

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Staetter v. British Columbia (Director of Adult Forensic Services)*,
2015 BCCA 63

Date: 20150219
Docket: CA042322

Between:

Christopher Michael Staetter

Appellant

And

The Director of Adult Forensic Psychiatric Services

Respondent

And

The Attorney General of British Columbia

Respondent

Before: The Honourable Madam Justice Smith
The Honourable Madam Justice Bennett
The Honourable Mr. Justice Willcock

On appeal from: A disposition of the British Columbia Review Board dated September 16, 2014.

The Appellant:

In Person

Counsel for the Respondent, The Director,
Adult Forensic Services:

D.K. Lovett, Q.C.

Counsel for the Respondent, Attorney General of
British Columbia:

L.D. Hillaby

Place and Date of Hearing:

Vancouver, British Columbia
January 22, 2015

Place and Date of Judgment:

Vancouver, British Columbia
February 19, 2015

Written Reasons by:

The Honourable Madam Justice Bennett

Concurred in by:

The Honourable Madam Justice Smith

The Honourable Mr. Justice Willcock

Summary:

Mr. Staetter was found not criminally responsible by reason of mental disorder for uttering threats and criminal harassment. On September 16, 2014 the British Columbia Review Board ordered that Mr. Staetter remain in custody. Mr. Staetter appeals the Review Board's decision pursuant to s. 672.78(1) of the Criminal Code. HELD: appeal dismissed. The Reviews Board's decision is reasonable. Mr. Staetter continues to have delusions and would no doubt act on those delusions if released, posing a significant threat to the victims.

[1] Christopher Staetter was charged with uttering threats to cause death or bodily harm contrary to s. 264.1(1)(a) of the *Criminal Code*, R.S.C. 1985, c. C-46 and criminal harassment contrary to s. 264 of the *Criminal Code*. The Crown proceeded summarily. On October 19, 2012, he was found not criminally responsible by reason of mental disorder (NCRMD) by Challenger P.C.J. Judge Challenger committed Mr. Staetter to the care of the Adult Forensic Psychiatric Services, and referred him to the British Columbia Review Board ("Review Board") for disposition pursuant to s. 672.45 (1.1) of the *Criminal Code*. On November 27, 2012, the Review Board made a custodial order and he has been detained by the Review Board since his committal.

Background

[2] The victims are a young woman, P.H., and her father, B.H. Mr. Staetter suffers from a delusion that he impregnated P.H. and that she has a child by him, who is now around 9 years old. P.H. dated Mr. Staetter when she was around 13 years old. Her physical contact with Mr. Staetter amounted to holding hands, and nothing more. Not only does P.H. not have Mr. Staetter's child, she has never had a child.

[3] Mr. Staetter believes he teleported into her bedroom in 2005, and saw a baby in a crib. He then commenced a harangue against P.H. and her father. Over a number of years he harassed the H. family and intolerably interfered with their lives. In 2012, he sent dozens of texts and left dozens of telephone messages directed towards B.H. and P.H. The content was vile, threatening, and the ravings of someone completely out of touch with reality.

[4] At his NCRMD hearing, Mr. Staetter advised the judge he had been turned into a robot, and could teleport. A psychiatric report was filed opining that Mr. Staetter was suffering from a mental disorder that would exempt him from criminal responsibility. The trial judge concluded, correctly in my opinion, that Mr. Staetter's "delusions are entrenched. He is quite sick and has various quite disturbing beliefs".

[5] The conduct of Mr. Staetter has deeply affected P.H. and her family. He has interfered with her employment, and her father's business. She lives in constant fear for herself and her family when he is not in custody. His conduct is destroying their lives.

Procedural History

[6] Mr. Staetter filed an application to extend the time to appeal the NCRMD verdict. This application was dismissed on March 8, 2013 (2013 BCSC 821). An application for leave to appeal the refusal of an extension was dismissed by Lowry J.A. (June 26, 2013, CA040770), and an application to review Lowry J.A.'s decision was dismissed for want of jurisdiction on July 22, 2014 (2014 BCCA 294).

