



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

**R. A. S.
A Young Person**

**HELD AT: Maples Treatment Centre
Burnaby, BC
21 September 2007**

**BEFORE: CHAIRPERSON: B. Walter
MEMBERS: Dr. H. Parfitt, psychiatrist
F. Jeffries**

**APPEARANCES: ACCUSED/PATIENT: R. A. S.
ACCUSED/PATIENT COUNSEL: D. Nielsen
HOSPITAL/CLINIC: M. Warry Dr. J. Quan
HOSPITAL/CLINIC COUNSEL: K. Le Reverend
ATTORNEY GENERAL: L. Hillaby**

***Publication of information identifying the young person or any minor victim or witness is prohibited pursuant to s.110 of the Youth Criminal Justice Act.**

[1] CHAIRPERSON: On September 21st, 2007 the British Columbia Review Board convened an early hearing at Maples Adolescent Treatment Centre (MATC) to review the disposition of R.A.S., age 19. R.A.S. is a young person under the *Youth Criminal Justice Act of Canada*.

[2] This is R.A.S.'s third hearing before the tribunal since his NCRMD verdict which was given on February 21st, 2006. The index offences which gave rise to that verdict involved assault with weapon, assault causing bodily harm, and two counts of theft under \$5,000 wherein the accused stole products from a liquor store. We know of course that he also had previous break and enter and theft convictions as a young person.

[3] The accused has some significant background in youth mental health and youth forensic services, including having been previously considered unfit to stand trial on a failure to comply charge in 2005. There is an historic assessment by Dr. Stefanelli at Exhibit 5 in the materials which suggests that this accused's recent escalating aggression and inappropriate behaviour were the products of drug use in combination with his compromised intellectual functioning.

[4] Later, in a February 2006 assessment by Dr. Constance, that assessor suggests there is evidence of a progressive decline in functioning over a period of years to the point where the accused began to demonstrate symptoms of psychosis. Dr. Constance, in that assessment, believed that the accused suffered from a schizophreniform type of disorder or, in the alternative, a drug-induced psychosis. Fetal alcohol spectrum disorders were also considered.

[5] Following his February 21, 2006 verdict the accused was remanded at MATC and has been under custodial dispositions ever since. There is some evidence at Exhibit 10 of a history of assault with respect to his mother to whom R.A.S. was nonetheless quite attached. As repeated by Dr. Quan in the course of today's evidence, this young person comes from an unstable, indeed even chaotic, home and family life, one involving extensive access to drugs and alcohol from an early age, contributing to psychotic symptoms and bizarre behaviour since at least 2005.

[6] While R.A.S. was lodged at the Crossroads program of MATC following his first custodial disposition in March of 2006, there was an opportunity once he had settled at this

resource, to repeat or re-administer psychological testing. That testing suggests that R.A.S. functions at a borderline level of mental retardation with an IQ somewhere in the mid 60s. It concludes that his cognitive impairment predates his involvement in destabilizing abuse of substances.

[7] While at MATC the accused's obsessive and compulsive behaviours also emerged. OCD and ADD were added to the diagnostic formulation. With remission in his symptoms, he was by the time of his most recent hearing on March 27th, 2007 relatively risk-free and non-symptomatic.

[8] I should point out that although R.A.S.'s mother was appropriately added as a party to these proceedings as of his last hearing pursuant to the Board's authorities contained in Section 672.5(4) of the Criminal Code and, although Ms. Peters has been provided with notice of the current hearing, she did not appear in the course of today's proceeding.

[9] For the current hearing we are provided with a comprehensive assessment of Dr. Quan dated September 7th, 2007. Fortunately, Dr. Quan has known R.A.S. for at least 18 months now, even before his March 2006 hearing. Dr. Quan speaks quite positively of the accused's progress since the last hearing. He is stable, he is altogether cooperative with the routines of this facility and with the structured activities provided here. He tends to socialize minimally and only briefly. Although he was initially quite focused on leaving here, even to the point of considering elopement, he has not made any such attempts recently.

[10] Given his social limitations, R.A.S. is often the target of teasing and other provocations from his peers. However, even when provoked, he has been manifestly nonassaultive, preferring to withdraw from the situation or to involve caregiving staff. He is medically compliant. Although at times he discloses vague, borderline psychotic or somewhat magical thoughts, Dr. Quan considers that this accused is but a minimal risk of reoffending.

[11] In terms of assessing his future risk I quote from Dr. Quan's report at Exhibit 17:

“Tony's behaviour in the past six months indicate that he is odd, reclusive and avoidant. He is also strikingly restrained in his aggression. He does not retaliate when mistreated by peers and family, and does not seem to hold a grudge. He has not been assaultive or dangerous in the past year and has spontaneously abstained from drug misuse (Perhaps also because his mother is not around to give him drugs). He is also cooperative in taking his medication.”

“Tony has become calmer, more stable and has acquired optimism for his future so that he now is a minimal risk to reoffend.”

“If the community supports that are planned for him can actually be provided, since he is given security and predictability in his life, and meaningful (and profitable), activities to engage him, his risk would be further reduced.” (Exhibit 17).

[12] Dr. Quan was asked to elaborate on his risk assessment. He makes it clear that, although he considers this young person a "minimal risk to reoffend," that assessment is conditional on the accused's compliance as well as ongoing and appropriate supervision and protection from undue stressors. By way of diagnosis, Dr. Quan provides various alternative formulations, including schizophreniform drug-induced psychosis, in remission; substance abuse disorder, in remission; obsessive-compulsive disorder, in partial remission; and attention deficit-hyperactivity disorder, in partial remission. On AXIS II Dr. Quan assesses mild mental retardation with a full-scale IQ of approximately 68.

