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

KELVIN ALFRED KAROL

HELD AT: Kelowna Law Courts
Kelowna, BC
11 September 2007

BEFORE:
CHAIRPERSON: B. Walter
MEMBERS: Dr. G. Laws, psychiatrist
L. Chow

APPEARANCES:
ACCUSED/PATIENT: Kelvin Alfred Karol
ACCUSED/PATIENT COUNSEL: M. Kennedy
HOSPITAL/CLINIC: L. Jessome Dr. K. Stevenson
ATTORNEY GENERAL: C. Forsyth

[1] CHAIRPERSON: On September 11th, 2007 the British Columbia Review Board convened an early hearing in Kelowna, British Columbia to once again review the disposition of Kelvin Alfred Karol, the accused, age 44. The accused's index offence of common assault on a healthcare worker at Riverview which occurred in 1998, over nine years ago now, and his October 6, 1998 verdict of NCRMD bringing him under our jurisdiction, have been canvassed in the course of his ten previous hearings before this tribunal, as has his somewhat transient history which has included substance abuse as well as criminal involvement and numerous psychiatric admissions. We have also canvassed the accused's criminal history as far back as 1986 and have commented on the absence of any violence since the index offence. Previous reasons have also documented the accused's progress under treatment and his reintegration into the communities, first of Kelowna and then of Vernon, since 1999 where his presentation and behaviour have generally been above reproach.

[2] Since 2003 of course the accused has resided continuously at the daytime supervised Gainsborough Lodge residence in Vernon. Although he has continued to experience auditory symptoms and shows a lack of insight and even denial of his illness, possibly as a result of his impaired cognition or his communication difficulties, he has nevertheless remained compliant and pro-social. That assessment is of course supported by a neuropsychological report at Exhibit 34 which indicates that Mr. Karol, although he has some rather high functional abilities, lacks insight, does not understand the need to abstain from alcohol, and has little interest in improving his daily living skills. Overall, he functions at a mildly cognitively impaired level with difficulties in executive functioning, planning, abstract reasoning and memory. Nevertheless, he has consistently demonstrated he is able to administer his own medications in a relatively compliant and consistent manner.

[3] There is concern that on episodic visits to his mother's home in Langley, or in other social situations, Mr. Karol remains attracted to beer or alcohol consumption which he readily discloses to his treatment team. The concern is of course that if not prohibited or monitored, his use of alcohol would increase. Mr. Karol denies this, indicating that after six or seven beers he simply falls asleep and he is unable to get high from the effects of beer.

[4] Mr. Karol's tenth hearing for the purposes of reviewing his disposition occurred on May 1st, 2007 in Vernon. In the course of its reasons, found at Exhibit 43, the Board commented on his positive progress; his rapid reintegration; the absence of any violence in the past nine-and-a-half years; and the fact that he is well-liked and well integrated and could indeed remain, absent of forensic jurisdiction, in his current residence.

[5] His treatment team is of course concerned that the accused from time-to-time endorses plans or aspirations to relocate either to the Downtown Eastside of Vancouver, where he lived previously and where he has some obviously enjoyable memories, or to Selkirk, Manitoba where he has a sister. He also, quite frankly, indicates that he would like to be able to drink beer monthly, although not to the point of intoxication.

[6] On the basis of his historic stable presentation and on an understanding that the accused's insight or acceptance of his illness is not likely to change in the foreseeable future, the Review Board indicated that it was becoming somewhat tenuous or speculative to label this accused a substantial or significant threat such as warrants our ongoing jurisdiction over him.

[7] We nevertheless extended that jurisdiction with the comment that in the course of a six-month order his treatment team ought to try to assertively link and connect the accused to a community mental health team and to assist him in establishing appropriate relationships with such a team in the hope of maintaining his treatment compliance absent forensic oversight.

