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

GARY GORDON L'HIRONDELLE

HELD AT: **Forensic Psychiatric Hospital**
Port Coquitlam, BC
26 January 2009

BEFORE:	**CHAIRPERSON:**	**B. Walter**
	MEMBERS:	**Dr. G. Laws, psychiatrist**
		J. McIntyre

APPEARANCES:	**ACCUSED/PATIENT: Gary Gordon L'Hirondelle**
	ACCUSED/PATIENT COUNSEL: D. Nielsen
	DIRECTOR AFPS:R. Dominguez Dr. E. Murphy (FPH)
	E. Daniel Dr. M Saini (Surrey)

[1] CHAIRPERSON: On January 26th, 2009 the British Columbia Review Board convened a hearing at the Forensic Psychiatric Hospital to review the disposition of Gary Gordon L'Hirondelle.

[2] This is Mr. L'Hirondelle's ninth hearing since his NCRMD verdict of November 25, 1998 arising out of a charge of second degree murder. The accused also has a second NCRMD verdict given December 1, 1998 as a result of an aggravated assault on an inmate at KRCC while he was under arrest on the first index offence. Both verdicts are, for the record, under review as of this date and the subject of our disposition.

[3] Mr. L'Hirondelle's history has been more than adequately documented and considered in reasons for disposition resulting from previous hearings. Although that history is under consideration as of this date, we do not under the circumstances propose to review it in precise detail.

[4] Mr. L'Hirondelle was continuously under custodial dispositions until his most recent appearance on January 14th, 2008. At that time the Review Board, on the basis of Mr. L'Hirondelle's generally positive progress under treatment at FPH, determined to conditionally discharge him to reside at Coast Cottages, where he had indeed been *de facto* living since October of 2007.

[5] At Coast Cottages the accused was compliantly self-medicating. It was Mr. L'Hirondelle's plan, if discharged, to eventually leave Coast Cottages to move in with his fiancée, who is herself a consumer of mental health services, and for the couple to then live independently in the Surrey area. Mr. L'Hirondelle was at the time working part-time, three half days per week, and planned to expand his vocational activities to full-time employment. The accused denied any positive symptoms in at least a year-and-a-half. He appeared to have at least satisfactory insight into his periodic cravings for substances. Mr. L'Hirondelle had last yielded a positive test for marijuana and/or cocaine in August of 2006 after an authorized absence.

[6] Following his last hearing, Mr. L'Hirondelle was placed at an independent cottage and started working four days per week. Initially, he intended to move to Abbotsford with his girlfriend who resides close to her mother. By May, Ms. Daniel indicated that the accused was being seen weekly due to the increased stressors of full-time employment,

a pending relocation of residence and the stress of his relationship. He was, at the time, attending a Dual-Diagnosis Clean Start program.

[7] In March/April the accused's plans changed somewhat. Mr. L'Hirondelle's intent was to cohabit in a trailer home in Surrey with his girlfriend and her mother. On May 1st, 2008 Mr. L'Hirondelle's female friend was assaulted, which would certainly be be a source of increased psycho-social stress for him. In August the couple married. The accused obtained approval from his outpatient treatment team to spend six nights per week at the family trailer which was in need of repair.

[8] On October 1st Mr. L'Hirondelle was formally discharged from the cottages. On November 1st he and his new wife moved to their own trailer close to his mother-in-law's mobile home. Mr. L'Hirondelle was working full time as of September. On December 5th on a home visit in response to Coast staff concerns he presented at less than his normal optimal appearance and he looked disheveled. Later, the accused acknowledged a bout of alcohol, marijuana and eventually cocaine use in the company of an uncle he had not seen in many years.

[9] On December 8th he requested admission to FPH as by his own account he was frightened of his symptoms. On admission he also disclosed relapse to symptoms instantaneously. He remained at FPH until December 17th when he was again discharged. On the basis of his subsequent presentation to the outpatient team when he was, on December 19th, asked by his treatment team to return to FPH. The accused, with a sense of apparent relief, agreed to readmission.

[10] It is Mr. L'Hirondelle's return to the security of this hospital from conditional discharge that precipitates a mandatory hearing. To the extent that the hearing coincides more or less with the anniversary date of his last annual review, it was determined to also consider the current proceeding his annual review.

[11] Dr. Saini became the accused's outpatient psychiatrist on his discharge. As is his habit, Dr. Saini provided a very comprehensive and historically complete report at Exhibit 72. It is Dr. Saini's evidence that the accused presented well and with no particular concerns or instability until December.

[12] Between November and December Mr. L'Hirondelle's presentation changed significantly. He had lost considerable weight, he was apparently fragile and, when finally readmitted, he was, in Dr. Saini's opinion, in a decompensated, relapsed state. Although Mr. L'Hirondelle appeared not to have much insight into this aspect, in Dr. Saini's opinion, Mr. L'Hirondelle was indeed relapsing even before his bout of drug use prior to his December 5th admission. The accused attributed his deterioration entirely to "drug psychosis".

[13] Given Mr. L'Hirondelle's progress and what Dr. Saini characterizes as an unsuccessful attempt to discharge him to independent living, the doctor believes that Mr. L'Hirondelle ought to be detained at FPH in order to provide time to reevaluate his clinical stability, his insight into his drug addictions and into his ability to remain abstinent in the future. Dr. Saini also believes that such a period of time would provide insight into an understanding of Mr. L'Hirondelle's risk factors and perhaps greater learning on the part of the accused in terms of sharpening his independent living skills and his ability to manage psycho-social stressors in the community. Both treatment teams are concerned about the accused's ongoing financial, social and relationship stressors.

