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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER SHARKEY,

Defendant and Appellant.

B267480

(Los Angeles County
Super. Ct. No. ZM014203)

APPEAL from a judgment of the Superior Court of Los Angeles County, Anne H. Egerton, Judge. Affirmed.

Gerald J. Miller, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and J. Michael Lehmann, Deputy Attorneys General, for Plaintiff and Respondent.

Christopher Sharkey was involuntarily committed to a state mental hospital for an indeterminate term after the trial court found him to be a sexually violent predator (SVP) under the Sexually Violent Predators Act (SVPA; Welf. & Inst. Code, § 6601 et seq.).¹ On appeal, Sharkey contends the evidence is insufficient to support the order of commitment because the prosecution did not present evidence he *currently* suffers from a diagnosed mental disorder that makes him a danger to the health and safety of others in that he would likely engage in sexually violent behavior in the future. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Predicate Offenses

In 1978, when Sharkey was 17 years old, he followed Christine O. into her house and raped her. In 1979, he pled guilty to robbery and rape by force, and was sentenced to the low term of three years.

In 1981, while on parole, Sharkey entered a residence, lunged at the woman who lived there, and began to choke her. When the victim struggled with Sharkey, he left. He later admitted that he planned to rape the victim but she fought him off. He was convicted of robbery, burglary, and felony assault, and was sentenced to two years.

On April 26, 1989, while on parole for a different offense, Sharkey followed Guadalupe M. into her employer's residence and raped her. Sixteen days later, he followed Angelica B. home, threw her to the floor, and tried to pull her dress open. When she struggled, he left. That same day, Sharkey entered Teresa G.'s

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise stated.

home while she was sleeping. After she woke up and saw him, she ran out of the home to get help. Sharkey left.

Three days later, Teresa saw Sharkey standing outside her kitchen window. He was staring at her and carrying a knife. She called the police and he fled. The same day, he entered Patricia A.'s residence and encountered her in the kitchen. When Patricia yelled out, her husband entered the kitchen and saw Sharkey standing close to Patricia. Sharkey ran out of the house. He was arrested nearby.

In 1990, Sharkey was convicted of the forcible rape of Guadalupe, the assault of Angelica with intent to commit rape, and burglary. He received a 37-year prison sentence.

2. *The Dismissal of the Initial Petition for Commitment as an SVP*

Sharkey's scheduled parole release date was November 24, 2008. On September 11, 2008, the Board of Parole Hearings (Board) notified the Department of Mental Health that both the Board and the Department of Corrections and Rehabilitation had determined "this case meets the first level sexually violent predator criteria," citing Sharkey's 1979 and 1990 convictions. The Department of Mental Health engaged psychologists Dr. Roger Karlsson and Dr. Mark Koetting to evaluate Sharkey. In October 2008, Sharkey was interviewed separately by Dr. Karlsson and Dr. Koetting. Both psychologists submitted reports concluding that Sharkey met the criteria for prosecution under the SVPA.

Six days before Sharkey's scheduled parole release date, the Department of Mental Health requested a 45-day extension of time from the Board of Parole Hearings in order to complete an evaluation of Sharkey under the SVPA. The Board placed a

45-day hold on Sharkey's release and, on December 23, 2008, the People filed a petition for commitment of Sharkey as an SVP.

On January 6, 2009, the trial court determined there was probable cause to believe Sharkey was likely to engage in sexually violent predatory criminal behavior upon his release and ordered him detained at a secure facility pending trial. He was detained at Coalinga State Hospital. (See § 6600.05.) On January 13, 2009, Sharkey moved to dismiss the SVP petition on the ground there had been no justification for the Board's imposition of a 45-day hold. The trial court concluded there had not been good cause to extend the deadline and dismissed the petition.

The People sought a writ of mandate directing the trial court to vacate its order dismissing the SVP petition. A prior panel granted the petition for writ of mandate and directed the trial court to reinstate the SVP petition and set the matter for proceedings pursuant to the SVPA. (See *People v. Superior Court (Sharkey)* (B219011; filed on March 25, 2010) [nonpub. opn.].) The Supreme Court granted review and affirmed. (See *In re Lucas* (2012) 53 Cal.4th 839.)

