



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

JASON MICHAEL HOLM

**HELD AT: Kamloops Regional Forensic Clinic
Kamloops, B.C.
July 19, 2018**

**BEFORE: ALTERNATE CHAIRPERSON: B. Edwards
MEMBERS: Dr. P. Constance, psychiatrist
Dr. M. Burnett**

**APPEARANCES: ACCUSED/PATIENT: Jason Michael Holm
ACCUSED/PATIENT COUNSEL: M. Stanford
DIRECTOR AFPS: Dr. S. Lessing, K. Nicol
DIRECTOR'S COUNSEL:
ATTORNEY GENERAL: W. Burrows**

***Pursuant to s. 672.501(1) of the Criminal Code, the British Columbia Review Board prohibits the publication, broadcast or other transmission of any information that could identify a victim or witness who is under 18 years of age, in this matter. Failure to comply with this order is an offence.**

INTRODUCTION

[1] On July 19, 2018, the BC Review Board held an annual hearing to review the disposition of Jason Michael Holm. At the end of the hearing, the Board ordered Mr. Holm absolutely discharged. These are the Board's reasons for its disposition.

[2] Mr. Holm is before the Board because of two verdicts of not criminally responsible on account of mental disorder (NCRMD); the first on January 16, 2008 for charges of robbery and mischief and the second on April 15, 2014 on two counts of committing an indecent act. These verdicts have been consolidated for the purposes of this hearing. The robbery and mischief charges were committed on November 22, 2007, when Mr. Holm demanded his mother's car keys. When she refused, Mr. Holm threatened to kill her. He then took the keys and drove away with the car. Shortly after, he twice crashed the vehicle into police vehicles before he was apprehended.

[3] The indecent acts were committed in July 2013, when Mr. Holm was living in the community and subject to a conditional discharge from the Board. Although he was charged and convicted of two offences, there were four separate incidences leading to his arrest and, ultimately, his NCRMD verdict on two counts. (The four incidents include: two instances of inappropriate behaviour with female staff at the Forensic Clinic; the third instance involved exposing his genitals to an elderly woman in a change room at a swimming pool and the last involved Mr. Holm knocking on the door of his elderly neighbour, exposing his genitals and asking her for sex). Mr. Holm was detained at FPH following the second NCRMD verdict until September 23, 2015 when he was conditionally discharged by the Board. He has remained in the community since.

[4] Although we have considered all the evidence on the record, for these reasons we refer only to that which is necessary to our decision.

BACKGROUND

[5] Mr. Holm is a tall, fair haired, slim 35-year-old man who presents with a tidy mustache and neatly dressed.

[6] A detailed description of Mr. Holm's personal and psychiatric history may be found in earlier reasons for disposition of the Review Board. In brief, his early years were unremarkable, he completed high school and has post-secondary training as a millwright and

worked briefly as an electrical apprentice. He began working in Vancouver and lived with his stepfather. In 2007 he became socially withdrawn and isolated. His affect grew flat and he was prone to making inappropriate comments. He also began drinking heavily and talking about "OU", an imaginary terrorist group with which he was preoccupied. In March 2007, he was first psychiatrically admitted to hospital after driving around aimlessly for five hours and hitting a police vehicle. He remained in hospital for two weeks, diagnosed with schizophrenia, before discharging himself against medical advice as soon as he became a voluntary patient. After leaving hospital, Mr. Holm stopped taking the antipsychotic medication he had been prescribed and continued to drink alcohol. His relationship with his stepfather deteriorated and he returned to Kamloops to live with his mother in July 2007.

[7] Mr. Holm's mental state deteriorated. On July 29, 2007 he called 911 reporting an intruder. Police arrived, investigated and advised Mr. Holm's mother to seek help from mental health services. Mr. Holm did not want the officer to leave and punched him in the head, without warning. He was arrested and charged with assaulting a police officer and carrying a concealed weapon (a knife was in the police car after he was arrested). He was admitted to hospital where he assaulted a security guard. He was sent to FPH but found that he did not meet the criteria for NCRMD and was returned to court and released on September 10, 2007. The following day, he committed further offences of robbery of his mother and mischief to police vehicles. He was re-arrested and dealt with the charges by guilty plea and was sentenced to time served on November 21, 2007.