[14] The *Criminal Code* requires us on a hearing of this sort to review the decision to significantly increase the restrictions on the accused's liberties pursuant to Section 672.81(2.1). Under the circumstances, given that Mr. L'Hirondelle's decompensation rendered him overtly symptomatic and to the extent that he himself acknowledges that he was experiencing voices to harm either himself or others, the decision to readmit him was appropriate.

[15] According to Dr. Murphy's evidence in her report of January 2nd (at Exhibit 73), and in her oral evidence given at the hearing, Mr. L'Hirondelle is now symptom-free and has returned to his baseline of mental stability. Dr. Murphy has the advantage of having known Mr. L'Hirondelle since his index offence in 1997. She is well aware of his presenting diagnosis of chronic schizophrenia and his addictions.

[16] She too would like a longer period of time to assess Mr. L'Hirondelle and to further evaluate or test his addictions issues and his capacity to abstain, from the setting of the hospital. She is of the view that, although Mr. L'Hirondelle's AXIS I illness is in symptom

remission, he requires further alcohol and drug treatment, hopefully designed for dual-diagnosis patients, before he returns to the community. She would also like to be in a position to monitor his response to stressors to which he has historically presented as quite vulnerable.

[17] Although the recent events have represented something of a backward step for Mr. L'Hirondelle, Dr. Murphy acknowledges that he has been settled and cooperative. She termed him a “model patient” on readmission. Since having regained his mental stability, he has voiced no cravings for substances. His inpatient treatment team has reapplied for financial benefits on his behalf. The treatment team believes that he still has good insight into his AXIS I illness and his need for treatment and indeed into his substance issues. The latter is obviously an area of weakness given his recent relapse after a considerable period of abstinence.

[18] It is of some concern that while in hospital Mr. L'Hirondelle has refused to submit to urine screens, notwithstanding a clear provision in his legal disposition. He explained that he feels uncomfortable about yielding urine while under observation. He would prefer to give blood samples.

[19] Mr. L'Hirondelle was able to give us his version of events since his discharge, including those leading to the onset of voices and culminating in his readmission on December 8th. Although he remained anxious and frightened after his initial two-week stay in hospital, he was not able to demonstrate much in the way of insight into his slow but apparent (to others) decompensation prior to the December 6th drug episode. He blames his decompensation entirely on the use of marijuana and cocaine.

[20] To his credit, he did admit his almost instantaneous relapse to auditory hallucinations with the use of marijuana and exacerbating with the use of cocaine. He acknowledged that those symptoms were overt and contained commands to harm others. He also appeared to have little in the way of instrumental skills or insight into the need to manage his psycho-social and financial stressors. He explained his precipitous weight loss as due to an irregular eating schedule.

[21] As indicated, Mr. L'Hirondelle's treatment teams seek his further detention to allow for a period of further monitoring, evaluation, assessment and restabilization. Mr.

L'Hirondelle for his part, and through counsel, sought his absolute discharge on the argument that even when he rapidly became symptomatic following his recent relapse to substances, he was altogether cooperative and did not pose a threat to anyone. He sees the need for help and reaches for assistance when it is required. He agrees to outpatient drug and alcohol treatment and to attend community mental health services, presumably at a centre attended by his wife.

[22] In assessing the evidence we cannot distance ourselves from the ultimately serious index offence, although it is some 11 years in the past. We note the historic evidence that if Mr. L'Hirondelle is untreated, the symptoms of his schizophrenia, in the form of auditory directive hallucinations, emerge unusually quickly. We also take into account that when the accused relapses to substances, as he did in August of 2006, similar symptoms and violent thoughts surface very quickly.

[23] Clearly these thoughts are sufficiently troubling and distressing to him that they render Mr. L'Hirondelle unable to cope and in need of external assistance and treatment. That precise pattern has now reemerged as recently as last December in the context of what the evidence suggests was a single bout of substance abuse. This occurred after he had been in the community for less than one year and otherwise apparently compliant and cooperative.

[24] The circumstances of the accused's relapse and the nature and content of his symptoms, as well as the rudimentary state of his ability to cope with an array of ongoing psycho-social stressors, prevents us from offering him absolute discharge at this point in time. Recent events are simply all too reminiscent of circumstances during which the accused offended in the past. He remains, when ill, a foreseeable, significant threat.

[25] Having said that, we do take into account that Mr. L'Hirondelle, by virtue of the quick action of his treatment team and by his own sense of his vulnerabilities, was able to be restabilized before any harm came to himself or another. He is now asymptomatic and has returned to his baseline mental condition. He hopefully has a deeper insight into his ongoing vulnerability to substances.

[26] In our view, despite the persistence of Mr. L'Hirondelle's stressors, there are no compelling reasons from a clinical or public safety perspective, to justify his ongoing

detention at this point in time, especially with close scrutiny and monitoring by his treatment team. We have therefore seen fit to once again conditionally discharge Mr. L'Hirondelle on an expectation that he be seen at least weekly.

[27] We are also hopeful that his treatment team will discourage Mr. L'Hirondelle from re-engaging in full-time employment for a period of time pending his participation in programs which aim to strengthen his coping and independent planning and living skills. It is also our hope that Mr. L'Hirondelle can be connected to, and enrolled in, an appropriate dual-diagnosis treatment program which will be successful in deepening and strengthening his capacity to abstain from the substances which everyone agrees so readily and virulently decompensate him.

Reasons prepared by B. Walter and concurred in by Dr. G. Laws and J. McIntyre.

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Edits KW Jan 29/09