidence of any misconduct (sexual or otherwise) by Pittman during his 16 years of imprisonment and Pittman's

participation in his sex offender treatment group had become increasingly productive over time.

On April 18, 2016, after less than an hour of deliberation, the jury returned its verdict, finding that Pittman met the criteria for commitment as a SVP.

On May 17, 2016, Pittman filed a timely notice of appeal. We appointed counsel to represent him, and, after examining the record, counsel filed an opening brief raising no issues and asking this court to independently review the record. On January 18, 2017, we advised Pittman he had 30 days in which to submit any contentions or issues he wished us to consider. To date, we have received no response.

We have examined the entire record and are satisfied that Pittman's counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

**DISPOSITION**

The judgment is affirmed.

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JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.