3. Trial

On May 15, 2013, for the purpose of preparing updated evaluations, the trial court ordered Sharkey to interview with Dr. Karlsson and Dr. Timothy Salz, another psychologist. On September 18, 2013, the trial court again found probable cause and ordered Sharkey to remain detained. Sharkey waived his right to a jury trial. A court trial was held from July 6, 2015 to September 4, 2015.² Sharkey stipulated that he had been

² Trial began on July 6, 2015, and the prosecution gave its closing argument on July 15, 2015. The trial was then continued

convicted of predatory sexually violent offenses against one or more victims within the meaning of the SVPA.

A. *Dr. Karlsson's Testimony*

Dr. Karlsson testified for the People. He estimated he had conducted approximately 300 to 400 SVP evaluations for the Department of State Hospitals, and 15 percent of those he evaluated met the criteria of an SVP. He first evaluated Sharkey in 2008 and then completed updated evaluations in 2012, 2013, 2014 and 2015. Sharkey interviewed with Dr. Karlsson in 2008 and 2013, but refused to interview with him in 2012, 2014 and 2015.

In 2008, Dr. Karlsson diagnosed Sharkey with paraphilia not otherwise specified (NOS), nonconsensual. A person who suffers from this disorder “gets sexually aroused by having sex with people who don’t want to have sex with this person.” Dr. Karlsson also diagnosed Sharkey with antisocial personality disorder (ASPD) based on Sharkey’s “long pattern of violating or not conforming to social norms” In 2013, Dr. Karlsson changed his diagnosis of paraphilia NOS to sexual sadism. A sexual sadist is sexually aroused by “inflict[ing] fear or suffering or pain onto the victim”

Dr. Karlsson’s diagnosis of sexual sadism was based on Sharkey’s sexually violent behavior prior to his most recent incarceration in 1990. Dr. Karlsson opined that sexual sadism and ASPD were chronic but could remit over time. However, he “ha[d] no reason to suspect” that Sharkey’s diagnoses “are not current” “because he’s in a controlled environment and . . . these

to September 4, 2015, on which date closing arguments were completed.

two conditions will kind of become invisible in this environment because he can't really act them out." In addition, Sharkey had tested "in the high range of psychopathic personality traits" which suggested "he has a high level of adaptivity" that allowed him to "mask" his sexual sadist impulses while in a "confined situation."

Dr. Karlsson also testified that Sharkey *had* exhibited behaviors symptomatic of ASPD while detained at the hospital. Between 2008 and 2015, Sharkey had "a number of aggressive outbursts" that "displayed" his ASPD. Sharkey's refusal to "take responsibility for" these incidents as well as his lack of remorse "fit the I.D. as a person with [ASPD]."

Dr. Karlsson considered Sharkey's refusal to participate in sex offender treatment in his "risk assessment." Sharkey had not participated in treatment between 2008 and 2015 beyond completing the "first phase," which consisted of "being informed what the treatment was about." Dr. Karlsson testified that by "dropping out" of treatment after the first phase, Sharkey's risk of recidivism increased. Sharkey had also said he would not seek out treatment if released.

Dr. Karlsson administered the STATIC-99R, an actuarial tool that predicts the likelihood a person will commit a sex crime in the future, and gave Sharkey a score of 6 or 7. Either score placed Sharkey in the "high risk category" for reoffending. In calculating this score, Dr. Karlsson considered "factors that could reduce risk," including participation in a "behavioral treatment program." Dr. Karlsson opined that participation in treatment "shows that this person is willing to confront what he or she has been involved in[,] to try to come up with alternative ways of

handling . . . conflicts . . . , and that a person is compliant with these treatment recommendations.”

Dr. Karlsson also administered the SRA-FV, a “risk assessment” test, which placed Sharkey in the “high range” of reoffending. When calculating Sharkey’s score, Dr. Karlsson factored in what he perceived, based on the 2008 and 2013 interviews, as Sharkey’s lack of remorse for his offenses. Dr. Karlsson opined that if Sharkey “truly” felt remorse, “he would participate in treatment”

Dr. Karlsson concluded that Sharkey’s ASPD and sexual sadism diagnoses “work together to predispose . . . Sharkey to commit sexually violent predatory crimes.”