[13] Dr. Quan suspects that this accused may have sustained brain injury from the excessive use or abuse of crystal methamphetamine. Interestingly, after a long period of likely daily marijuana and crystal methamphetamine use, R.A.S. has spontaneously decided to abstain. He has managed to achieve that goal, perhaps due to the more secure and stable environment provided him at Crossroads as well as his recently attained stability of mood.

[14] In the future Dr. Quan believes that any problems that R.A.S. may encounter will be largely the product or impacts of his mental handicap as opposed to a full-blown or complex mood disorder. At times, and under situation of stress, he relapses to somewhat prominent symptoms of OCD. He insists on following rigid behavioural routines and rituals. Nonetheless, he is currently very stable, predictable, and non-aggressive.

[15] In terms of treatment planning and future accommodation the treatment team at MATC has been working collaboratively with the CLBC organization to establish a discharge plan for R.A.S., including accommodation and structured day programming, in the community of Chilliwack, which is indeed his former community environment. Although plans have not progressed entirely as of the date of the last hearing in March of 2007, R.A.S. has been provided with an opportunity to actually visit proposed caregivers. He has indicated an interest in living with them and he will be provided with an adequately structured day program including recreational and vocational components. R.A.S. is slated to visit his caregivers again within two days of this hearing and it is proposed that he be slowly transitioned to their care in the next month to six-week period.

[16] There are no particular stressors identified with his transition to the new caregiving home other than that his caregivers themselves have apparently sold their home and will be relocating to another residence. Although this might be potentially stressful on this youth, it may also give him an opportunity to participate in the move as part of a family unit, something, Dr. Quan tells us, the accused aspires to.

[17] Another potential stressor could be an ultimately negative relationship with his caregivers or an ongoing pattern of repeated unannounced visits from his mother, although he appears more resilient in terms of coping with the disappointment of her failure to meet scheduled or announced appointments and visits with him.

[18] On that note, Dr. Quan is of the view, and given the historic negative influence of the mother's visits on the accused, future visits should be supervised for the protection of young R.A.S.. He will also continue to require assistance in the proper and compliant administration of his medications.

[19] Summing up, Dr. Quan believes that this young man requires and is now ready for a transition to a secure and stable home in a tolerant and accepting environment where he is also provided structured, routine, activation and vocational opportunities. Under those circumstances, the Director is recommending that the accused now be conditionally discharged and that the effective date of such an order ought to be delayed until November 1st to provide for a careful transition period.

[20] Arguing against R.A.S.'s absolute discharge at this point is the fact that his new placement remains somewhat untested and untried. Should it disrupt for any reason R.A.S. has no other available resources except for this hospital or a return to the Adult Forensic Psychiatric Hospital given that he has now attained the age of 19.

[21] Ms. Warry, who has been the accused's inpatient case manager at this facility, also agrees that the accused's visits with his mother should be to some extent monitored and that for the time being, until his integration into the new foster home has been implemented, he should remain under youth forensic supervision.

[22] The Director's counsel also led evidence through a CLBC analyst, Elaine Holub. Ms. Holub provided evidence, on which we rely, that the CLBC organization has committed to funding R.A.S. in terms of his community accommodation and day programs. That funding will flow through the Chilliwack Society for Community Living which has contracted with the proposed caregivers and which also contracted for the accused's day program,

expected to provide up to 30 hours per week of recreational, social and ADL activation, as well as the benefit of a one-to-one assistance worker. The program will also provide in-home support as well as respite care for the accused's proposed residential caregivers. When specifically asked, Ms. Holub indicated that there were currently no time limitations or constraints on CLBC's commitment to fund this young person's supportive resources.

[23] We also heard from a Ms. Tondreau who works for the Chilliwack Society for Community Living and who will serve as R.A.S.'s program supervisor. She will be supervising his residential placement, his in-home respite and support funds, as well as his day programming. She indicated helpfully that the proposed caregivers are well-known and experienced service providers for special needs young persons. They have made a commitment to house R.A.S..

[24] We briefly heard from the accused, who sat patiently through the evidence given by the adults in the room. He was able to let us know that he likes the plan; he appears to like his proposed caregivers; he has visited his day programs and was able to describe the activities provided there. Following submissions from all parties, the Review Board applied both the criteria contained in Section 672.54 as well as the provisions of the Criminal Code which invite us to take into consideration the needs and wishes of the young person: YCJA s.141(6).

[25] Although the threshold of significant threat is somewhat tenuous given the evidence about this young man and his progress, we nonetheless determined to continue our jurisdiction over him in the form of a six-month order. The order will be one of conditional discharge effective November 1st. Between the date of this hearing and November 1st R.A.S. will remain under his current disposition of custody which permits visit leaves to the proposed residential placement. After an appropriate and prudent period of transitional visit leaves, it is our expectation that he will be in a position to take up life in the community in his new home.

[26] We are prepared to extend our jurisdiction over him on the basis of his relatively acute needs and in order to maintain a degree of continuity and monitoring in order to position this young man to achieve a stable reintegration and as much independence as he is capable of. Acknowledging that the significant threat threshold may be waning, we have determined to review our order once again in six months, or on or before April 30th, 2008. If R.A.S.'s positive progress continues, if he continues to be free of symptoms of his