[8] Following his release on November 22, 2007, Mr. Holm's shaved his head and committed the index offences of robbery of his mother and mischief to another police vehicle. He was remanded to FPH on November 28, 2007 and found NCRMD by the court on January 16, 2008. He remained at FPH until 2009 following his Review Board hearing when he was conditionally discharged back to the community to live with his mother. He remained in the community until 2013.

[9] After three years doing well in the community, on May 30, 2013 a majority of the Review Board accepted Mr. Holm's request and deleted the condition prohibiting him from consuming alcohol, illicit drugs or other intoxicating substances. Mr. Holm was adamant that he could control his alcohol consumption and the Director suggested that consideration should be given to allowing him to consume small amounts, responsible as a form of "harm reduction" as he was already drinking in contravention of the terms of his conditional discharge. Shortly after the hearing and while living independently in the community, Mr. Holm began reducing his oral

medication, Clozapine and drinking alcohol excessively with friends. He, also, periodically refused his injectable medication. On July 26 and 27, 2013 he committed the two index offences of indecent exposure. He was quickly arrested and returned to FPH. At his restriction of liberties hearing on October 10, 2013, the Review Board ordered him detained at FPH and he remained there until September 23, 2015 when he was conditionally discharged to reside with his mother in Kamloops.

EVIDENCE

[10] In preparation for this hearing, the Board received reports dated July 5, 2018, from Mr. Holm's Community Case Manager, Ms. Nicol. (Exhibit 62) and from Dr. Lessing, dated July 11, 2018 (Exhibit 63).

[11] There have been no substantive changes in Mr. Holm's status since his last hearing before the Board. Since his return to the community he has lived in the family home with his mother and his adult step-siblings. He is waitlisted for subsidized accommodation with BC Housing, but the waitlist is long. He has also renewed his driver's license and has his own car but, as it is currently in disrepair, he is driving his mother's car to attend appointments. He receives a disability pension of approximately \$1000 per month of which he pays his mother \$350 per month for room and board. Mr. Holm's mother, who is an elementary school teacher, is happy to have him remain in the family home, indefinitely.

[12] Ms. Nicol informed the Board that Mr. Holm has been abstinent from alcohol since 2013 and no longer expresses a desire to have his prohibition from alcohol removed from his order. Further, his mother doesn't support alcohol use and does not keep alcohol in the home. She noted that Mr. Holm is "fully compliant" with the terms of his conditional discharge.

[13] Mr. Holm does not socialize with anyone apart from his mother although he will smoke a cigarette and speak to his neighbour across the fence on occasion. He largely keeps to himself and spends his time watching tv or walking the family dog. He and his mother occasionally go to a movie or out for dinner and, in the summer, they enjoy camping. Mr. Holm's only support services are through the Forensic Clinic. He has been referred to Kamloops Mental Health and Substance Use, specifically the Assertive Community Treatment (ACT) team (a multidisciplinary team who are skilled in supporting persons with dual diagnoses and assisting them in finding work opportunities, housing and addressing their addictions). Mr. Holm has consistently expressed his disinterest in these services and states that he is fine the way he is. Similarly, he has declined to attend programming offered by various community agencies such

as Labour Ready and the Canadian Mental Health Clubhouse. While his treatment team continues to mention resources available to him, they no longer assertively push him to accept those services.

[14] In her report, Dr. Lessing identified Mr. Holm's diagnoses as schizophrenia, paranoid type, in partial remission, alcohol use disorder, in remission in controlled setting and antisocial personality traits. When questioned about the latter diagnosis, Dr. Lessing acknowledged that Mr. Holm does not currently exhibit any antisocial personality traits and that it was an "overstatement" to include the classification in her diagnoses. Dr. Lessing described Mr. Lessing's approach to treatment as "passive": he is compliant with his medication and attends his appointments but says very little and quickly asks to leave. As to his reversal of his long-standing desire to have his alcohol prohibition removed from his order, Dr. Lessing speculated that Mr. Holm may simply have "given up" on the idea or his decreased desire may be an aging factor.

[15] Dr. Lessing believes that while Mr. Holm can recite his diagnosis, he has no real understanding of what it means to have schizophrenia and does not recognize that his medication has any effect on his illness. She says that, at times, he has stated that he would continue his medication if he were absolutely discharged, at other times he says he would not or would only take some forms of medication but is not consistent as to even which forms of medication he would be agreeable to taking if he were absolutely discharged.

