COURT OF APPEALS
DECISION
DATED AND FILED

December 16, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. 99-1205

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN RE THE COMMITMENT OF CHARLES PATTERSON:

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

CHARLES PATTERSON,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Dane County: DANIEL R. MOESER, Judge. *Affirmed.*

Before Dykman, P.J., Eich and Deininger, JJ.

¶1 EICH, J. Charles Patterson appeals from an order committing him to a secure mental health facility as a sexually violent person under the sexual predator law, ch. 980, STATS. The issue is whether § 980.02(2)(a)2, which permits

a prior juvenile delinquency adjudication to serve as the predicate offense in a ch. 980 commitment proceeding impermissibly conflicts with provisions of the Juvenile Justice Code limiting use of delinquency judgments to certain specified proceedings. We see no disabling conflict between the statutes and affirm the order.

¶2 Patterson was adjudicated delinquent for first-degree sexual assault of a child in 1995. Three years later, as he was about to be released from the juvenile facility in which he was confined, the State filed a petition alleging that Patterson was a "sexually violent person" within the meaning of ch. 980, STATS., using his 1995 delinquent adjudication to satisfy the predicate offense requirements.[1] The petition sought a finding that cause existed to believe Patterson was subject to commitment as a sexual predator and for further proceedings to that end. Patterson moved to dismiss the petition on grounds that § 938.35(1), STATS., which states, among other things, that a delinquency adjudication is not admissible as evidence against the juvenile except in certain specified instances,[2] bars use of his 1995 adjudication for any purpose in the ch. 980 proceedings.

[1] Section 980.02(2), STATS., requires sexual-predator commitment petitions to allege that the person sought to be committed: (a) has been convicted or found delinquent for a sexually violent offense (or found not guilty of a sexually violent offense by reason of mental disease or defect); (b) is within ninety days of discharge of release from confinement as a result of such conviction or adjudication of delinquency; (c) has a mental disorder; and (d) is dangerous to others because that disorder makes it substantially probable that he or she will engage in acts of sexual violence.

[2] Specifically, § 938.35(1), STATS., states that a delinquency adjudication "is not admissible as evidence against the juvenile in any case or proceeding in any other court" except for the following limited purposes: (a) in a presentence report in criminal court; (b) in another juvenile proceeding; (c) in a civil or criminal case in which the juvenile's custody is at issue; (d) for purposes of setting bail or impeaching a witness; and (e) in probate proceedings where the juvenile is alleged to have killed the decedent.

¶3 The trial court denied the motion and the case proceeded through the probable-cause stage to a final order committing Patterson for institutional care in a secure mental health facility.[3] At the commitment hearing, the State was permitted to introduce evidence regarding Patterson's prior delinquent adjudications, various related juvenile proceedings and his conduct while residing in juvenile facilities.

¶4 Patterson renews his argument on appeal. He claims the language of § 938.35(1), STATS., is unambiguous and plainly bars use of his earlier delinquency adjudication (a) as the predicate offense in the petition, and (b) as evidence in the subsequent ch. 980 proceedings. According to Patterson, § 938.35(1) must control over conflicting provisions of § 980.02(2)(a) because the former statute was enacted (and amended) after the latter. As a result, Patterson says, the legislature has made it plain that, whether or not a delinquency adjudication may be used as the predicate offense under the sexual predator law, "those adjudications [and] the records of the subject's juvenile court proceedings [may not be introduced as evidence] in any proceedings under Chapter 980."

¶5 The question is one of statutory interpretation and application, which we review de novo. ***State v. Sostre***, 198 Wis.2d 409, 414, 542 N.W.2d 774, 776 (1996). The primary goal of statutory construction is to ascertain the legislature's intent, and our first step in the process is to look to the plain language of the statute. ***Id.*** Where the import of that language is clear and unambiguous, we go no further; we simply apply the statute to the facts of the case. ***Cary v. City of***

[3] Under the law, persons so committed may petition for either supervised release or discharge upon appropriate showings, and they are examined at least once every twelve months to determine whether they have made sufficient progress to be entitled to transfer to a less secure facility, supervised release or discharge. *See* §§ 980.07, 980.08, 980.09 and 980.10, STATS.

