



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**

ANTONIO D'ALFONSO

**HELD AT: BC Review Board Offices
Vancouver, BC
04 February 2009**

**BEFORE: CHAIRPERSON: B. Walter
MEMBERS: Dr. P. Constance, psychiatrist
 N. Avison**

**APPEARANCES: ACCUSED/PATIENT: Antonio D'Alfonso
ACCUSED/PATIENT COUNSEL: D. Nielsen
DIRECTOR AFPS: N. Hennelly Dr. J. Smith
ATTORNEY GENERAL: L. Hillaby**

[1] On February 4, 2009 the British Columbia Review Board convened to consider the annual disposition of Antonio D'Alfonso, who is now aged 51. Mr. D'Alfonso has suffered for many years from a major mental illness, which has always been diagnosed as schizophrenia. He was first admitted to a psychiatric hospital, Riverview, in 1982, at age 25. He had seven readmissions to Riverview interspersed with four admissions to Burnaby General Hospital. He was discharged from Riverview in October 1988.

[2] Mr. D'Alfonso went to live with his parents. He refused psychiatric follow-up and was noncompliant to medication. Four months later, in January 1989, he attacked the family house cleaner with a hammer. He struck her four blows to the head. She suffered a fractured skull and other injuries. Mr. D'Alfonso was restrained by his father, who then took him to Burnaby General Hospital. He was certified, admitted, and transferred to the Forensic Psychiatric Hospital.

[3] Mr. D'Alfonso was charged with attempted murder and aggravated assault. At his first court appearance he was deemed unfit to stand trial and was returned to custody at FPH. After treatment, he was restored to fitness and on September 11, 1991 at a Supreme Court trial, he was found Not Guilty by Reason of Insanity. He was maintained in custody at FPH at the pleasure of the Lieutenant Governor.

[4] In 1992 Part XX.I of the *Criminal Code* came into force and Mr. D'Alfonso came under the jurisdiction of the British Columbia Review Board. His disposition was reviewed annually. For many years he was kept in custody. His illness, chronic schizophrenia, proved refractory to treatment. Mr. D'Alfonso was unwilling to undertake the blood work necessary to treatment by Clozapine. However, over the years treatment with other atypical antipsychotics and mood stabilisers reduced the frequency of violent behaviour, angry outbursts and displays of hostility which had characterised Mr. D'Alfonso's conduct prior to and subsequent to the index offence.

[5] In October 1992 Mr. D'Alfonso assaulted a member of the nursing staff at the Forensic Psychiatric Hospital. In January 1993 he escaped and was unlawfully at large until March 1993.

[6] In July 1995 the Review Board granted Mr. D'Alfonso a conditional discharge to live in FPH. He was ordered to be allowed escorted home visits at least every two months for up to six hours. In January 1996, following the *Johnson* decision, a disposition of custody was restored, and escorted home visits continued.

[7] In January 1997 Mr. D'Alfonso punched a nurse in the face and was charged with assault. At court he was found unfit to stand trial and was returned in custody to FPH. A psychiatric report stated that Mr. D'Alfonso was "always thought disordered, illogical and delusional. He [was] intermittently hostile, angry and impulsive.": Ex.86. His access to the community was curtailed.

[8] In the following year an improvement in Mr. D'Alfonso's presentation was noted. At a Review Board hearing in September 1999 Mr. D'Alfonso was deemed marginally fit to stand trial and was returned to court. He was detained in custody and allowed escorted access to the community. In December 1999 Mr. D'Alfonso pleaded guilty to the charge of assault on a nurse and was made subject to a probation order for one year with sentence suspended.

[9] Over the next two years Mr. D'Alfonso's behaviour continued to be relatively settled without incidents of violence. In November 2001, the treatment team began to consider the possibility of a placement in a supervised boarding home. At a hearing in November 2002 the Review Board continued the custody order but granted access to the community at the discretion of the Director, together with the possibility of overnight visit leave for up to 28 days.

[10] In June 2003 the Review Board noted that the link to significant threat was becoming more difficult to draw. As no appropriate community placement had been identified the custody order was maintained.

[11] In October 2003 the Director requested an early hearing. The Review Board learned that a placement in the Chrysalis boarding home had become available. This home has 24 hour supervision. Mr. D'Alfonso had been on a visit leave there since June 2003 and appeared to have settled well. At the Review Board hearing in December 2003, the 19th for Mr. D'Alfonso, he was granted a conditional discharge to live in an approved supervised residence.

