

**IN THE MATTER OF PART XX.1 (Mental Disorder) OF THE CRIMINAL CODE
R.S.C. 1985 c. C-46, as amended 1991, c. 43**

AND

THE BRITISH COLUMBIA REVIEW BOARD

**IN THE MATTER OF THE
DISPOSITION HEARING OF**

CHRISTOPHER HIND

REASONS FOR DISPOSITION

**HELD AT: Premiere Verbatim Reporting
Victoria, B.C.
4 February 2003**

**BEFORE: CHAIRPERSON: B. Walter
MEMBERS: Dr. G. Laws, psychiatrist
 N. Avison**

**APPEARANCES: ACCUSED/PATIENT: Christopher Hind
ACCUSED/PATIENT COUNSEL: J. Carr, Esq.
HOSPITAL/CLINIC: H. Vollert Dr. R. Miller
ATTORNEY GENERAL: T. Stokes, Esq.**

1 **Background.**

2 Mr. Hind comes into the jurisdiction of the British Columbia Review Board
3 following a finding of NCRMD by the Provincial Court on January 6, 1998. He was
4 charged with offences of assault, mischief and failure to comply with a probation order.
5 The details of these offences are fully set out in the disposition materials at Ex. 28.
6 There, too, may be found an account of Mr. Hind's psychiatric background and illness,
7 which in brief includes an Axis I diagnosis of Chronic Paranoid schizophrenia, which
8 has unfortunately proved intractable to treatment. Mr. Hind's previous record of
9 criminality is consolidated at Ex. 34.

10 Mr. Hind initially spent a total of 4 years in custody. In February 2000 the Board
11 received a request for an early hearing. Mr. Hind had been doing well on day leaves at
12 Pandora House, Victoria, and a recommendation was made for a discharge on
13 conditions. This was granted by the Board at Mr. Hind's fifth hearing, in March 2000
14 (Ex. 38.) On release from FPI, Mr. Hind initially did well, but in the period from August -
15 December 2000 Mr. Hind decompensated. In January 2001 Dr. Miller certified Mr.
16 Hind under the Provincial Mental Health Act, and admitted him to the Eric Martin
17 Pavilion. When the Board met in March 2001 Mr. Hind was still in Eric Martin, from
18 which it was planned to discharge him to a 24-hour supervised setting on extended
19 leave under the Mental Health Act. The Review Board recommended a discharge
20 under conditions to allow this to take place. In April 2001 Mr. Hind was placed in the
21 Greenridge Boarding Home. After some difficulties he settled. In August 2001 Mr. Hind
22 was transferred to Parkside House. His treating physician was Dr. Murray, who had
23 known Mr. Hind for twenty years, and with whom Mr. Hind has a good therapeutic
24 relationship.
25 However, Dr. Murray was due to retire in six months, and the identity of the physician

1 to replace him was not known. At the February 2002 hearing by the Review Board,
2 despite the suggestion from the Director, Adult Forensic Services that Mr. Hind might
3 be ready for an absolute discharge, provided that his care from the Schizophrenia
4 Service was in place, the Board determined that a discharge on the existing
5 conditions should continue.

6 **The Hearing.**

7 The Director, Adult Forensic Psychiatric Services and the Crown, requested a
8 continuation of the present discharge on conditions. The Defence requested that Mr.
9 Hind be granted an absolute discharge.

10 The Review Board received two recent written reports from the Treatment
11 Team. Dr. Miller noted in his report that over the year there had been little change in
12 Mr. Hind's presentation. Following the retirement of Mr. Hind's previous psychiatrist,
13 Dr. Mark Atkins of the Schizophrenia Service has taken over that responsibility. Mr.
14 Hind continues to be certified under the Mental Health Act, and is maintained on
15 extended leave at Parkside, a supervised home. His prescribed medication is
16 Clozapine, 250 mg. a.m. and 350 mg. p.m. Dr. Miller recommended a Review Board
17 order that ensures Mr. Hind continues to live under supervision at Parkside.

