



BRITISH COLUMBIA REVIEW BOARD

**IN THE MATTER OF PART XX.1 (Mental Disorder) OF THE CRIMINAL CODE
R.S.C. 1985 c. C-46, as amended S.C. 2005 c. 22**

**REASONS FOR DISPOSITION
IN THE MATTER OF**

**VERNON ROY LACERTE
a.k.a.
VERNON ROY MAZZEI**

**HELD AT: Forensic Psychiatric Hospital
Port Coquitlam, BC
July 15, 2014**

**BEFORE: CHAIRPERSON: F. Hansford, Q.C.
MEMBERS: Dr. P. Constance, psychiatrist
L. Chow**

**APPEARANCES: ACCUSED/PATIENT: Vernon Roy Lacerte
ACCUSED/PATIENT COUNSEL: D. Nielsen
DIRECTOR AFPS: Dr. J. Brink P. Golding
DIRECTOR'S COUNSEL:
ATTORNEY GENERAL:**

[1] ALTERNATE CHAIRPERSON: On July 15, 2014, the British Columbia Review Board (the Board) convened a hearing pursuant to s. 672.81(1) of the *Criminal Code* to conduct an annual review of the custodial disposition of Vernon Roy Lacerte, also known as Vernon Roy Mazzei, a 52-year-old man of mixed aboriginal ancestry. Mr. Lacerte is before us after being found Not Guilty by Reason of Insanity (NGRI) on November 20, 1986 in respect of one count of assault with a weapon, one count of theft with threats of violence for the purpose of extorting what was stolen, two counts of theft over \$1000, one count of breaking and entering a dwelling house and one count of unlawful confinement.

[2] The index offences arose out of a series of incidents, all of which occurred on March 24, 1986 near the BC Ferries terminal at Swartz Bay on Vancouver Island. After being refused free passage to the Lower Mainland on a BC Ferry, the accused stole a small power boat and drove it around the north end of the Saanich Peninsula. He beached the boat near a waterfront residence, approached the house and used a set of pruning shears he found on the property to smash a sliding glass door. He entered the residence and confronted the female occupant. He demanded and was given money. When the victim tried to escape, he caught her and choked her into unconsciousness. He then dragged her through the shattered glass door, inflicting a number of bruises and lacerations. He defecated in the house, took the victim into the bathroom and held her there while he cleaned himself.

[3] The victim's husband returned home. He called the police. Mr. Lacerte forced the victim into a motor vehicle stored in the carport and attempted to leave the residence. The victim jumped out of the vehicle but was again caught by Mr. Lacerte as she tried to escape. A police officer arrived and prevented Mr. Lacerte from leaving with the victim. Mr. Lacerte responded by holding the victim in the carport with a screwdriver to her neck. This standoff ended when he was persuaded to release the victim and was arrested.

BACKGROUND

[4] Mr. Lacerte is well known to the Board. For present purposes, it is unnecessary to review his background and circumstances in detail. We are content to adopt the personal and forensic histories set out at length in previous Reasons for Disposition.

[5] Mr. Lacerte carries a diagnosis of schizophrenia, substance abuse disorder and antisocial personality disorder. He developed mental instability prior to the index offences and was in regular conflict with the law from age 19. He also has a lengthy history of serious substance abuse. He may have sustained permanent brain damage at a young age

as a result of persistent solvent abuse. Substance abuse typically worsens his mental health problems.

[6] His history before the Board was summarized in the Reasons for Disposition dated August 28, 2013, issued after his last hearing:

“The accused has been detained in hospital for most of the time since the NGRI verdict. His experience has been notable for consistent conflict with his care providers, resistance to psychiatric treatment, persistent substance use, and multiple unauthorized absences. Although he has been given a number of opportunities to live in the community under conditional discharge, he was regularly returned to custody due to his unremitting substance use, propensity to develop conflict, or unauthorized absences. The accused remained in custody from November 2001 until February 2010. The subsequent year in the community under conditional discharge was notable for the fact that represented the first time that the accused was not returned to custody before his next scheduled review. However, by June 2011 he had developed a number of difficulties that led to a further return to custody. Although the accused was given another chance to remain in the community under conditional discharge at the ensuing mandatory disposition review of July 2011, within weeks he developed significant conflict with his girlfriend Lisa Francis, used crystal methamphetamine, and experienced major deterioration in his mental state. He was again returned to custody and has remained at the Forensic Psychiatric Hospital (FPH) since then.” [exhibit 180, paragraph 5]