B. *Dr. Salz’s Testimony*

Dr. Salz estimated he had completed approximately 400 evaluations for the Department of State Hospitals, and five to seven percent of those he evaluated met the criteria of an SVP. He evaluated Sharkey in 2012 and diagnosed him with ASPD and paraphilia NOS, nonconsensual. Sharkey interviewed with Dr. Salz in 2012 and 2013, but refused to interview with him in 2014 and 2015.³ In 2014, Dr. Salz changed the paraphilia NOS diagnosis to sexual sadism. In 2015, Dr. Salz completed an updated evaluation of Sharkey.

Dr. Salz based the ASPD diagnosis in part on Sharkey’s lack of “consistency about his [personal] history,” his lack of future plans upon his potential release, his displays of “irritability and aggressiveness as indicated by repeated fights” while detained at the hospital, his lack of remorse for his

³ In 2015, Sharkey told Dr. Salz he could not interview with him because he was experiencing pain due to a medical condition.

offenses, and his “hostile and unfriendly” manner while he was being interviewed. Dr. Salz’s sexual sadism diagnosis was based on Sharkey’s sexually violent behavior prior to his most recent incarceration.

Dr. Salz opined that both ASPD and sexual sadism are “lifelong conditions” that “tend to remit over time.” However, he could not attest to any remission in Sharkey’s case because Sharkey “declined to be involved in treatment[,] [to] take lie detector tests[,] [or] [to] submit to penile plethysmographs, where we can actually measure his level of arousal to things like sadistic sexual activity” Dr. Salz believed that the sexual sadism and ASPD diagnoses “together” “affect[] his emotional and volitional capacity” within the meaning of section 6600—Sharkey’s “drive for sadistic sex” “overrid[es]” “his conscience,” and “his antisocial personality makes it so he . . . lacks the empathy . . . that would prevent him from . . . sadistically abusing women”

Sharkey scored a 6, or within the “high-range risk,” on the STATIC-99R, which placed him “in the same group as sex offenders who reoffend at the rate of about 31 percent over five years.” In computing this score, Dr. Salz considered whether Sharkey “[c]ooperat[ed] with supervision,” and noted that “[h]e’[d] had an enormous number of 115s [serious rules violations] while he’[d] been incarcerated,” and that Sharkey had recently punched another hospital resident in the face. Dr. Salz also took into account Sharkey’s “[p]oor cognitive problem solving” skills, as demonstrated by Sharkey’s refusal to participate in treatment and inadequate plan for finding work upon his potential release. Lastly, Dr. Salz considered Sharkey’s negative attitude towards the hospital staff.

Dr. Salz concluded Sharkey would be a danger to the community if released based, in part, on the fact he had not participated in any treatment program and had been “an unreliable historian,” “[s]o we really don’t have any good way of knowing what’s going on with him.”

C. *Defense Evidence*

Dr. Brian Abbott, a psychologist, testified for the defense. He evaluated Sharkey in 2014 and 2015 and also gave Sharkey a score of 6 on the STATIC-99R. However, he opined that such a high score does not mean the tested individual is at a high risk for recidivism. He opined that Sharkey previously suffered from ASPD but the disorder “ha[d] since remitted” due to his age and “adjustment in prison.”

Three employees at Coalinga State Hospital also testified on Sharkey’s behalf. They all attested to Sharkey’s calm and appropriate behavior while detained there.

D. *Trial Court’s Decision*

On September 22, 2015, the trial court found beyond a reasonable doubt that Sharkey met the criteria for commitment as an SVP. Sharkey timely appealed.

CONTENTIONS

Sharkey argues the evidence was insufficient to support a finding he was an SVP because the People failed to show that he *currently* suffers from a diagnosed mental disorder that affects his ability to control sexually violent behavior such that he is a danger to others.

DISCUSSION

1. *The SVPA*

“The SVPA took effect on January 1, 1996. (Stats. 1995, ch. 763, § 3.) It provides for the involuntary civil commitment of

certain offenders, following the completion of their prison terms, who are found to be SVP's because they have previously been convicted of sexually violent crimes and currently suffer diagnosed mental disorders which make them dangerous in that they are likely to engage in sexually violent criminal behavior. (§ 6600 et seq.)” (*People v. Superior Court (Ghilotti)* (2002) 27 Cal.4th 888, 902 (*Ghilotti*)). “The SVPA is designed ‘to provide ‘treatment’ to mentally disordered individuals who cannot control sexually violent criminal behavior” ’ and to keep them confined until they no longer pose a threat to the public. [Citation.] Thus, ‘[t]he SVPA is not punitive in purpose or effect,’ and proceedings under it are ‘ “special proceedings of a civil nature.” ’ [Citation.]” (*People v. Putney* (2016) 1 Cal.App.5th 1058, 1065–1066.)