[12] Mr. D'Alfonso's behaviour at Chrysalis did not entirely conform to expectations. He was challenging and even hostile to staff on occasion. He was returned to FPH for short

periods in January and September 2004, but was accepted back at Chrysalis. His next Review Board hearing, in November 2004, proceeded in the absence of the parties with a continuation of the conditional discharge. Shortly after, Mr. D'Alfonso was again directed back to FPH. His mental state was said to be fragile and it is noted (Ex. 126) that it takes little to destabilise him.

[13] This pattern continued in the following years. Mr. D'Alfonso's father died in March 2005 and he was returned to FPH for a few days at his own request in July of that year. His brother became his only family support. The Review Board hearing in February 2006 proceeded in the absence of the parties with the renewal of the order of discharge on conditions. This order was extended by consent in February 2008 and is under consideration at the present hearing.

[14] In preparation for this hearing Dr Jeanette Smith, the treating psychiatrist, and Nicole Hennelly, the community case manager, prepared reports to assist the panel. They each gave oral evidence as did Mr. D'Alfonso.

[15] Ms Hennelly reported that she has seen Mr. D'Alfonso 29 times in the past year. One incident was worthy of note, when he had to defend himself against a co-resident. Apart from this there have been no incidents of physical violence. In November 2008 half the residents of Chrysalis, including Mr. D'Alfonso, were transferred to Crescent Beach Lodge while Chrysalis was renovated. On arrival at Crescent Beach Mr. D'Alfonso became convinced that his bicycle, left at Chrysalis, was likely to be stolen. He took a bus back to Chrysalis, secured his bicycle, and started the return journey, a distance of some 23 km. He lost his way back, and did not return until the following morning. Ms Hennelly states that Mr. D'Alfonso has no insight into his need for medications, which are handed to him by the staff. Mr. D'Alfonso spends much time writing in his journal, walking, and playing his guitar. He is not involved in the use of illicit substances. He sees his brother for a couple of hours per week.

[16] Ms Hennelly said that the staff of Chrysalis are not afraid of Mr. D'Alfonso, who seems, for the last few years, to limit himself to verbal abuse toward the staff. After such an incident he is very remorseful. He receives a Persons with Disability pension which, after paying for boarding house costs, leaves him with about \$10 weekly for comforts. Mr. D'Alfonso could stay at Chrysalis even if he were no longer under the jurisdiction of the Review Board.

[17] Dr Smith gave evidence by teleconference link. She confirmed that Mr. D'Alfonso had shown considerable improvement in his presentation. Reviewing the factors which predicted his risk of future of violence she noted that the largest contribution comes from the historical factors. He remains in a low-grade psychotic state. His improvement in behaviour is largely attributable to the quality of support he is getting. He is well suited to the environment of a supervised boarding home. He is intermittently a bit difficult but is not likely to change. The staff have learned to give him kid glove treatment. Dr Smith said that she might support an absolute discharge in the future. He was much closer to that but for his having to move temporarily to Crescent Beach. An absolute discharge could be supported if the resources he needs were assured.

[18] In response to questions Dr Smith said that if he were no longer under the Board's jurisdiction he would be aware that the condition to return to and remain at FPH would no longer be there. He might not be quite so careful about his behaviour. He might ignore staff direction. However, an assertive outreach worker is already provided through Surrey Mental Health and if absolutely discharged, Mr. D'Alfonso would have access to a psychiatrist.

[19] Mr. D'Alfonso gave evidence. He said that he liked being at Crescent Beach which afforded a nice change. He walks along the beach and streets. He rides his bike now and then. He is looking forward to going back to Chrysalis. There he likes to go to the Clubhouse. He explained his overnight absence fetching his bike. He said that he mistook East for North and ended up riding around all night. He got back to Crescent Beach at about 5.30.

[20] Mr. D'Alfonso was asked whether he found his medications helpful. He said he had a list. Asked if he never forgot to go and get them, he said "no". Asked what decision he wanted from the Review Board, he said either an absolute or a conditional discharge. He said that he always did as he was told, that he had gained settled thoughts and that he had matured in his old age.

[21] The Treatment Team recommended a conditional discharge in the same terms as the present order. Mr Hillaby, for the Attorney General, complimented Mr. D'Alfonso on a successful year. He noted that Mr. D'Alfonso was content to remain at the supervised boarding home. A conditional discharge seemed appropriate. Ms Nielsen, speaking for Mr. D'Alfonso, said that she would have argued for an absolute discharge if Mr. D'Alfonso were