[7] At that hearing, the Board accepted that Mr. Lacerte continued to represent a significant threat of serious harm. It accepted Dr. Meldrum’s risk assessment set out in her report of July 24, 2013 (Exhibit 178). Dr. Meldrum identified very strong evidence of historical risk factors strongly associated with an increased risk of violence. This risk arose from multiple factors, including his personality disorder and substance abuse. The literature clearly supports the conclusion that people with significant addiction issues are at an increased risk of violence towards others. She noted that Mr. Lacerte also suffered from the major mental illness of schizophrenia which, when considered in conjunction with his personality style and addictions, made it clear that he is a much higher risk of future violence than most individuals found not criminally responsible on account of mental disorder (NCRMD). She also noted that Mr. Lacerte, despite many years of exposure to the forensic psychiatric system, had been unable to develop sustained insight into his mental disorder and accordingly, remained an increased risk of relapse and decompensation. There was no likelihood that Mr. Lacerte would have any insight into the changes in his

mental state as they occurred. Moreover, his relationship with his girlfriend, Lisa Francis, was difficult and she was not an effective support for him in the community.

[8] The Board determined that Mr. Lacerte must remain in custody. This is the disposition under review at this hearing.

POSITION OF THE PARTIES

[9] No party argued strongly that Mr. Lacerte was entitled to an absolute discharge, although he stated that this would be his preference. He was content to receive a conditional discharge if the Board decided he could not be absolutely discharged. Mr. Lacerte's discharge plan was to reside in an apartment in North Delta with his girlfriend, Vicki Macri. He has been given a visit leave to this apartment, and the Director had approved it as an appropriate place for him to reside. Both he and Ms. Macri qualify for Persons with Disability (PWD) benefits, which are sufficient to support them in the community.

[10] The Director supported a disposition by way of conditional discharge.

EVIDENCE AT THE HEARING

[11] In preparation for this hearing, we reviewed additional reports prepared by Mr. P. Golding, case management coordinator and Dr. J. Brink, Mr. Lacerte's current treating psychiatrist. They are dated June 17, 2014 [Exhibit 181] and July 7, 2014 [Exhibit 182] respectively. Mr. Golding, Dr. Brink and Mr. Lacerte testified orally. Vicki Macri testified about her circumstances and Mr. Lacerte's proposed discharge plan.

[12] Dr. Brink reports that since his last disposition, Mr. Lacerte has continued to reside at Elm North, which is a secure unit within FPH. He has been granted Level 6 privileges. He has engaged in drug and alcohol counseling on a 1:1 basis and attends the wood shop. He goes to the New Leaf Clubhouse 4 to 5 times a week and participates in activities there. He was granted overnight visit leave on July 3, 2014 to the apartment in which he will reside if discharged.

[13] Dr. Brink testified that Mr. Lacerte has made substantial progress in the last year and, from a clinical perspective, presents very differently than he has at past Review Board hearings.

[14] Mr. Lacerte appears genuinely motivated to stay connected with addiction services if he is discharged. He has met regularly with a drug and alcohol counselor over

the last year. He intends to pursue aboriginal 1:1 drug and alcohol counseling on discharge. Drug screens throughout the year have been negative until recently, when on May 29, 2014, a urine test was returned positive for cannabinoids. Mr. Lacerte readily admitted his relapse and apologized for it.

[15] Mr. Lacerte has expressed interest in programs both on and off FPH grounds. He attended the aboriginal cooking program about once a week. Over the Christmas season, he was employed as a volunteer with Salvation Army Kettles and the Surrey Food Bank, as arranged with vocational services.

