

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

UNITED STATES OF AMERICA,  
Petitioner,  
v.  
JAMES DOW VANDIVERE,  
Respondent.

**Judgment in a Civil Case**

Case Number: 5:15-HC-2017-D

**Decision by Court.**

This action came before the Honorable James C. Dever III, Chief United States District Judge, for consideration after the court held a bench trial.

**IT IS ORDERED AND ADJUDGED** that judgment is entered in favor of petitioner, the United States, and against the respondent, James Dow Vandivere, and that the respondent be committed to the custody and care of the Attorney General pursuant to 18 U.S.C. § 4248.

This Judgment Filed and Entered on November 16, 2016, with service on:

G. Norman Acker, III, Michael D. Bredenberg, Michael James, R.A. Renfer, Jr., Robert J. Dodson and Joseph H. Craven (via CM/ECF Notice of Electronic Filing)  
James Dow Vandivere 99078-011 Butner Medium I - F.C.I. P.O. Box 1000 Butner, NC 27509  
(via U.S. Mail)

November 16, 2016

Julie Richards Johnston  
Clerk of Court

By:

  
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Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:15-HC-2017-D

UNITED STATES OF AMERICA )  
Petitioner, )  
v. )  
JAMES DOW VANDIVERE, )  
Respondent. )

ORDER

The United States (“petitioner”) seeks to civilly commit James Dow Vandivere (“Vandivere” or “respondent”) 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. §§ 4247–48. Pursuant to the Adam Walsh Act, if the court finds by clear and convincing evidence, after a hearing, that a person is a “sexually dangerous person,” the court must commit the person to the custody of the Attorney General. Id. § 4248(d). 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.” Id. § 4247(a)(5). A person is considered “sexually dangerous to others” if “the person 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.” Id. § 4247(a)(6).

To obtain a commitment order against Vandivere, the government must establish three facts by clear and convincing evidence: (1) that Vandivere “has engaged or attempted to engage in sexually violent conduct or child molestation,” id. § 4247(a)(5); (2) that Vandivere currently “suffers from a serious mental illness, abnormality, or disorder”; and (3) as a result of the serious mental

illness, abnormality, or disorder, that Vandivere “would have serious difficulty in refraining from sexually violent conduct or child molestation if released.” Id. § 4247(a)(6); see United States v. Perez, 752 F.3d 398, 407 (4th Cir. 2014); United States v. Antone, 742 F.3d 151, 158 (4th Cir. 2014); United States v. Heyer, 740 F.3d 284, 291–92 (4th Cir. 2014); United States v. Wood, 741 F.3d 417, 419 (4th Cir. 2013); United States v. Bolander, 722 F.3d 199, 206 (4th Cir. 2013); United States v. Springer, 715 F.3d 535, 538 (4th Cir. 2013); United States v. Caporale, 701 F.3d 128, 130 (4th Cir. 2012); United States v. Wooden, 693 F.3d 440, 442 (4th Cir. 2012); United States v. Francis, 686 F.3d 265, 268, 274 (4th Cir. 2012); United States v. Hall, 664 F.3d 456, 461 (4th Cir. 2012); United States v. Comstock, 627 F.3d 513, 515–16 (4th Cir. 2010).

On September 7, 2016, the court held a bench trial. On November 16, 2016, the court announced its findings and conclusions from the bench. The transcript is incorporated herein by reference. The United States has proven by clear and convincing evidence that Vandivere has engaged in child molestation and suffers from serious mental illnesses, abnormalities, or disorders. The United States also has proven by clear and convincing evidence that, as a result of his serious mental illnesses, abnormalities, or disorders, Vandivere “would have serious difficulty in refraining from sexually violent conduct or child molestation if released.” 18 U.S.C. § 4247(a)(6). Thus, the United States has proven that Vandivere is a sexually dangerous person as defined in the Adam Walsh Act. Accordingly, judgment shall be entered in favor of petitioner, the United States, and against respondent, James Dow Vandivere. Vandivere is hereby committed to the custody and care of the Attorney General pursuant to 18 U.S.C. § 4248.

SO ORDERED. This 16 day of November 2016.

  
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JAMES C. DEVER III  
Chief United States District Judge