18 Mr. Vollert's report reviewed the past year. He recommends that the
19 present conditional discharge continue.

20 In oral evidence Dr. Miller noted that there is no current plan to change the accused's
21 living arrangements, which are required not only for Mr. Hind's needs but also for the
22 protection of society. In Dr. Miller's view, Mr. Hind does not really believe that he is
23 mentally ill, and does not see the value of his medication, which causes him to
24 complain of side effects, including weight gain and drooling. There has been a history
25 of "cheeking" medication.

1 Dr. Atkins re-certified Mr. Hind (Mental Health Act) on January 7, 2003, for a
2 period of six months. Mr. Hind can apply to have his certification reconsidered by a
3 Mental Health Act Review Panel. Mr. Hind has never made any such application in the
4 two years or more that he has been certified.

5 In response to questions from the Review Board as to why a separate
6 psychiatrist and certification was needed, it was explained that to enable Mr. Hind to
7 live in the Schizophrenia Service boarding home, he requires a treating psychiatrist
8 from that Service and, to enable him to occupy a bed there, he needs to be on
9 extended leave under certification. Another benefit is that under this regime he is
10 required to take his medication. This is not the case when a patient is under a
11 conditional discharge from the Review Board. Dr. Miller agrees that Mr. Hind is
12 functioning as well as can be expected. There has been no noticeable change from
13 the previous year, when Dr. Miller suggested that the Review Board could well
14 consider an absolute discharge. Mr. Hind does not pose a significant threat as long as
15 his living conditions are maintained.

16 As to the conditions of Mr. Hind's certification and extended leave, Dr. Miller
17 thought that the only requirements should be that Mr. Hind live at Parkside and take
18 prescribed medication. Mr. Hind knows his right to seek a review of his certification.

19 No evidence was proffered by the Crown.

20 Mr. Hind gave evidence on his own behalf. In response to questions from the
21 Review Board, he offered a different view of his illness and acceptance of medication
22 from that reported by Dr. Miller. Mr. Hind agrees that in the past he suffered from a
23 serious mental illness, which continues even to this day. Medication helps, but the side
24 effects are not good. Mr. Hind says he has never seen anyone prescribed a higher
25 dose. But, if the doctor says he has to take it, he will continue. Mr. Hind could not say

1 specifically how the medication helped, but supposed it helped medicinally.

2 If granted an absolute discharge, Mr. Hind stated that he would like to continue
3 living in Parkside, taking his medication and getting on with things quietly. Mr. Hind
4 noted that if he left his present situation, he would have to rent. This would not be a
5 good arrangement: living on his own in the past had not worked out well. If Mr. Hind
6 had to move out of Parkside, he would feel that he had accomplished nothing by being
7 there.

8 Mr. Hind described his living arrangements. Six other people live with him at
9 Parkside, each with a private room. There are three nurses. Staff are there all day and
10 night. On Wednesday he has to cook the evening meal for the seven residents of
11 Parkside; today was his day for doing his laundry. In the past he used to walk regularly
12 around the neighbourhood collecting bottles and cans. He was able to supplement his
13 income by returning these. Now however, he goes on collection trips only about once
14 a month. He has a brother living in Brentwood Bay, whom he visits occasionally.

15 Mr. Hind said he had heard of the civil review panel, but does not attach much
16 significance to it.

17 **Disposition.**

18 The reasons for Mr. Hind's current disposition are at Exhibit 40. After a review of the
19 provisions for civil certification, and in considering the evidence presented at that time,
20 Alternate Chair Falzon concluded:

21 " There are, from our perspective in this case, serious issues about whether Mr.
22 Hind might be required to be detained in hospital but for his existing certification and
23 residence at the boarding home. Were his civil certification terminated for any reason,
24 and were Mr. Hind to leave the boarding home as would be his wish if certificates were
25 cancelled, there would be serious question - given his total lack of insight into his illness
26 and his inevitable return to psychosis following a termination of his medication - as to

1 his ability to function safely in the community.