[16] There has been no evidence of paranoid or psychotic thoughts. Mr. Lacerte has not been engaged in any violent behavior, although it is reported that at times, he can be intimidating to other patients. He may still be involved in marketing tobacco within the hospital. At times he presented as irritable or frustrated. Nevertheless, he has managed to remain in control. He denies any suicidal or homicidal thoughts.

[17] Mr. Lacerte appears to be well settled and compliant with his medication regime. He requested a change in his medication. He was placed on Divalproex Sodium with significant positive effects on his mood. After the dosage of this medication was adjusted to optimal therapeutic levels, Mr. Lacerte reported feeling much better. His new medication assisted him to become more stable and has dampened his irritability and frustration. He is more open and disclosive about his mental state when speaking with his treatment team and nursing staff. He recounted troubling thoughts respecting his past behaviors and the impact they have had on his life. He felt that there was something wrong and that “the spirits of the animals I harmed when young may be after me”. He reported trying to do good things but “something was catching up with me”. He was feeling “somewhat paranoid” about his past. He reported that his thoughts about his past and the consequences of his behavior were “medicine”.

[18] Dr. Brink confirmed that Mr. Lacerte’s clinical presentation over the previous year was markedly different from his typical presentation over the last few years. While Mr. Lacerte had presented quite well during previous Review Board hearings, his insight and understanding of his illness and the risk he poses to others was superficial. During this reporting period, he has been much more interactive and has talked much more freely about his feelings. He asserts that he has become too old for his former lifestyle. He is no longer dismissive of concerns raised by his doctors or his treatment team. The “therapeutic

space” is quite different than it was. He is less egocentric, discloses freely what he wants from his current relationship with Ms. Macri, and is more rational and thoughtful. He has become less demanding and narcissistic.

[19] Dr. Brink is of the view that Mr. Lacerte is far too intelligent not to recognize and understand the rules which will accompany a conditional discharge. He has actively attempted to adhere to hospital rules over the past year and has been largely successful, although he presents as irritable and frustrated from time to time. It has been several years since he last resorted to physical aggression or violence directed at hospital staff.

[20] Mr. Lacerte’s antisocial personality remains a significant risk factor. Dr. Brink testified that typically, the more aggressive and violent aspects of antisocial personality disorder tend to diminish as a patient ages, particularly when the patient becomes despondent and tired of his former lifestyle. When this occurs, as it apparently has with Mr. Lacerte, an accused becomes less interested in, and motivated to pursue, aggressive action.

[21] Mr. Lacerte also expresses greater insight into his need to make a lifetime commitment to medication and to be actively, rather than merely passively, compliant. Dr. Brink testified that if Mr. Lacerte were to cease taking antipsychotic medication, decompensation is likely. Statistically, relapses occur 80% of the time within eight months of medication being discontinued. With mood stabilizing medication, discontinuance of prescribed medication can result in increased volatility within weeks or months. In view of Mr. Lacerte’s past noncompliance with medication, a future refusal to take prescribed drugs cannot be ruled out or excluded from his risk assessment.

[22] Dr. Brink was asked whether Mr. Lacerte should be requested to consent to a condition requiring him to take medication as prescribed. He did not feel this was necessary. He thought that provided Mr. Lacerte was appropriately monitored by staff at the Surrey Forensic Clinic at least every two weeks, any decompensation should be apparent in time to return to Mr. Lacerte to FPH if required. He also noted that Ms. Macri, who also is challenged by mental illness and is coping well with it, is knowledgeable about his condition and any decompensation would be readily apparent to her. In fact, her continuing support was “crucial and essential” to Dr. Brink’s determination that Mr. Lacerte is now an appropriate candidate for a conditional discharge.

[23] Mr. Golding advised that Mr. Lacerte was granted a 28 day visit leave to the apartment that he and Ms. Macri had located in North Delta on July 3, 2014. Since then, he had returned to FPH for drug screens and medication on three occasions. His drug screens were negative and he was cooperative with his injections. He has managed day leaves and community outings from FPH without incident over the last year.