“The requirements for classification as [an SVP] are set forth in section 6600, subdivision (a) and related provisions. [Fn. omitted.] First, and critical here, is that an SVP must suffer from ‘a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.’ (*Id.*, subd. (a).) A ‘diagnosed mental disorder’ is defined in its entirety as ‘includ[ing] a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.’ (*Id.*, subd. (c).) The phrase, ‘danger to the health and safety of others,’ is accompanied by language making clear that proof of a ‘recent overt act’ or crime ‘in custody’ is not required. (*Id.*, subds. (d) & (f).)” (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1144 (*Hubbart*)).

A person “has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody” (§ 6601, subd. (d)) “if, because of the person’s diagnosed mental disorder, he or she currently presents a *substantial* danger—that is, a *serious and well-founded risk*—of criminal sexual violence unless maintained in an appropriate custodial setting which offers mandatory treatment for the disorder. On the other hand, [the SVPA] does *not* require an evaluator to determine there is a *better than even* chance of new criminal sexual violence if the person is free of custody and mandatory treatment. . . .” (*Ghilotti, supra*, 27 Cal.4th at pp. 894–895.)

“[T]he ‘mental disorder’ prong of the SVPA . . . is distinct from the prong addressing the *degree of future dangerousness* Entirely aside from future dangerousness, the SVPA requires a diagnosed mental disorder *affecting the person’s emotional or volitional capacity* that predisposes the person to commit sex crimes in a menacing degree. (§ 6600, subd. (c).) [T]his requirement alone implies ‘serious difficulty’ in controlling behavior

“A mental disorder that includes all the above-described elements—including a dangerous impairment of capacity—must additionally produce an actual risk of violent reoffense which, under all the applicable circumstances, is ‘substantial,’ ‘serious,’ and ‘well-founded.’ [Citation.] Jurors instructed in these terms must necessarily understand that one is not eligible for commitment under the SVPA unless his or her capacity or ability to control violent criminal sexual behavior is seriously and dangerously impaired [¶] . . . [¶] . . . [Accordingly,] a commitment rendered under the plain language of the SVPA

necessarily encompasses a determination of serious difficulty in controlling one's criminal sexual violence" (*People v. Williams* (2003) 31 Cal.4th 757, 776–777.)

An SVP must also have "been convicted of a sexually violent offense against one or more victims" (§ 6600, subd. (a)(1).) "However, prior crimes play a limited role in the SVP determination. 'Conviction of one or more [sexually violent offenses] shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. . . . Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a *currently* diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.' (*Id.*, subd. (a).)" (*Hubbart, supra*, 19 Cal.4th at p. 1145 (italics added).)

2. *Process*

"The process for determining whether a convicted sex offender meets the foregoing requirements takes place in several stages, both administrative and judicial. Generally, the Department of Corrections screens inmates in its custody who are 'serving a determinate prison sentence or whose parole has been revoked' at least six months before their scheduled date of release from prison. (§ 6601, subd. (a).) [Fn. omitted.] This process involves review of the inmate's background and criminal record, and employs a 'structured screening instrument' developed in conjunction with the Department of Mental Health. (*Id.*, subd. (b).) If officials find the inmate is likely to be an SVP, he is referred to the Department of Mental Health for a 'full

evaluation’ as to whether he meets the criteria in section 6600. (§ 6601, subd. (b).)

“The evaluation performed by the Department of Mental Health must be conducted by at least two practicing psychiatrists or psychologists in accordance with a standardized assessment protocol. (§ 6601, subds. (c) & (d).) ‘The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.’ (*Id.*, subd. (c).)

