



# Iowa General Assembly

## 2003 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### CIVIL COMMITMENT OF CRIMINAL OFFENDER

Filed by the Iowa Supreme Court  
July 16, 2003

State v. Huss, No. 32-02-0427

<http://www.judicial.state.ia.us/supreme/opinions>

**Factual and Procedural Background.** In 1986, the defendant, Loren Glenn Huss, was charged and convicted of the brutal and bizarre murder of his girlfriend, Marilyn Sheets. After years of legal challenges, Huss's conviction was overturned and he was found not guilty by reason of insanity, which decision was later affirmed on appeal. *State v. Huss*, 657 N.W.2d 447, 454 (Iowa 2003). Pursuant to Iowa Rule of Criminal Procedure 2.22(8), the Court ordered Huss committed to a state mental health institute or other appropriate facility for a complete psychiatric exam. Despite a psychiatric evaluation from the Iowa Medical and Classification Center (IMCC) which opined that Huss's present mental condition does not pose a danger to himself or others, the district court concluded that Huss remains mentally ill and dangerous and ordered Huss's continued commitment. It is from this decision that Huss appeals.

#### Issues on Appeal.

1. What standard of appellate review is appropriate in cases of acquittal on ground of insanity governed by Iowa Rule of Criminal Procedure 2.22?
2. Whether the State met the requisite burden of proof to justify Huss's continued commitment.

#### Analysis.

1. **Scope of Appellate Review – Burden of Proof.** As a threshold issue, the defendant first challenged the scope of the Iowa Supreme Court's review. The Court noted that neither the requisite burden nor the standard of proof is referred to in the applicable procedural rule, Iowa Rule of Criminal Procedure 2.22(8). The Court concluded that once the IMCC psychiatric evaluation indicated Huss was no longer mentally ill and dangerous, the burden of proof shifted to the State to prove, by clear and convincing evidence, that he was mentally ill and dangerous and subject to continued commitment. The Court found this burden of proof to be consistent with the burden of proof resting on the applicant in a chapter 229 involuntary civil commitment proceeding, and with the heavier burden of proof imposed on the State in a chapter 229A sexually violent predator case.
2. **Sufficiency of the Evidence.**
  - a. **Mentally Ill.** Huss challenged the district court's conclusion that mental illness in remission is the same as mental illness, since the record on review indicated he displayed no symptoms of his disorder at the time of the psychiatric evaluation and is receiving no treatment for it. The Iowa Supreme Court disagreed, citing psychiatric material in evidence that indicated that persons like Huss who have been diagnosed with bipolar disorder can suffer the effects of the illness at any point during the person's lifetime. Based upon this evidence, the Court concluded that the record adequately supported the district court's conclusion that the defendant continues to be mentally ill.
  - b. **Dangerous to Self or Others.** Huss next challenged the district court's conclusion that he continues to present a danger to himself or others, particularly in light of evidence in the record that indicates he has been free of

any symptoms of mental illness and a model prisoner for the past 17 years. In determining what definition of dangerousness should apply in a case such as this, the Court focused on both statutory and constitutional criteria guiding commitment decisions, and adopted the “recent overt act, attempt or threat” criterion in civil commitment cases. The Court found that the lack of any evidence indicating Huss had committed a recent act of substantial harm to himself or others to be significant.

**Conclusion.** The Iowa Supreme Court held that Huss’s continued commitment under Iowa Rule of Criminal Procedure 2.22(8), after acquittal on ground of insanity, cannot be justified and reversed the judgment of the district court with directions to remand the case to the district court for an order of discharge.

**Postscript.** Despite the Court’s ruling, Huss continues to be confined as a sexually violent predator pursuant to Iowa Code chapter 229A, a determination made by the State in 2002. As a sexually violent predator Huss will be confined and treated indefinitely at the unit operated by the Department of Human Services for the treatment of sexually violent predators for the murder in the instant case, for an assault on a woman in 1980, and for his participation in a 1984 gang-rape of a teenage girl. Huss’s appeal challenging his confinement as a sexually violent predator is pending.

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