Madison, 203 Wis.2d 261, 264-65, 551 N.W.2d 596, 597 (Ct. App. 1996). If, however, the statute is ambiguous, we must look beyond its language and examine the scope, history, context, subject matter, and purpose of the statute. ***UFE, Inc. v. LIRC***, 201 Wis.2d 274, 281-82, 548 N.W.2d 57, 60 (1996) (citations omitted). It is also true that a statute appearing to be unambiguous on its face "can be rendered ambiguous by its interaction with and its relation to other statutes." ***State v. White***, 97 Wis.2d 193, 198, 295 N.W.2d 346, 348 (1980). Finally, unrealistic and unreasonable interpretations of statutes are to be avoided. ***Maxey v. Racine Redev. Authority***, 120 Wis.2d 13, 20, 353 N.W.2d 812, 816 (Ct. App. 1984). Statutes should be construed so as to avoid absurd results. ***Peters v. Menard, Inc.***, 224 Wis.2d 174, 189, 589 N.W.2d 395, 403 (1999).

¶6 Considered separately, both statutes appear unambiguous. But they also appear to be inconsistent. Section 938.35(1), STATS., says that juvenile adjudications are admissible in evidence in other proceedings only for stated purposes, none of which includes their use in ch. 980 proceedings; and § 980.02(2)(a), STATS., specifically allows their use in such proceedings. In such a situation, our task is to attempt to harmonize the apparently conflicting provisions so as to "give effect to the leading idea behind the law." ***State v. Sweat***, 208 Wis.2d 409, 422, 561 N.W.2d 695, 700 (Ct. App. 1997).

¶7 It is apparent to us that the legislature intended that delinquency adjudications could form the basis for ch. 980 commitment proceedings and thus be allowed as evidence in such proceedings. It is also apparent that the legislature intended that evidence of such adjudication be limited in its use. Where we disagree with Patterson is that we do not believe the list of permissive uses in § 938.35(1), STATS., is exclusive—that it absolutely bars admission in all other situations. Indeed, subsection (2) of the statute provides as follows:

> Except as specifically provided in sub. (1), this section does not preclude the court from disclosing information to qualified persons if the court considers the disclosure to be in the best interests of the juvenile or of the administration of justice.

Section 938.35(2), STATS. Still other portions of the Juvenile Justice Code specifically allow use of juvenile court records and adjudication information for various aspects of ch. 980 proceedings.[4]

¶8 It follows that reading § 938.35(1), STATS., in the restrictive manner advocated by Patterson would indeed lead to an absurd result—one clearly contrary to the legislature's intent—for it would effectively repeal several statutes, including the express provisions of § 980.02(2)(a)2, STATS. Reading the latter statute as another in a line of specific exceptions to the limited-use provisions of § 938.35(1) achieves the desired harmony among the various statutory provisions and it is the construction we adopt. We thus reject Patterson's argument that there

[4] *See*, *e.g.*, §§ 938.396(2)(e), and 938.78(2)(e), STATS., which provide as follows:

> 938.396 Records. (2)(e) Upon request of the department of corrections to review court records for the purpose of providing, under s. 980.015(3)(a), the department of justice or a district attorney with a person's offense history, the court shall open for inspection by authorized representatives of the department of corrections the records of the court relating to any juvenile who has been adjudicated delinquent for a sexually violent offense, as defined in s. 980.01(6).
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> 938.78 Confidentiality of records. (2)(e) Paragraph (a) does not prohibit the department from disclosing information about an individual adjudged delinquent under s. 938.183 or 938.34 for a sexually violent offense, as defined in s. 980.01(6), to the department of justice, or a district attorney or a judge acting under ch. 980 or to an attorney who represents a person subject to a petition under ch. 980. The court in which the petition under s. 980.02 is filed may issue any protective orders that it determines are appropriate concerning information disclosed under this paragraph.

is an irreconcilable conflict between the two statutes, and we affirm the circuit court's order.

By the Court.—Order affirmed.

Recommended for publication in the official reports.