[24] Mr. Lacerte's last episode of violence at FPH was in 2011. On return to FPH from his previous conditional discharge, he required four-point restraints to prevent injury to staff or other patients. He was experiencing drug-induced delirium. His last episode of violence in the community was many years before that incident.

[25] Dr. Brink noted that Mr. Lacerte had not used methamphetamines for many years and last used cocaine in July, 2013.

[26] Mr. Golding expressed the view that there is a far better chance that Mr. Lacerte would be able to maintain abstinence and comply with the terms of his disposition than before. Mr. Lacerte asserts positively that drugs are not a lifestyle to which he wishes to return or which he would now choose

[27] . In preparation for possible discharge, a case manager at the Surrey Forensic Clinic attended the basement suite where Mr. Lacerte and Ms. Macri intend to reside. He found it to be well finished, neat and clean. Mr. Lacerte was visiting at the time of this assessment and appeared to be relaxed and at ease in this setting. The case manager concluded the residence was suitable. He also spoke highly of Ms. Macri.

[28] Mr. Golding met Ms. Macri at the New Leaf Clubhouse. She is focused on helping Mr. Lacerte in the community. Mr. Golding feels that she is well able to hold her ground with Mr. Lacerte should he return to substance abuse. She has access not only to Mr. Lacerte's treatment team but also to her own community treatment team if there is an issue that she needs to explore concerning Mr. Lacerte's commitment to abstinence or his mental health. They have discussed contingency plans for Mr. Lacerte's possible decompensation and she is well aware of the sources she can contact for assistance.

[29] In her evidence, Ms. Macri indicated that she knew Mr. Lacerte socially 14 years ago, when she lost touch with him. They renewed their acquaintance when she was living in supported housing located at the New Leaf Clubhouse. They developed a relationship. She affirmed that she has a mental illness for which she takes medication. She also has the assistance of her own community-based treatment team.

[30] It is of particular importance to Ms. Macri that Mr. Lacerte not use drugs. She is adamantly opposed to drug use or the presence of drugs in their residence. She simply does not wish to have people who do drugs or alcohol in her or their life. If Mr. Lacerte returns to using drugs or alcohol, she would be angry. She would discuss it with him. She affirmed that she would have no hesitation to reporting his relapse to her treatment team and to his treatment team. She also advised that she would be happy to obtain guidance and direction from professional advisers involved in both of their lives, if necessary.

[31] Ms. Macri presented as a calm and intelligent woman who has specific plans for her relationship with Mr. Lacerte and who is prepared to set firm boundaries. She has good insight into his mental health and is prepared to monitor it in their joint interest. It is clear that she will be a very good support for him and that her ability to recognize and deal appropriately with any decompensation or return to substance abuse serves to mitigate the risk Mr. Lacerte would otherwise pose.

[32] Mr. Lacerte testified. He appeared genuine and direct. We bear in mind that he has also presented well in the past, but proved unable to surmount the challenge of remaining abstinent from drugs and compliant with the conditions of his discharge. Mr. Lacerte advised that he has no problem with his prescribed medications and he feels that they help him. He states that he will continue to take his medication when in the community. He wishes to continue with drug and alcohol treatment, and believes he would benefit from counseling with an aboriginal counselor. He advised that at the time of his last conditional discharge, he was “not in a good place” and may have relapsed as a result of the rampant drug culture which surrounded him at his residence in Nanaimo.

[33] Mr. Lacerte advised that he has been taking drugs for a long time and he considers himself an addict. He knows he must deal with his addiction and believes that he can do so with the help of Ms. Macri, regular attendance for counseling and attendance at the New Westminster Mental Health Club. He now has a blood brother who is a status Indian, who will assist him in remaining abstinent.

[34] Mr. Lacerte views his current relationship with Ms. Macri as very positive and supportive. She helps him deal with his bad moods. He rightly considers his relationship with her to constitute a “drastic change” from the dysfunctional relationship he had with his former girlfriend, Lisa Francis. He also believes that the apartment in which he and Ms.

Macri will reside is in a good, quiet neighborhood which is not frequented by drug users and dealers. He believes that this will also assist him to remain abstinent.

