



BRITISH COLUMBIA REVIEW BOARD

**IN THE MATTER OF PART XX.1 (Mental Disorder) OF THE *CRIMINAL CODE*
R.S.C. 1991 c. 43, as amended S.C. 2005 c. 22, S.C. 2014 c. 6**

REASONS FOR DISPOSITION IN THE MATTER OF

BLAIR EVAN DONNELLY

HELD AT: Forensic Psychiatric Hospital
Coquitlam, BC
April 13, 2023

BEFORE: CHAIRPERSON: I. Friesen
MEMBERS: Dr. A. Kolchak, psychiatrist
D. LePard

APPEARANCES: ACCUSED/PATIENT: Blair Evan Donnelly
ACCUSED/PATIENT COUNSEL: H. Parker
DIRECTOR, AFPS: Dr. M. Saini,
Dr. T. Oswald,
K. Albrighton
DIRECTOR'S COUNSEL: M. Forbes
ATTORNEY GENERAL: G. Nelson

INTRODUCTION AND BACKGROUND

[1] On April 13, 2023, the BC Review Board held an annual hearing to review the disposition of Blair Evan Donnelly. At the conclusion of the hearing, the Board reserved its decision. It subsequently ordered that Mr. Donnelly be detained on a broad custodial disposition for a period of eight months. These are our reasons for that disposition.

[2] Mr. Donnelly is before the Board as a result of receiving a verdict of not criminally responsible on account of mental disorder (NCRMD) rendered on January 23, 2008, at the Supreme Court at Terrace, British Columbia. The verdict related to a single count of second-degree murder contrary to section 235(1) of the *Criminal Code*.

[3] The index offence was committed on November 23, 2006, when Mr. Donnelly brutally stabbed his 16-year-old daughter in the neck, heart and back in response to religious delusions. Earlier that day, Mr. Donnelly had been planning to murder his wife but changed his mind in response to his delusional belief that it was his daughter that God wanted him to kill.

[4] Mr. Donnelly is now 63 years old. He is presently diagnosed with bipolar disorder, with psychotic symptoms when manic, and a substance use disorder in remission. Prior to the index offence he was employed in a supervisory position in the resource sector where he had worked for approximately ten years. He had been married for 21 years and had two teenage daughters; the eldest was attending university at the time of the offence while the younger daughter (the victim) was living at home.

[5] Mr. Donnelly first experienced mental health difficulties in 1995 after developing religious delusions that he was meant to father a child with another man's wife. He was diagnosed with bipolar affective disorder, but was able to return to fulltime work and did not appear to have any further difficulties.

[6] One of the most striking features of the index offence is that Mr. Donnelly did not exhibit any apparent signs of mental deterioration before the fatal attack on his daughter. Although his wife was concerned that he was acting oddly on the day of the offence, no one had reported any significant change in his mental status.

[7] Following his NCRMD verdict, Mr. Donnelly was detained at the Forensic Psychiatric Hospital (FPH). He has remained at FPH since. There have been two further incidents of mental deterioration resulting in violence. Both involved Mr. Donnelly's mental state deteriorating abruptly and without apparent warning. The first incident occurred in 2009 when Mr. Donnelly was on day leave from FPH. He met a former FPH client, and

consumed cocaine with him over the course of several hours before travelling to a friend's home where he suddenly stabbed the victim. Mr. Donnelly was convicted of assault with a weapon and sentenced to 45 days in jail.

[8] The second incident occurred in 2017. Mr. Donnelly had been on visit leave from FPH but was directed back after concerns were expressed by staff that he was becoming preoccupied with religious matters. Shortly after his return to FPH, Mr. Donnelly suddenly attacked another patient in the Hawthorne unit with a butter knife. He was subsequently found NCRMD on a charge of assault with a weapon and absolutely discharged by the court.