2 In this context, it is abundantly clear to us that the Review Board's role in Mr.
3 Hind's life is far from duplicative or unnecessary. The Review Board is the very body
4 assigned by the Criminal Code to make determinations about significant risk following
5 an NCR verdict. Happily in this case, we are able to keep the Criminal Code restrictions
6 on Mr. Hind's liberty relatively low in light of his present Mental Health Act status.
7 However, should that status change, our Order may well have to change. What we
8 cannot do is abdicate our responsibility to another set of decision-makers, based on
9 assumptions about [what] they may or may not do...

10 We close with the observation that the previous Panel of this Board stated that
11 it would like to see Mr. Hind "settled" in a boarding home before consideration would be
12 given to absolute discharge. It will be apparent from our reasons that we see the term
13 "settled" as referring to Mr. Hind's own understanding of the importance of remaining in
14 the boarding home, rather than simply being "settled" there because he has to live
15 there."

16 Since his last hearing Mr. Hind's situation and presentation have altered in
17 three significant ways.

18 First, in 2002 Mr. Hind's treating psychiatrist, with whom he had formed a stable
19 and supportive therapeutic relationship, was about to retire. It was not certain who
20 would replace him. Now, Dr. Atkins has taken over as treating psychiatrist with the
21 Schizophrenia Society, and Mr. Hind is getting on well with him.

22 Second, Mr. Hind was located in Parkside House only from August of 2001. At
23 the time of the last Review Board hearing in 2002, he had been there for only about six
24 months. Now he has lived there problem-free for a further twelve months. He feels
25 comfortable there. Mr. Hind is much more settled with regard to these living
26 arrangements. Unlike his statements in 2002, he does not want to move out and to
27 look after himself if he receives an absolute discharge. He now expresses some
28 anxiety about the possibility of losing his bed at Parkside. He admits that his previous

1 attempts at living independently have not gone well. Even without the controls afforded
2 by Review Board conditions, Mr. Hind is satisfied to stay there under civil certification.

3 Third, Mr. Hind demonstrates increased insight. In the previous hearing, he
4 expressed a wish to be de-certified. He was adamant that he would stop taking his
5 medication as soon as he was no longer required to do so. This view has moderated.
6 The side effects, though still troubling, no longer seem so intrusive. His civil certificate
7 requires Mr. Hind to take prescribed medication. The conditions of the Review Board
8 order cannot require Mr. Hind to submit to medication in the community.

9 The Review Board must first determine affirmatively whether the accused poses
10 a significant threat. If the accused does not pose a significant threat, an absolute
11 discharge must issue: *R. v. Winko*, [1992] 2 S.C.R. 625. The concept of significant
12 threat has a future connotation as well as a present dimension: *Orlowski v. Attorney
13 General of British Columbia* (1992), 75 C.C.C. (3rd), 146. In assessing the significance
14 of the future threat, and how it may best be managed, the Review Board may consider
15 other agencies which provide support and assistance to mentally ill persons, not solely
16 Adult Forensic Psychiatric Services: *Lajoie c. Québec Commission québécoise
17 d'examen et le Procureur Général du Québec* [1994] R.J.Q. 607). It is for the Review
18 Board to decide the level of risk posed by the accused, based on the available
19 evidence: *R. v. Chalmers* [2001] (O.J. No. 117 Ont. C.A.), giving due weight to the
20 evidence of the experts: *R. v. Winko*, above.

21 Public safety requires Mr. Hind's compliance with medication. The Review
22 Board could continue its conditional discharge, one condition of which requires Mr.
23 Hind to return to the Forensic Psychiatric Hospital if he is non-compliant. The Review
24 Board could also grant an absolute discharge and rely on the civil mental health
25 certificate for future compliance. Such a certificate must be renewed biannually, and