[7] Mr. Staetter also appealed the November 27, 2012 Review Board decision detaining him in the hospital for treatment. An application for release pending the determination of his appeal was dismissed (2013 BCCA 258). The appeal from the Review Board decision was dismissed by this Court on June 24, 2013 (2013 BCCA 307).

Decision of the Review Board

[8] The most recent Review Board hearing was conducted on September 16, 2014. Mr. Staetter insisted on representing himself at the hearing, although counsel had been assigned to assist him. Ms. Slack (Mr. Staetter's case manager and psychiatric nurse) and Dr. Hediger (Mr. Staetter's psychiatrist) filed reports and testified at the Review Board hearing. Mr. Staetter also testified.

[9] Dr. Hediger's report includes observations such as:

...Mr. Staetter has however expressed that he has certain skills and powers, including the ability to teleport himself, others and objects. Mr. Staetter has reported that he has, for example, teleported himself into the White House in Washington, D.C. and that he has teleported \$100 million into the home of the victims of the current index offence and that he has teleported guns into and out of various police stations. Mr. Staetter reports that he

has had these abilities for many years. Mr. Staetter denies that these thoughts should in any way be considered delusional and he denies that he has any mental illness.

[10] He has been diagnosed with a schizoaffective disorder. He has a psychotic disorder and suffers from delusions, as noted in Dr. Hediger's report. He maintains that he has a child with P.H. and this delusion is the driving force behind his conduct. Dr. Hediger testified that Mr. Staetter generally gets along well in the hospital, and is generally cooperative, except he does not believe he needs to take any medication except marijuana. Mr. Staetter also admitted he likely would not abide by a "no contact" order in relation to P.H., although at his hearing, he was emphatic that he would abide by any conditions imposed on him.

[11] The Director recommended that he be remanded for another 12 months. The Review Board adopted that recommendation. The Board noted his potential for risk at para. 12:

Dr. Hediger provides an assessment of the risk the accused poses to the public. Historical variables suggest the accused is at increased risk for committing further harm (predominately psychological). These include the facts of the index offence, his record and history of similar behaviour, his major mental illness and his past failures to comply with supervision in the community. Problematic clinical variables include the accused's delusional thinking and limited insight into it, particularly his belief that he has fathered a son with P.H. and from whom he is being kept. Dr. Hediger identifies the specific risk posed by the accused in the following terms, at para. 28 of his report (Exhibit 22):

"...the specific risk appears to be related to the possibility of him having contact with the victims of the index offence and/or their families. Mr. Staetter has not made any attempt to contact them while at FPH in a supervised and supported setting while on medications and not using substances. There is a risk, in a less supervised setting, that medication non-compliance and/or substance use, could lead to further mental status deterioration, leading to an increase in the preoccupation with his thoughts relating to his son. Under those circumstances, further contact with the victim could potentially become more likely, leading to psychological harm...

[12] His delusions have not abated with treatment since 2012, and the Review Board concluded that if released, there was a high risk he would cause psychological harm to P.H. and her family.

[13] The Board concluded at paras. 29-31:

We considered the nature of the risk posed by the accused in view of all of the evidence, what would constitute a necessary and appropriate disposition keeping in prominent consideration the safety of the public, the accused's mental condition, his reintegration into society and his other needs. We concluded that the accused remains a dangerous

person prepared to act on his delusions and able to plan his course of action in a manner that has caused significant psychological harm.

We noted that the accused's delusions are not encapsulated; they are evolving. He was unable to resist acting on his delusions by contacting the female RCMP officer in Kelowna and by sending his e-mail of July 29, 2014 to the Abbotsford Police Department. He did resist contacting the victim family for a number of years but, very shortly after the expiration of the prohibitory order, he contacted them again in a manner that caused significant psychological harm. His delusional system, with respect to that family, is still florid. The accused has, to this point, refused a medication option which may ameliorate his delusional systems. He has no meaningful insight or empathy. We find that the accused's presentation and evidence, including his statement given at the hearing, confirmed the intensity of, and emotional connection to, his delusions, which remain undiminished.