[16] Dr. Lessing advised the Board that if Mr. Holm were willing to take offers of community services (such as the ACT team), she would advocate for the Board to absolutely discharge him. She would like to see him connected with a community mental health team so that they can attempt to engage him in social activities, assist him in finding work opportunities and help him with any treatment needs. That said, Dr. Lessing acknowledged that his treatment team has made no progress in connecting Mr. Holm to community services during the ten years she has treated him in the community. The team has nothing further to offer Mr. Holm. If he were to remain conditionally discharged, nothing would really change; Dr. Lessing does not anticipate any significant changes to his medication and will see him for appointments. The team will continue to attempt to connect him with the ACT team but recognizes that the current situation may be as good as it gets for Mr. Holm.

[17] As to the level of risk that Mr. Holm would present to the public if he were absolutely discharged, Dr. Lessing testified that he is "no risk when treated". There have been

no reports (or observations by the Team) of Mr. Holm being verbally aggressive or violent. While he noted in a psychological survey that things like losing at a video game or listening to a barking dog makes him angry, he has never exhibited any behaviour to display that anger. Dr. Lessing stated that, at present, she would describe him as “low to no risk”. She described his risk as contingent on whether he has an acute discontinuation of his medication or added a further insult, such as drinking alcohol. She speculated that, if absolutely discharged, he may continue to take his medication and connect with community mental health services, or he will comply for awhile, or he will not comply, will not follow up with treatment in the community and will relapse. She testified mostly in terms of her hopes for Mr. Holm going forward.

[18] Mr. Holm gave evidence. He indicated that he knows that he has a mental illness, i.e. schizophrenia, and when he takes medication for his condition, he feels “better”. When he is not on his medication he finds life very “stressful” and he does not want to experience that again. Mr. Holm also told the Board that he tried not taking his medication in 2013 and “apparently it didn’t work”. He stated that he did not want to get into trouble again and believes that if he keeps taking his medication, he “most likely won’t get into trouble again”. He was firm that he will always take his medication. He says that he doesn’t have a real desire to drink alcohol again. He stated that he no longer hears voices and that he has not thought about “OU” in ten years. He said the only thing that would make him upset or angry is not receiving an absolute discharge.

[19] Mr. Holm clarified that he is not opposed to working with the ACT team and was not aware that the team had a doctor (psychiatrist). He stated that his opposition to working with community mental health was based on his not wanting to attend counselling or AA. If he is absolutely discharged, he will meet the team and will get his meds from the team doctor, but he did not want to meet the team and attend appointments at the Forensic clinic. He would see a team after he is absolutely discharged, and, in his view, his treatment would not change from what it is at present. He confirmed that he is happy with the way he is now. He stated that he wants an absolute discharge so that he can go camping without phoning in to tell the team how long he will be gone. He wants “to be a free man”. He made clear that he would not be happy if he did not get an absolute discharge.

ANALYSIS AND DISPOSITION

[20] The Director is not supportive of Mr. Holm’s request for an absolute discharge but seeks, instead, to have him remain on a conditional discharge for twelve months on the same

conditions as his last order. Dr. Lessing wants to continue attempts to have him transition to a community mental health team, such as the ACT team.

[21] The Crown supports the Director's position but also submits that the Board ought to direct Mr. Holm to meet with the ACT team and that a shorter term of the order might be appropriate, perhaps 6-9 months.

[22] Mr. Holm is seeking an absolute discharge. His counsel notes that while reintegration into the community is the goal and "hope" of the treatment team and that, in an ideal world, he would be connected to the civil mental health system before he is absolutely discharged, the evidence before the Board is that he can move from treatment by Forensics to a community mental health team, without a transition period. As to the issue of risk, which is the Board's focus, Ms. Stanford submitted that Mr. Holm's level of risk has remained unchanged for three years. He needs treatment to control his symptoms, he has been compliant with that treatment and he has told the Board that he will continue to take that treatment as he recognizes that he feels better when he does. He clearly connects getting into trouble in 2013 with not taking his medication. He has stated that if he is referred to a psychiatrist in the community he will be compliant with that referral. Further, the evidence before the Board is that Mr. Holm is not a significant threat to the public and the Board is obligated to discharge him absolutely.