[9] Mr. Donnelly last appeared before the Board in May 2021, where the panel concluded that although Mr. Donnelly had made good progress, he was not yet ready for a conditional discharge. In 2021 and 2022, Mr. Donnelly began gradually increasing visits to Coast Transitional Cottages (CTC). In anticipation of his next hearing in April 2022 and Dr. Wiehahn's conditional discharge recommendation, his care was transitioned to Dr. Meldrum and Mr. Co at Vancouver Forensic Clinic. Unfortunately, in late March 2022, Mr. Donnelly developed COVID and his April 25, 2022, hearing was postponed and Mr. Donnelly remained at CTC.

[10] On April 25, 2022, a CTC staff member sent out an email reporting that Mr. Donnelly had been uncharacteristically abrupt and assertive. FPH staff did not respond. Fortunately, Dr. Meldrum received the email and followed up with staff at CTC who advised that although there were no threats or aggression, the general sense was that there was something different. Given concerns regarding Mr. Donnelly's history of rapid deteriorations, Dr. Meldrum and Dr. Saini interviewed the accused by video and then made the decision to return him to the Elm Unit at FPH. It was subsequently disclosed that prior to the return to FPH, Mr. Donnelly had been residing in an unstaffed cottage for three days.

[11] All the parties agreed to extend the last disposition on May 12, 2022.

EVIDENCE AT HEARING

[12] Dr. Saini testified that both he and Dr. Meldrum concluded that CTC had failed to supervise the accused at the high level required by the treatment plan. Dr. Saini testified that the decision to place the accused in an unstaffed cottage was not approved by either the hospital team or the community forensic team. In addition, concerns regarding Mr. Donnelly's mental health had not been communicated in a timely manner. It was

unacceptable that FPH staff had not responded to the April 25, 2022, email. Dr. Saini observed that if Dr. Meldrum had not seen that email, Mr. Donnelly could have remained at the unstaffed residence for weeks.

[13] Dr. Saini testified that the accused exhibited distress because of the lack of supervision at CTC, but his mental state did not deteriorate at the time of his return to FPH. Mr. Donnelly has since settled in to FPH and has recently been residing on the Hawthorne Unit.

[14] Dr. Saini testified that Mr. Donnelly presents a high risk of relapse given his pattern of rapid decompensation and violence in the past. The accused has reoffended after long periods of remission between violent episodes and without any significant warning signs, which Dr. Saini described as being a unique feature of his mental illness. Therefore, a cautious approach is necessary to protect the public. Mr. Donnelly has complained that his reintegration is too slow, and this suggests he lacks understanding of the level of risk he poses to the community.

[15] Dr. Saini testified that the treatment team has been looking at various avenues for reintegration. Mr. Donnelly initially told his team that he wished to be placed at Manchester House in Victoria and that he no longer wishes to be supervised by Dr. Meldrum and Mr. Co. However, it is clear that Manchester House would not be an appropriate placement for the accused. Dr. Oswald provided a report (Exhibit 77-1) outlining the reasons why Manchester could not provide the high level of supervision that Mr. Donnelly requires. Of particular concern is the distance between FPH and Manchester House on Vancouver Island and that security officers from FPH could not attend immediately if there were any concerns about his decompensation.

[16] Dr. Saini testified that the best option for Mr. Donnelly's reintegration is a return to CTC but only if there is enhanced supervision. In its present state, CTC could not provide sufficient risk management for the accused. The Board was told that in the last year there have been numerous stressors at CTC, including multiple COVID outbreaks, staffing shortages and a high percentage of casual staff on duty.

[17] Dr. Saini told the Board that the Forensic Psychiatric Services Commission (FPSC) has advised FPH staff that an enhanced program of care and supervision (Enhanced Program) will be implemented at CTC over the next year. Dr. Saini expressed frustration that no further details have been provided to FPH staff and that it did not appear

that there has yet been significant progress towards implementing the program at CTC. He doubted that the Enhanced Program will be up and running in the next six-month period.

