

STATE OF NORTH CAROLINA)
COUNTY OF FORSYTH)
)

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
89 SPC 377

IN THE MATTER OF:)
)
MICHAEL CHARLES HAYES)
Respondent)

ORDER OF RECOMMITMENT

THIS MATTER coming on to be heard and being heard before the undersigned Superior Court Judge Presiding in Forsyth County Superior Court for Rehearing on Recommitment pursuant to N.C.G.S. 122C-276.1 and the previous order in this case; the Respondent being present in Court and represented by counsel, Karl Knudsen; the State being represented by the Honorable Thomas J. Keith, District Attorney for the 21st Prosecutorial District, by and through Assistant District Attorney, David Sipprell, and Assisstant Attorney General, Diane Pomper; the Court having heard the evidence and testimony and considered the arguments of counsel, hereby makes the following findings of fact and conclusions of law based upon all the evidence presented to this Court during this hearing:

FINDINGS OF FACT

1. The Court finds by clear, cogent and convincing evidence that on July 17, 1988, in Forsyth County, Michael Charles Hayes killed four people, assaulted five other people with a deadly weapon resulting in serious injury to them and assaulted other law enforcement officers with a deadly weapon. Mr. Hayes was, thereafter, in Forsyth County indicted for first degree murder and seven counts of felony assault; tried by a jury and acquitted by reason of insanity on April 14, 1989, of these charges.
2. On April 14, 1989 and April 20, 1989, Mr. Hayes was thereafter involuntarily committed to a 24 hour State psychiatric hospital as required by law. Since that time Mr. Hayes has been recommitted at each rehearing on commitment up to the present time by order of the District Court through 1992 and then each year by a Superior Court Judge as by law required after 1992. At each such prior hearing the District Court and the Superior Court found by clear, cogent, and convincing evidence or by a preponderance of the evidence that Michael Hayes was on the date of such hearings mentally ill and dangerous to others and ordered his continued hospitalization.
3. At the time of the killings and felonious assaults committed by the respondent on July 17, 1988, it is clear that the respondent suffered from an acute psychotic episode which lasted approximately 3 to 4 months in duration from the week before the killings on July 17, 1988, up to and including the time period in which he was being treated and observed at Dorothea Dix Hospital in October 1988. This psychotic episode evidences either a schizophreniform disorder or a psychotic disorder, NOS (not otherwise specified). These illnesses are recognized as Axis I mental disorders by DSM-IV (Diagnostic and Statistical Manual of the American Psychiatric Association). However, it is unclear from all of the testimony and evidence what exactly caused the psychotic break in the respondent during 1988. Although the psychotic phase of this illness has apparently not recurred since his admission to Dorothea Dix Hospital in 1989, it is unclear whether this

- particular mental disorder will recur in the future should the respondent be released from his current controlled environment at Dorothea Dix Hospital.
4. The Respondent's treating psychiatrists at Dorothea Dix have, since 2002, consistently diagnosed the Respondent with:
 - a. **Axis I: History of Substance-induced Psychotic Disorder NOS with delusions and hallucinations, with onset during intoxication**
 - b. **Axis I: Polysubstance Dependence, in remission, in a controlled environment;**
 - c. **Axis II: Personality Disorder NOS, with antisocial and narcissistic traits;**
 5. Given the testimony of the Dr. Halleck and Dr. Bellard, as well as the Respondent's own testimony, that substance abuse may not have been the cause of his psychotic break, the Court finds that the respondent currently meets criteria in the DSM-IV for a diagnosis of:
 - a. **Axis I: History of Substance-induced Psychotic Disorder NOS with delusions and hallucinations, with onset during intoxication or History of Schizophreniform Disorder or History of Psychotic Disorder NOS (acute psychotic episode that lasted 4 months)**
 - b. **Axis I: Polysubstance Dependence, in remission, in a controlled environment;**
 - c. **Axis II: Personality Disorder NOS, with antisocial and narcissistic traits;**
 6. The diagnoses set out in items b. and c. above in paragraph 5 are mental illnesses which are currently being treated, have not been cured and are likely to continue in the future.
 7. The Axis I and Axis II mental disorders described in items b. and c. above in paragraph 5, either existed or are related to the mental conditions that existed at the time of the commission of the homicides by the respondent in 1988 and were probably causative factors in or related to the psychotic disorder evident during those homicides, described in item a. above; and taken together and separately these mental disorders so lessen the capacity of Michael Charles Hayes to use self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control and thus, they constitute mental illnesses as defined by G.S. 122C-3(21).
 8. The best predictor of future behavior is past behavior. The extremely violent homicidal behavior exhibited on July 17, 1988, by the respondent, was conduct within the relevant past which provides the Court with very important information in assessing the

respondent's probable likelihood for future violent behavior and for present and future dangerousness to others.

9. The four homicides and seven felonious assaults committed by the respondent on July 17, 1988, are episodes of dangerousness to others in the relevant past which in combination with his past and present mental condition, his multiple mental illnesses and his conduct since admission to Dorothea Dix Hospital since 1989 and up to and including his conduct in the hospital during the previous years indicated there is a reasonable probability that the respondent's seriously violent conduct will be repeated and that he will be dangerous to others in the future if unconditionally released with no supervision at this time. There is a reasonable probability that if the respondent were released today he may relapse into his previous pattern of multi-substance abuse/dependence and relapse into a situation repeating his exposure to the same ordinary life stressors at least as serious as, if not more so, than those which were present in 1988 at the time of the killings. Should these kinds of relapses occur, the respondent will run the risk of future violent behavior.
10. The respondent is dangerous to others as defined by G.S. 122C-3(11)b; he suffers from multiple mental illnesses as previously described by the Court and continued hospitalization is advisable to ensure the safety of others and to alleviate, treat or cure his mental illnesses.
11. The respondent has failed to prove by a preponderance of the evidence that he is no longer mentally ill.
12. The respondent has failed to prove by a preponderance of the evidence that he is no longer dangerous to others.

CONCLUSION OF LAW

WHEREFORE, based upon the aforesaid findings of fact, the Court concludes as a matter of law that the respondent has failed to bear his burden of proof that he meets either criteria for release under N.C.G.S. 122C-276.1.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the inpatient hospitalization and commitment of Michael Charles Hayes be continued for a period of three hundred and sixty five days from this date.

Entered this the ____ day of September, 2007; and signed this the ____ day of September, 2007.

The Honorable Steve A. Balog
Superior Court Judge Presiding