Statutory Framework

[23] The Board's decision-making is governed by s. 672.54 and s. 672.5401 of the *Criminal Code* which provide:

672.54 When a court or Review Board makes a disposition under subsection 672.45(2), section 672.47, subsection 672.64(3) or section 672,83 or 672,84, it shall, taking into account the safety of the public, which is the paramount consideration, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused, make one of the following dispositions that is necessary and appropriate in the circumstances:

(a) where a verdict of not criminally responsible on account of mental disorder has been rendered in respect of the accused and, in the opinion of the court or Review Board, the accused is not a significant threat to the safety of the public, by order, direct that the accused be discharged absolutely;

(b) by order, direct that the accused be discharged subject to such conditions as the court or Review Board considers appropriate; or

(c) by order, direct that the accused be detained in custody in a hospital, subject to such conditions as the court or Review Board considers appropriate.

672.5401 For the purposes of section 672.54, a significant threat to the safety of the public means a risk of serious physical or psychological harm to members of the public – including any victim of or a witness to the offence, or any person under the age of 18 years – resulting from conduct that is criminal in nature but not necessarily violent.

[24] The Board must first consider whether Mr. Holm constitutes a significant threat as defined by Section 672.5401 of the *Criminal Code*. The threat posed must be more than speculative and be supported by the evidence. It must be significant “both in the sense that there must be a real risk of physical or psychological harm occurring to individuals in the community and in the sense that this potential harm must be serious. A minuscule risk of grave harm will not suffice”, nor will a high risk of trivial harm (**Winko**, at para. 57). If he does not pose such a threat, he is entitled to be absolutely discharged. If he does pose a significant threat to the safety of the public, we must then determine the necessary and appropriate disposition.

[25] Mr. Holm has a long history of psychiatric admissions and acting out violently (though not always resulting in criminal charges) that is set out, exhaustively, in the Record.

[26] In brief, Mr. Holm first exhibited symptoms of mental illness in 2005 when he began drinking heavily and isolating himself, socially. By March 2007, he was experiencing major difficulties and over a span of three months, commencing in July 2007, he was arrested and charged with assaulting a police officer and carrying a concealed weapon (a knife), involuntarily hospitalized, after which he punched a hospital security guard, attacked another patient with a butter knife and was charged with assault with a weapon. Shortly after his release from hospital, he took his mother’s vehicle, without her consent, ran into a police vehicle at the police detachment and was charged with theft, dangerous driving, failing to stop and mischief. He was remanded in custody for psychiatric assessment at FPH. The day he was discharged from hospital he committed the index offences relating to his first NCRMD verdict, i.e. robbing his mother of her car keys while brandishing a knife and causing damage to a police vehicle.

[27] At the time of the 2007 offences, Mr. Holm was psychotic and operating under delusions that terrorists were after him. He apparently felt that he needed to be in police custody to be safe. Following his NCRMD verdict, Mr. Holm remained in custody at FPH until October 2009 when the Board ordered him conditionally discharged. He remained in the community and was living in a John Howard Society sponsored housing complex in May 30, 2013, when a

majority of the Board removed the prohibition from consuming alcohol from his conditional discharge. The result was disastrous. He quickly became non-compliant with his medication, began drinking alcohol excessively and “partying”. On July 27 he was arrested for committing indecent acts and he was returned to FPH on August 2, 2013. He remained at FPH until September 23, 2015 when he was, again, conditionally discharged by the Board to live with his mother in the community. He has remained there without incident to date.

[28] Apart from these two blocks of time in 2007 and 2013 when Mr. Holm was acutely psychotic, he has displayed no aggression or violence in the community and has been compliant with his medication and treatment. He has remained abstinent from alcohol for 5 years. He has insight into his risk of becoming unwell and re-offending if he discontinues his treatment and has professed his intention to continue taking his medication and seeing a psychiatrist. The Board accepts Dr. Lessing’s assessment that Mr. Holm presents little or no risk to the public. Any concern that he will discontinue his medication, begin drinking alcohol, become disinhibited and violent, or to otherwise pose a significant threat to public safety is purely speculative.

[29] In the circumstances, the Board finds that Mr. Holm does not pose a significant threat of serious harm to the public. As a result, he is entitled to be absolutely discharged and that is the Board’s order.

Reasons written by B. Edwards and concurred in by Dr. P. Constance and Dr. M. Burnett.

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