[35] He acknowledged having been violent while confined at FPH, particularly in respect of other patients. He says that this was in response to aggravating behavior from people who know how to “push his buttons.” He believes he now has the tools to avoid violent responses to aggravating behavior.

[36] With respect to the index offence, Mr. Lacerte says he still does not fully understand his behaviour. The offence occurred “when I was a kid”. He has been told that he was suffering from drug induced psychosis at the time. He points out that since then, he has reduced his usage of drugs every year. He feels he is now in a position to remain abstinent and denies any interest in cocaine or other psychoactive substances. He says that he feels “pretty good”. He is ready for “good things” to happen in his life.

[37] In answer to a question from a panel member, Mr. Lacerte asserted that he knows he has to change. He no longer associates with friends who use drugs. He is tired of that lifestyle. He wishes to quit drugs for good. He says he is motivated by the possibility that he may be able to apply for an absolute discharge. He is also a party to “a wonderful relationship” with Ms. Macri. Freedom is now more important to him than drugs. He also is very happy with his new medication and feels that since he began taking it, his attitude towards life has totally changed. There is, however, still room for further development of Mr. Lacerte’s judgment and insight.

[38] Mr. Lacerte was asked what he would need to do in order to get an absolute discharge. He was able to address the expectations of the Board by pointing to the need to continue his good behavior, remain abstinent from drugs and alcohol, take his medication and maintain his mental stability. He recognized that continuing with mental health counseling will be the easiest challenge to meet. He identified remaining abstinent from drugs and in particular, marijuana, as the most difficult challenge he will face.

[39] In order to deal with this challenge, he re-affirmed his intention to pursue aboriginal drug and alcohol counseling, to reconnect with his culture, language and family, and to connect with native spirituality. He will also rely on the support and assistance of his treatment team and Ms. Macri. He now believes that his own health is very important and that it is negatively affected by drug use. He believes he is now better able to think logically about his problems and come to better answers about dealing with them.

[40] He explained that he would also be motivated by Ms. Macri's zero tolerance for drug use. He is happy she has this rule and believes it will help him to remain abstinent.

[41] Mr. Lacerte agreed that he has not always accepted responsibility for his actions. He acknowledged that he has had trouble accounting to authority figures. He attributes his attitudes to his formal lifestyle, and particularly to his dysfunctional relationship with his former girlfriend. He said that he no longer wishes to blame other people for his actions.

[42] Mr. Golding and Dr. Brink are of the opinion that Mr. Lacerte's discharge plan is, on the whole, realistic and responsive to his circumstances.

ANALYSIS

[43] The Board is required to arrive at an independent decision when determining whether Mr. Lacerte must remain within our jurisdiction because he is a significant threat to the safety of the public. (*Criminal Code*, s. 672.54) If he does not pose such a threat, he is entitled to the absolute discharge he has requested. If he does pose a significant threat to the safety of the public, we must then determine what disposition ought to be made. We are not bound by the recommendations of the parties.

[44] The term "significant threat" employed in s. 672.54(a) was not defined in Part XX.1 of the *Criminal Code* as originally enacted. In *R. v Winko*, [1999] 2 SCR 625 ("*Winko*"), the Supreme Court of Canada held that an accused was not a "significant threat" unless he posed a significant risk of causing serious harm of a criminal nature. On July 12, 2014, the *Not Criminally Responsible Reform Act (Bill C-14, 2nd Session, 41st Parliament, 62 Elizabeth II, 2013)* (NCRRA) came into force. It introduced as s. 672.5401 of the *Criminal Code* (Part XX.1) a statutory definition of "significant threat" for the purposes of section 672.54 (NCRRA, s. 9). Section 672.5401 provides as follows:

"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 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."

[45] This statutory definition refers to "a risk" of an accused causing serious harm rather than to a "significant risk" of an accused doing so, as required in *Winko*. The NCRRA also amended 672.54 to require that the Review Board make the disposition which is "necessary and appropriate in the circumstances" rather than obliging the Review Board to

make the least onerous and least restrictive disposition consistent with public safety and the needs of an accused. (s. 672.54, as amended).