[8] As we now reconvene the accused's case manager, Ms. Jessome, indicates that overall Mr. Karol's presentation remains quite static and unchanged since his last hearing. He continues to self-administer his medications, although it appears he missed two doses of his evening meds in May. Thereafter he reported feeling somewhat downcast and experiencing a degree of insomnia as well as an increase in his continuous auditory symptoms. Interestingly, he did not disclose these symptoms to his residential care staff but did so to Ms. Jessome.

[9] Mr. Karol recovered after a brief three or four-day period and was referred for a meeting with a community mental health team in July. Mr. Karol attended at that meeting and apparently has a positive opinion of the attending psychiatrist, Dr. Smith, whom he has previously met on the occasions of that doctor's visits to Mr. Karol's boarding home residence. He is agreeable to seeing that doctor on an ongoing basis. In terms of

recommending our ongoing jurisdiction over Mr. Karol, Ms. Jessome's concern is of course, and as it has been in the past, that Mr. Karol may decide to vacate his current residence, move to another part of the province or even out of the province, whereupon his treatment needs might well go unmet.

[10] It is also Ms. Jessome's opinion that the accused's daily living skills are at a level that he would not be able to care for himself adequately and that he continues to require a level of support and care.

[11] Dr. Stevenson, the supervising psychiatrist, reported that he had only seen the accused once since the last hearing. He has implemented no changes in the accused's treatment regime, nor has he observed any significant changes beyond some ongoing fragility in terms of the accused's stability. According to the treatment team, on a visit to his mother's home, the accused did use alcohol to excess on one occasion. As always, he indicated that he basically fell asleep after ingesting six or eight bottles of beer. He indicates he refrained from drinking on another evening and, although it is hard for him to refuse the offer of a drink, he has demonstrated no overt decompensation as a result of its use.

[12] Dr. Stevenson also testified that not only the accused's mental illness, but his cognitive limitations, which are expected to remain static into the future, render him more fragile and vulnerable. It is the consensus of the treatment team that this gentleman requires considerable in the way of support, consistency and structure to remain treatment compliant and safe in the community.

[13] Mr. Karol, in his soft-spoken, almost whispering communication style, was able to answer certain questions. Typically, in successive sentences, he endorsed plans to move to Vancouver but then immediately said "but not really". He has no clear plans to live anywhere except the Gainsborough residence. He is agreeable to seeing Dr. Smith, the community mental health psychiatrist, and would continue to take the medications as prescribed despite the fact that he sees no apparent benefits therefrom. He endorsed no violent or angry impulses and endorsed a positive relationship with Mr. Gilchrist, his residential caregiver.

[14] We also heard from Mr. Colin Gilchrist, the manager of the accused's residential resource. He has known the accused for five years and they have a positive relationship. He has never seen the accused violent or noncompliant. The accused makes a positive

and considerable contribution to life at his group home. Mr. Gilchrist believes Mr. Karol is happy there, he has a job, he has income, he has savings, all of which work together in maintaining him in his current circumstances. Mr. Gilchrist also added that the accused is apparently at ease with Dr. Smith as his prospective psychiatrist. Mr. Gilchrist believes the accused would not unilaterally entertain or implement plans to leave his current residence where there is very little turnover in terms of peers.

[15] On our analysis of the evidence it is unlikely that the accused will implement such plans. The evidence suggests that, when the down-sides are explained or pointed out to him, Mr. Karol is quite suggestible and readily changes his mind. Given his positive functioning in the community for in excess of nine-and-a-half years and his rather distant criminal history, we unanimously concluded that this accused does not currently pose a significant threat such as warrants our ongoing jurisdiction. Mr. Forsyth, on behalf of the Attorney General of British Columbia, echoed that conclusion with the proviso that the accused does need to remain in a supportive environment and to maintain his treatment, all of which we assume can be accomplished beyond the legally coercive oversight of the forensic system and of this tribunal. Accordingly Mr. Karol is absolutely discharged with our good wishes.

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