[18] K. Albrighton, the accused's case manager, testified about some of the difficulties at CTC in the past year. There were numerous casual staff at CTC who were not sufficiently trained to identify mental state deterioration. Ms. Albrighton referred to the treatment plan put together by Dr. Wiehahn, and she pointed out that, at that time, the staff at CTC were familiar with the accused. Since then, all those staff members have left. Ms. Albrighton testified that new staff will have to get to know the accused all over again.

[19] Halfway through the hearing, it was noted that Mr. Bray, a newly hired Provincial Executive Director for the FPSC, was attending the hearing by video. He was asked to testify and he stated that he had only held the position for a week but would provide the parties with a letter providing more information regarding the timing of the proposed Enhanced Program.

[20] Mr. Donnelly testified that he has been living on the Hawthorne Unit. He goes to woodshop and the food bank. He visits friends, goes swimming and to movies. He talks to his brother in Edmonton daily.

[21] Mr. Donnelly told the Board that he has a warning sign assessment tool that he uses twice daily to assess his mood and to note any warning signs. He uses this tool to assess when he needs to talk to staff about potential signs of mental deterioration. He gave an example of excessive time spent on religious preoccupation that would trigger a warning to talk to staff. Mr. Donnelly acknowledged that when he is ill, he is unable to assess his mental state. He told the Board that he knows he needs support going forward. He is willing to work with the treatment team to develop an appropriate plan for his return to CTC. He is in agreement with the plan for him to work with Dr. Meldrum and Mr. Co at the Vancouver Community Forensic Clinic.

[22] Mr. Donnelly told the Board that he is full of shame because of his offences. He used drugs and alcohol when younger, but he has no interest in using substances at this stage in his life.

[23] When asked about his return to FPH, Mr. Donnelly said he was upset that staff were not monitoring him when he had COVID. They wanted to quarantine him for 20 days. He feels bad that he is no longer in the community, but he copes by taking one day at a time. He is willing to go back to CTC and understands he will have to get to know people all over again.

[24] The panel reserved its decision for a week while awaiting an update on the Enhanced Program from Mr. Bray. On April 20, 2023, the Board was provided with a letter from Mr. Bray (Exhibit 82).

[25] In his letter, Mr. Bray advised that funding for the Enhanced Program was approved in April 2022 and contract negotiations are at a mature stage and nearly finalized. Mr. Bray's letter provided extensive details regarding the type of wrap-around care and supervision that are anticipated to be provided. It is expected that the changes will be in place by summer of 2023 with the full roll-out of care to occur in the fall of 2023. However, there are expected to be challenges in the form of healthcare staff recruitment and these dates may be pushed back.

PARTIES' POSITIONS

[26] All the parties agreed that a further custodial disposition is appropriate. Both the Director and counsel for the Crown sought a 12-month disposition while counsel for the accused sought a six-month disposition.

ANALYSIS AND DISPOSITION

[27] The Board must first consider whether Mr. Donnelly constitutes a significant threat as defined by s. 672.5401 of the *Criminal Code*. A person is a significant threat if they pose "a risk of serious physical or psychological harm to members of the public...resulting from conduct that is criminal in nature but not necessarily violent." If they do not pose such a threat, they are entitled to be absolutely discharged. If they do pose a significant threat to the safety of the public, we must then determine the necessary and appropriate disposition.

[28] Although the Board is influenced by the parties' submissions, we are obliged to independently consider the evidence of the accused's risk and make a disposition that is necessary and appropriate in the circumstances. The Board must consider the safety of the public, the accused's mental condition, the accused's reintegration into society, as well as the accused's other needs. Unless the Board is of the opinion that the accused is a significant threat to public safety, it must make an absolute discharge.

[29] The Board concluded that Mr. Donnelly continues to meet the threshold of significant threat. The index offence took the life of the accused's daughter, and the subsequent offences were also violent with the use of weapons. Of significant concern regarding risk assessment, is that all the incidents occurred without warning signs and that

