



## **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**

**ROBERT JOHN LEE LAVIS**

**HELD AT: Harbour Towers Hotel & Suites  
Victoria, BC  
June 30, 2016**

**BEFORE: ALTERNATE CHAIRPERSON: A. MacPhail  
MEMBERS: Dr. J. Smith, psychiatrist (dissenting)  
K. Polowek**

**APPEARANCES: ACCUSED/PATIENT: Robert John Lee Lavis  
ACCUSED/PATIENT COUNSEL: R. Alberto  
DIRECTOR AFPS: Dr. V. Roth, C. Ballard  
DIRECTOR'S COUNSEL:  
ATTORNEY GENERAL:**

## **INTRODUCTION AND BACKGROUND**

[ 1 ] On June 30, 2016 the British Columbia Review Board (the Board) held an initial hearing in the matter of Robert John Lee Lavis. At the conclusion of the hearing the Board imposed a conditional discharge.

[ 2 ] Mr. Lavis is before the Board as a result of a verdict of not criminally responsible on account of mental disorder (NCRMD) dated May 12, 2016, on one charge of uttering threats to burn, destroy or damage property. He is now 28 years old. The index offence was committed on September 2, 2015 when Mr. Lavis phoned the Canadian Air Transport Security Authority and said that bombs had been placed in airports all over Canada, from Halifax to Victoria. He also said he was going to kill himself that day. He gave his name as Christopher Hitchens. The call was traced to Mr. Lavis's home, owned by his father, Gerry Lavis. About an hour after placing the call, Mr. Lavis went to the West Shore RCMP detachment and said his name was Christopher Hitchens. He told the police officer at the front counter that he had done something wrong and was there to turn himself in. He also said he might be suicidal. The officer suspected this might not be his real name and asked him if he had anything in his pockets. He produced a pill bottle with the name Robert Lavis on it. Mr. Lavis confirmed that that was his name.

[ 3 ] Police were quickly able to link Mr. Lavis to the bomb threat and he was arrested. He spent a week in custody and then was released on bail to the care of his parents on September 10, 2015.

## **EVIDENCE**

[ 4 ] After Mr. Lavis was released on bail, his parents were very concerned about his mental state and did not want him living with them. He was admitted to hospital, and anti-psychotic medications were administered. His symptoms of psychosis began to clear quite quickly. He was discharged from hospital on October 21, 2015, on an injectable antipsychotic medication, and has been living in the Rockland Apartments in a bed funded by the Vancouver Island Health Authority.

[ 5 ] While in hospital Mr. Lavis made numerous attempts to contact his ex-girlfriend by texts and through Facebook. She was sufficiently concerned about this that she contacted the RCMP and asked his family to intervene. Dr. Roth was of the view that this was not a part of his delusional system of beliefs and not connected to his psychosis.

[ 6 ] Since his hospitalization, Mr. Lavis has consistently been of the view that medication is not necessary as his psychosis has been treated. He has reported concerning side effects such as fatigue and low motivation. His medication has been reduced on two occasions since then but Mr. Lavis reports only a small improvement and he continues to ask for the medications to be discontinued.

[ 7 ] Mr. Lavis has recently agreed to try an oral medication, aripiprazole, to see if he would experience fewer side effects than from the injectable paliperidone. This change only occurred in the week of the Review Board hearing. It is too soon to know the results, but Mr. Lavis has said that regardless of the outcome of this trial, his preference is to be off all medications by August.

[ 8 ] Mr. Lavis does not have a lengthy history of mental illness. He appears to have suffered a several month long decline in functioning in early to mid 2015, culminating in an episode of "frank psychosis," including auditory hallucinations and associated delusions, in the summer/early autumn of 2015. He believed he could communicate with others, specifically heroin users; that he was in contact with an alien race and may have been specially gifted and chosen to communicate with them, and that he might even be "Jesus reincarnated". During his psychotic episode he formed the belief that his sister was in danger from bad people, and that he needed to call in the bomb threat in order to ground the plane and have it examined and determined to be safe.

[ 9 ] Prior to the index offence, Mr. Lavis had almost no contact with counseling or psychiatric services. He saw a school counselor in elementary school when he was bullied. Just prior to the index offence, on August 13, 2015, he saw his GP at his parents' urging. He was diagnosed with psychosis and prescribed antipsychotic medication with anti anxiety properties. Mr. Lavis did not want to take medication, but agreed to a reduced dose. He was referred to the Early Psychosis Intervention Program, but the index offence occurred before he could attend his first appointment.

[ 10 ] Mr. Lavis has said that he used cannabis on a regular and frequent basis since he was 17 years old and until about 2 days before the index offence. He acknowledged using cocaine, ecstasy and psilocybin mushrooms on occasions. He drinks alcohol on occasion with friends but not routinely.

[ 11 ] Mr. Lavis's diagnosis is psychosis not yet diagnosed, with differential diagnoses including schizophrenia, substance induced psychotic disorder, or, less likely, a psychotic

disorder closely related to a medical condition or to a mood disorder. His chronic use of cannabis is unlikely to be the cause of his psychosis but could certainly be a contributing factor.

[ 12 ] Mr. Lavis has some remaining symptoms of psychosis. Dr. Roth identified a number of challenges: he has low motivation and a lack of initiative regarding participation in programming or other activities; he firmly believes that he will not have a relapse if he stops taking his medications; and he still maintains some of the beliefs he had at the time of the index offences. For example, while he acknowledges that he no longer believes that he had contact with aliens, he still believes that he did have telepathic experiences, which he enjoyed and misses. While he recognizes that his actions in committing the index offence were wrong, he still believes that his sister may have been at risk. He believes that the medication has interfered with his ability to have telepathic communications.