“Two evaluators must agree that the inmate is mentally disordered and dangerous within the meaning of section 6600 in order for proceedings to go forward under the Act. (§ 6601, subd. (d).) In such cases, the Department of Mental Health transmits a request for a petition for commitment to the county in which the alleged SVP was last convicted, providing copies of the psychiatric evaluations and any other supporting documentation. (*Id.*, subds. (d), (h) & (i).) [Fn. omitted.] ‘If the county’s designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court’ (*Id.*, subd. (i).)” (*Hubbart, supra*, 19 Cal.4th at pp. 1145–1146.)

“The SVPA also provides for evaluations to be updated or replaced after a commitment petition has been filed. (§ 6603, subd. (c).) Section 6603, subdivision (c) was enacted to clarify the right of the attorney seeking commitment to obtain up-to-date evaluations, in light of the fact that commitment under the SVPA is based on a ‘current mental disorder.’ [Citations.]” (*Reilly v. Superior Court* (2013) 57 Cal.4th 641, 647–648.)

“The filing of the petition triggers a new round of proceedings under the [SVPA]. The superior court first holds a hearing to determine whether there is ‘probable cause’ to believe that the person named in the petition is likely to engage in sexually violent predatory criminal behavior upon release. (§ 6602, as amended by Stats. 1996, ch. 4, § 4, and by Stats. 1998, ch. 19, § 3.) [Fn. omitted.] The alleged predator is entitled to the assistance of counsel at this hearing. If no probable cause is found, the petition is dismissed. However, if the court finds probable cause within the meaning of this section, the court orders a trial to determine whether the person is an SVP under section 6600. The alleged predator must remain in a ‘secure facility’ between the time probable cause is found and the time trial is complete. (§ 6602.)

“At trial, the alleged predator is entitled to ‘the assistance of counsel, the right to retain experts or professional persons to perform an examination on his or her behalf, and have access to all relevant medical and psychological records and reports.’ (§ 6603, subd. (a).) Either party may demand and receive trial by jury. (*Id.*, subds. (a) & (b); see *id.*, subd. (c).) [¶] The trier of fact is charged with determining whether the requirements for classification as an SVP have been established ‘beyond a reasonable doubt.’ (§ 6604.) . . . [W]here the requisite SVP findings are made, ‘the person shall be committed . . . to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility’ ([§ 6604].)” (*Hubbart, supra*, 19 Cal.4th at pp. 1146–1147.)

3. *Standard of Review*

“‘In reviewing the evidence sufficient to support a commitment under [the SVPA], ‘courts apply the same test as for

reviewing the sufficiency of the evidence to support a criminal conviction.”’ [Citation.] ‘Thus, this court must review the entire record in the light most favorable to the judgment to determine whether substantial evidence supports the determination below. [Citation.] To be substantial, the evidence must be “‘of ponderable legal significance . . . reasonable in nature, credible and of solid value.’ ”’ [Citation.]” (*People v. McCloud* (2013) 213 Cal.App.4th 1076, 1088.)

4. *Substantial Evidence*

Sharkey contends the evidence is insufficient to support the trial court’s finding he is an SVP because the People’s expert testimony was based exclusively on his past conduct and “ignor[ed] [his] present mental status and behavior.”⁴ In particular, Sharkey challenges the experts’ conclusions that (1) he suffers from diagnosed mental disorders, and (2) those disorders affect his ability to control sexually violent behavior which (3) makes it likely he will commit further sexually violent crimes. We conclude these experts’ opinions took into account Sharkey’s current mental status and behavior, and the trial court’s findings were supported by substantial evidence.

“[A] person cannot be adjudged an SVP unless he ‘currently’ suffers from a diagnosed mental disorder which prevents him from controlling sexually violent behavior, and

⁴ Sharkey also contends the People’s experts’ testimony was “inherently suspect” because their diagnoses changed over time and their initial diagnosis of paraphilia NOS was controversial. However, “[t]he credibility and weight of the expert testimony was for the [trier of fact] to determine, and it is not up to us to reevaluate it. [Citations.]” (*People v. Flores* (2006) 144 Cal.App.4th 625, 633.)

which ‘makes’ him dangerous and ‘likely’ to reoffend. (§ 6600, subd. (a).) [¶] By defining the qualifying mental disorder in this fashion, the statute makes clear that it is the present inability to control sexually violent behavior which gives rise to the likelihood that more crimes will occur, and which makes the SVP dangerous if not confined.” (*Hubbart, supra*, 19 Cal.4th at p. 1162.)