[46] The legal question of whether the reference to the words “a risk” set out in the new statutory definition of “significant threat” contained in s. 672.5401 of the *Criminal Code* in place of the Supreme Court’s adoption of the words “a significant risk” requires us to refuse an absolute discharge to an accused who does not represent a significant risk of harm was decided by this panel of the Board in *Bart Davis, BCRB July 15, 2014*. We concluded that an expansive interpretation of the term “significant threat” in s. 672.5401, which would violate the *Charter*, is not required by the language of that section and that, on the authority of *Winko*, the words “a risk” in s.672.5401 are properly interpreted as equivalent to “a significant risk”.

[47] As of the date of this decision, we are unaware of any case dealing with the import of the words “necessary and appropriate”, which have replaced the words “least onerous and restrictive” as a description of the disposition we are required to make under s. 672.54 once we have determined that an accused must remain within our jurisdiction because he poses a significant threat.

[48] We are of the view that this change of language does not affect substantively the nature of the analysis and determination we must make when considering disposition.

[49] The term “necessary” reflects the objects of the legislation and in particular, of the considerations set out in s. 672.54. A disposition is “necessary” to the extent it addresses the protection of the public, the re-integration of the accused into society, his mental condition and the other needs of the accused, all of which are identified in s.672.54 as the goals we must consider when making a disposition. In contrast, and by way of example, a disposition would not be “necessary” if imposed to punish an accused, since this is not an identified purpose of a disposition under Part XX.1.

[50] The term “appropriate” reflects the need to ensure that a disposition is crafted to address the particular needs of an accused, including his need for treatment, and takes into account the reintegration of an accused into the community. It requires the Board to take into account an accused’s individual situation.

[51] An appropriate disposition must also address the liberty interests of the accused, which the Supreme Court in *Winko* directed must be considered when interpreting Part XX.1 of the *Criminal Code*. The Board must not interpret the language of Part XX.1 of the

Criminal Code so as to trammel the liberty of an accused, except to the extent required to carry out its purposes. This requirement to make a disposition which interferes as little as possible with an NCRMD accused's liberty is equivalent to a direction to impose the least restrictive and onerous disposition possible in the circumstances. Imposing a disposition which is more restrictive or onerous than necessary is obviously overly broad, would unnecessarily trammel an accused's liberty, and thus would not be an appropriate disposition.

[52] In *Winko*, public safety was said to be the Board's primary concern when making a disposition. The NCRRA incorporated express language to that effect into s. 672.54 which is declarative of the pre-existing law.

[53] To summarize, the NCRRA amendment to s. 672.54, to substitute the words "necessary and appropriate" for "least restrictive and onerous", does not change the substantive nature of the legal question before the Review Board at a hearing. We are still required, as we were before the NCRRA came into force, to make the least onerous and restrictive disposition which reflects the objects set out in s. 672.54 and which is crafted, so far as possible, to meet the particular needs of an accused.

[54] We note that this conclusion accords with Parliament's legislative intent. In testifying before the Senate Standing Committee On Legal And Constitutional Affairs on February 27, 2014, the then Minister Of Justice and Attorney General of Canada, the Hon. Peter MacKay stated as follows:

"The second change is to the disposition-making provision as it relates to the terms "least onerous and least restrictive"... Bill C-14 proposes to replace those terms with a clearer phrase: "necessary and appropriate in the circumstances".... This proposed wording is consistent with how this requirement was described in 1999 Supreme Court of Canada decision *Winko v. British Columbia (Forensic Psychiatric Institute)*, such that "the NCR accused's liberty will be trammled no more than is necessary to protect the public safety". This amendment is not intended to eliminate the requirement that a disposition be the "least onerous and least restrictive", but rather to make the concept easier to understand."

[55] We must first consider whether or not Mr. Lacerte remains a "significant threat" as defined by section 572.5401.