[ 13 ] With respect to the low motivation, Dr. Roth said that this can be a side effect of the medication, but is typically less pronounced with aripiprazole. She said that low motivation and difficulty planning is also a common symptom of psychosis. In the period before the onset of psychosis, there are often early symptoms where the person experiences low motivation. In the year prior to the onset of his psychosis, Mr. Lavis had lost his job and did not look for employment although he knew he did not have enough money to live.

[ 14 ] Dr. Roth testified that Mr. Lavis is a private person who doesn't volunteer information about what he is thinking or experiencing, but he does answer questions as best he can. He finds the experience confusing and difficult to explain, which is quite common. If he were not required to take his medications, it is extremely likely that he would discontinue them. If that happens, she would expect a relapse to psychosis, particularly since he still has some symptoms. He has a significant lack of insight into the early symptoms of psychosis and the likely development of the illness.

[ 15 ] With respect to risk, Dr. Roth advised that what is particularly concerning is how quickly he acted on his delusional beliefs. He did not intend or cause physical harm, but he acted quickly on a plan to assist his sister. He said subsequently that there was only about 10 minutes between the time that he formed the thought that his sister was in danger and calling in the bomb threat.

[ 16 ] Mr. Lavis is now receiving PWD benefits. He will not be able to remain in the Rockland Apartments as these are designed for short term stays and he has already been there longer than is usual. If he receives a conditional discharge and remains in the forensic system, he would be eligible for residences such as Manchester House. He has toured Manchester House, which provides some supervision with respect to medications, as well as programming designed to support independent living. Although Mr. Lavis would prefer to live with his family, it is their view, supported by the forensic team, that this is not appropriate. It appears that Mr. Lavis would find Manchester House an acceptable place to stay, at least at the moment.

### **ANALYSIS AND DISPOSITION**

[ 17 ] The Director, supported by Crown counsel, submitted that the appropriate disposition was a conditional discharge with a prohibition against consuming alcohol and non-prescription drugs, and a testing condition. Counsel for Mr. Lavis did not object to the conditional discharge but submitted that the testing condition was unnecessary as Mr. Lavis voluntarily disclosed that he has used marijuana on one occasion since the index offence and forensic services have not had any reason to believe that he has used drugs or alcohol.

[ 18 ] Despite the agreement of the parties, the Board must first consider whether Mr. Lavis constitutes a significant threat as defined by Section 672.5401 of the *Criminal Code*. A person is a significant threat if they represent “a risk of serious physical or psychological harm to members of the public ... resulting from conduct that is criminal in nature but not necessarily violent.” If he does not pose such a threat, he is entitled to be absolutely discharged. If he does pose a significant threat to the safety of the public, we must then determine the necessary and appropriate disposition.

[ 19 ] We find that, although this case is at the low end of the threshold for Review Board jurisdiction, Mr. Lavis does constitute a significant threat of serious harm to public safety. His mental illness has not completely resolved. He has no insight into the importance of medication to maintaining his mental health, or to prevent the likelihood of further psychotic episodes. If not under the Review Board’s jurisdiction it is extremely likely that he will stop taking his medications and his psychosis will reoccur. The index offence was a rash plan to address the concern he felt for his sister’s safety. It is unclear what steps he might take in the future if his psychosis were to reoccur.

[ 20 ] We therefore impose a conditional discharge, including conditions that he abstain from alcohol and cannabis, and a condition authorizing the Director to test with reasonable grounds to suspect he has breached these conditions.

Majority Reasons of A. MacPhail, with K. Polowek concurring

**Dr. J. Smith (Dissenting):**

[ 21 ] Robert Lavis is a 28 year old single man who began to exhibit signs of mental illness during the months leading up to the index offence of uttering threats to burn, destroy or damage property. This offence occurred on September 2, 2015. Dr. Roth gave evidence at the hearing that Mr. Lavis suffers from a psychotic disorder, probably schizophrenia and that cannabis likely played a role in triggering the illness. As a result of the delusional belief that his sister was in danger, Mr. Lavis contacted the Canadian Air Transport Security Authority and stated that bombs had been placed in aircrafts all over Canada. He then went to the police and turned himself in, recognizing that he had done something wrong.

[ 22 ] Mr. Lavis has subsequently been treated with antipsychotic medication and there has been a modest improvement in his mental state. Although he is no longer acutely psychotic he is still experiencing residual symptoms of the psychotic illness. There has been no further antisocial behaviour and Mr. Lavis has been compliant with treatment.

[ 23 ] It is of note that Mr. Lavis has a very supportive family who were present at the hearing. They are very involved in his care and have attended his appointments at the forensic clinic. His family has also demonstrated their willingness to advocate for him and to connect him with mental health services. In the event that Mr. Lavis experienced a further psychotic episode it is likely that his family would once again advocate strongly for him and would ensure that he were connected with mental health services.

[ 24 ] Unfortunately Mr. Lavis has very little insight into his illness or the need for medication. He blames the psychotic episode on his use of cannabis and also on the antipsychotic medication that his family doctor had prescribed. His treatment team has tried to adjust his medication to minimize side effects but there is still little doubt that he would discontinue all medication if no longer subject to a legal order.