Absent a court or Board order prohibiting the accused from contacting the victims he is, by his history, prepared to pursue his delusional beliefs with respect to them, resulting in significant psychological harm to them. There is no plan in place which would provide the supervision and monitoring necessary to ensure the accused's compliance with a conditional discharge disposition. Accordingly, we concluded that the necessary and appropriate order is a further custody disposition in the same terms as the previous order. It will be reviewed on or before the expiration of 12 months.

[14] Mr. Staetter appeals that decision.

[15] Section 672.78(1) of the *Criminal Code* gives this Court the power to allow an appeal from a Review Board decision on three grounds:

- 1) the decision is unreasonable and cannot be supported by the evidence;
- 2) it is based on a wrong decision on a question of law; and
- 3) there was a miscarriage of justice.

[16] When making a disposition, the Review Board's decision-making ability is circumscribed by s. 672.54:

When a court or Review Board makes a disposition under ... subsection 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.

Standard of Review

[17] The standard of review for s. 672.78(1)(a) appeals is reasonableness: *R. v. Owen*, 2003 SCC 33 at para. 33; *John v. British Columbia (Adult Forensic Psychiatric Services)*, 2008 BCCA 265 at para. 28. The Courts recognize that the assessment of whether the mental condition of an NCRMD accused renders him a significant threat to public safety “calls for significant expertise” (*Owen* at para. 30). As stated in *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625, at para. 61:

It follows that the inquiries conducted by the court or Review Board are necessarily broad. They will closely examine a range of evidence, including but not limited to the circumstances of the original offence, the past and expected course of the NCR accused’s treatment if any, the present state of the NCR accused’s medical condition, the NCR accused’s own plans for the future, the support services existing for the NCR accused in the community and, perhaps most importantly, the recommendations provided by experts who have examined the NCR accused. The broad range of evidence that the court or the Review Board may properly consider is aimed at ensuring that they are able to make the difficult yet critically important assessment of whether the NCR accused poses a significant threat to public safety. At all times, this process must take place in an environment respectful of the NCR accused’s constitutional rights, free from the negative stereotypes that have too often in the past prejudiced the mentally ill who come into contact with the justice system. Appellate courts reviewing the dispositions made by a court or Review Board should bear in mind the broad range of these inquiries, the familiarity with the situation of the specific NCR accused that the lower tribunals possess, and the difficulty of assessing whether a given individual poses a “significant threat” to public safety.

[18] In his material filed before this Court, Mr. Staetter submits, for example:

...I make the allegation that I’m God and that’s why I’m in jail in my opinion. I also make the allegation reverse onus. It is not up to me to prove me authority as God. It’s up to you to prove I’m not God. I don’t know what the big deal about me “being God” is. I feel with my supreme intelligence quotient and my love of the politically correct administration of justice, I could be a marvelous world leader, but it has to do with me “being God”.

[19] His submissions are full of delusional thinking, and casting blame on the H. family for his hospitalization.

[20] At his hearing before this Court he maintained his delusion regarding having a child with P.H. He objects to taking prescribed drugs and he sought an order from us permitting him to contact the police officer whom Forensic Services has prohibited him from contacting at the request of the officer. In other words, he displayed elements of the diagnosis outlined above in the medical report.

[21] In my view, the conclusion of the Review Board is not only supported by the evidence, but the evidence is overwhelming. He continues to have delusions, and if released, will no doubt act on these delusions, continuing the psychological terror he has inflicted on P.H. and her family.

[22] The decision of the Review Board is eminently reasonable.

[23] Mr. Staetter sought to call witnesses at this hearing. However, this is not the place for witnesses to testify. Additionally, there were no witnesses on his list with relevant evidence. Several of the witnesses are part of his delusional thinking.

[24] Mr. Staetter filed an application to withdraw his plea. Mr. Staetter told us that he tried to plead guilty in Provincial Court, but his plea was not accepted. A judge faced with the evidence in this case could not have properly accepted a plea of guilty. In any event, Mr. Staetter's opportunity to appeal from the original conviction has long passed, as noted above.

[25] I would dismiss the appeal.

“The Honourable Madam Justice Bennett”

I agree:

“The Honourable Madam Justice Smith”

I agree:

“The Honourable Mr. Justice Willcock”