[56] We have not experienced difficulty in determining that Mr. Lacerte remains a significant risk of causing serious harm in the community, and thus is a significant threat to

public safety. While there have been substantial changes in his attitude, insight and behaviour, his underlying risk is essentially unchanged. He has been engaged in oppositional behavior and drug abuse through most of his life, and violent episodes punctuate his experience under our jurisdiction and indeed, since he was found NGRI. Remaining abstinent from substance abuse will be a challenge to him, even in the favorable environment described in his discharge plan. Despite his improved behavior at FPH during the term of most recent disposition, he still experienced episodes of irritability and frustration. It is possible that these could lead to violent behavior if his ability to manage his anger is overwhelmed by frustration or if he feels provoked or stressed.

[57] Mr. Lacerte has been unable to remain abstinent during his previous discharges. If he again returns to using illicit drugs, decompensation is probable and a return of violent behavior is highly likely, given his diagnosis of personality disorder. He also suffers from a major mental illness, schizophrenia, which is controlled by medication. Compliance with his medication regime has been an issue in the past. If Mr. Lacerte is unable or unwilling to adhere to his medication regime, decompensation and return to violent behavior directed at anyone whose actions he finds frustrating or aggravating is highly likely.

[58] What is the necessary and appropriate disposition?

[59] Mr. Golding and Dr. Brink are both of the opinion that Mr. Lacerte can be managed safely in the community if his care is entrusted to the Surrey Forensic Clinic and if he resides with Ms. Macri. Indeed, continued residence with Ms. Macri is considered essential to their recommendation. Her stable and abstinent lifestyle is crucial to Mr. Lacerte's continuing mental stability and abstention from illicit drugs and alcohol.

[60] We have carefully considered Ms. Macri's evidence. She appears to be sincere and committed to assisting Mr. Lacerte. In the event that he decompensates, Dr. Brink expects that his community treatment team and Ms. Macri will be able to detect Mr. Lacerte's symptoms and ensure that appropriate action is taken in a timely manner.

[61] There have been substantial and positive changes in Mr. Lacerte's insight and behaviour over the last year. Dr. Brink, a very experienced assessor of risk, is of the opinion that Mr. Lacerte's increased insight and mental stability are genuine, and that he can be managed in the community safely so long as he resides in his approved residence with Ms. Macri, remains abstinent, and continues to attend for follow-up with his community

based treatment team. Mr. Lacerte's present circumstances are substantially different than those considered by previous Review Boards.

[62] Since we have determined that Mr. Lacerte is not entitled to an absolute discharge, we must choose between a conditional discharge and a custodial disposition.

[63] The conditions of the discharge proposed by the Director require that Mr. Lacerte reside where directed, that he remain abstinent from alcohol and drugs, that he submit to urinalysis as required by the Director and that he attend for counseling at the Surrey Forensic Clinic as and when required. We agree with Dr. Brink that Mr. Lacerte's risk will be attenuated by his proposed discharge plan. It is probable that any decompensation of his mental stability will be readily apparent to his caregivers and Ms. Macri so that Mr. Lacerte's return to FPH can be arranged in a timely manner. These conditions provide for adequate supervision and monitoring of Mr. Lacerte's mental condition, stability and continuing abstinence from drugs and alcohol.

[64] Imposing a custodial disposition would be inappropriate and unnecessary, given Mr. Lacerte's significant improvement over the past year. A conditional discharge is necessary, insofar as it is in the interests of Mr. Lacerte and his reintegration into the community.

[65] We are also satisfied that a conditional discharge which includes the proposed conditions would be appropriate. Mr. Lacerte's index offence was very serious and caused physical and serious psychological damage to his victim. His improved stability and insight is a recent development and its durability is uncertain. We consider that the primary goal of protecting the public while balancing the needs of the accused, without trammeling unjustifiably upon his liberty, is addressed by the Director's proposed disposition. It is the least restrictive and onerous disposition we can make in the circumstances.

[66] We therefore conditionally discharge Mr. Lacerte. The terms of the discharge shall be the same as those of his most recent conditional discharge of December 1, 2010 (exhibit 159), which incorporates all of the Director's proposed terms.

Reasons written by F. Hansford, Q.C., in concurrence with Dr. P, Constance & L. Chow

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