With respect to Sharkey’s diagnosed mental disorders, both Dr. Karlsson and Dr. Salz cited to Sharkey’s *current* mental status and behavior to support their opinions that he suffers from a diagnosis of ASPD. Dr. Karlsson opined that Sharkey’s “aggressive outbursts” at the hospital and his lack of remorse displayed his ASPD. Dr. Salz concluded that Sharkey displayed current symptoms of ASPD based on Sharkey’s recent fights at the hospital, his hostile manner, his lack of future plans, his inconsistency about his personal history, and his lack of remorse for his offenses.

Although both of these experts diagnosed Sharkey with sexual sadism based on his past criminal conduct, these experts also opined that this disorder was a chronic condition and Sharkey had not shown signs of remission. Dr. Salz considered Sharkey’s current behavior in concluding there was no evidence the disorder had remitted, namely, Sharkey’s decision not to participate in treatment while detained at the hospital, as well as his refusal to take a lie detector test or penile plethysmograph. This testimony was sufficient to show that Sharkey currently suffered from sexual sadism.⁵ (See *People v. Scott* (2002))

⁵ Any argument that the prosecution’s experts’ testimony was not sufficiently based on current evidence is also undercut by Sharkey’s refusal to interview with both Dr. Karlsson and

100 Cal.App.4th 1060, 1064 [the testimony of one psychologist or psychiatrist may constitute substantial evidence supporting a finding that a person is an SVP].)

With respect to whether Sharkey's diagnosed mental disorders "affect[ed] [his] emotional or volitional capacity" within the meaning of the SVPA, Dr. Salz specifically testified that they did. This testimony combined with Dr. Salz's conclusion that these diagnoses had not remitted was sufficient to show Sharkey's diagnoses *currently* affected his emotional and volitional capacity. Although Sharkey argues he "had not engaged in any [violent, aggressive, or sexually inappropriate] conduct" while detained at the hospital, he "errs in supposing that he must presently engage in overt manifestations of a sexually violent predator in order to support an opinion that he still suffers from a mental disorder affecting his ability to control his impulses." (*Sumahit, supra*, 128 Cal.App.4th at p. 353.) Section 6600, subdivision (d) expressly provides that a showing that a person who suffers from a mental disorder predisposing him to commit criminal sexual acts is a danger to others "does not require proof of a recent overt act while the offender is in custody."

Lastly, both Dr. Karlsson and Dr. Salz considered Sharkey's current mental status and behavior in their conclusion

Dr. Salz on several occasions or to submit to testing. (See *People v. Sumahit* (2005) 128 Cal.App.4th 347, 353 (*Sumahit*) ["[W]e cannot overlook the significance of defendant's refusal to be interviewed by either of the state's experts. The law has a strong interest in seeing to it that litigants do not manipulate the system, especially where to hold otherwise would permit them to 'trifle with the courts.'"'] [Citation.]].)

that it was likely he would engage in sexually violent criminal behavior in the future. Dr. Karlsson noted that Sharkey had “dropped out” of sex offender treatment while detained at the hospital and opined that this increased the risk he would recidivate. Both Dr. Karlsson and Dr. Salz concluded that Sharkey’s STATIC-99R score placed him in the “high risk category” for reoffending, and these scores were based, in part, on Sharkey’s current mental status and behavior: Dr. Karlsson considered Sharkey’s refusal to participate in treatment and the lack of remorse Sharkey expressed in interviews; and Dr. Salz considered Sharkey’s rules violations while incarcerated, his assault of another hospital resident, his “poor cognitive problem solving” as demonstrated by Sharkey’s comments in interviews, and his negative attitude toward hospital staff. Likewise, Dr. Karlsson factored in Sharkey’s lack of remorse for his offenses when calculating Sharkey’s score on the SRA-FV, which placed Sharkey in the “high range” of reoffending.

Accordingly, there was substantial evidence showing Sharkey “ ‘currently’ suffers from a diagnosed mental disorder which prevents him from controlling sexually violent behavior, and which ‘makes’ him dangerous and ‘likely’ to reoffend. [Citation.]” (*Hubbart, supra*, 19 Cal.4th at p. 1162.)

DISPOSITION

The judgment is affirmed.

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REPORTS**

EDMON, P. J.

We concur:

ALDRICH, J.

LAVIN, J.