



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**

DONALD RYAN SHORE

**HELD AT: Harbour Towers Hotel & Suites
Victoria, BC
June 16, 2016**

**BEFORE: ALTERNATE CHAIRPERSON: A. MacPhail
MEMBERS: Dr. R. Stevenson, psychiatrist
A. Markwart**

**APPEARANCES: ACCUSED/PATIENT: Donald Ryan Shore
ACCUSED/PATIENT COUNSEL: J. Stamm
DIRECTOR AFPS: Dr. R. Miller, A. Gates
DIRECTOR'S COUNSEL:
ATTORNEY GENERAL: S. Fudge**

INTRODUCTION

[1] On June 16, 2016 the British Columbia Review Board (“the Board”) held an annual review of the disposition of Donald Ryan Shore. Mr. Shore was found not criminally responsible on account of mental disorder (“NCRMD”) on October 7, 1994. At the conclusion of the hearing the Board granted Mr. Shore an absolute discharge.

BACKGROUND

[2] The index offences, two counts of breaking and entering and committing an indictable offence, and one count of breaking and entering with intent to commit an indictable offence, were committed in May and August of 1994. Mr. Shore, then 22 years of age, had broken into a number of homes in order to steal women’s underwear to be used in masturbation.

[3] Mr. Shore is a 43-year-old man of partial First Nations heritage, who was born with developmental difficulties. He suffered abuse and neglect as a child and abused substances as an adolescent and young adult. His history of mental health issues dates back to early childhood. He was first admitted to a psychiatric facility at age 6. He has been in some form of care for virtually his entire life, starting with foster care as a child.

[4] In the past, Mr. Shore has been assigned multiple diagnoses, including possible FAS and frontal lobe damage arising from an early head injury, which likely have contributed to his low functioning and instability. He has been assessed in the borderline intellectual range. These intellectual compromises affect his abilities to learn from his experiences, to make decisions and to govern his emotions and behavior. He has been diagnosed with schizophrenia and personality disorder. In addition, he has been diagnosed with different paraphilic disorders. His Autism Spectrum Disorder prevents him from containing his aggressive impulses or making realistic plans for independent living. A highly structured care environment has been considered necessary to allow him to function.

[5] In July 2007, Mr. Shore was discharged into the community on conditions. Up until the past year he lived as the sole occupant in a 24-hour staff supervised residential setting in Victoria, designed for his care, funded by Community Living British Columbia (“CLBC”) and contracted to Centaine Services.

[6] At the last Review Board hearing Dr. Miller advised that he was reducing some of Mr. Shore’s psychiatric medications with a view to stopping them entirely.

EVIDENCE

[7] Mr. Shore continued living in Shoreline house, staffed by Centaine, until September 2015 when he moved to a different residence, run by the Garth Homer Society. Dr. Miller continued the process of reducing his medications. By September 2015 olanzapine had been discontinued. Clonidine was discontinued by December 2015. Subsequently his sertraline was reduced. The reduction in his medication had a significant positive effect on Mr. Shore's mental state. He was generally happier. He was also more organized, more able to tolerate frustration, and better able to communicate with his service providers in scheduling his independent time and volunteer hours. Mr. Shore also lost a considerable amount of weight after the reduction in medications, which has had a positive effect on his previously high blood pressure and an emerging blood sugar problem.

[8] Dr. Miller's current diagnosis is that Mr. Shore has a developmental disorder rather than schizophrenia. It is also possible, as identified by Dr. Lohrasbe in 1994, that some of Mr. Shore's descriptions of his paraphilic fantasies arose out of his desire to please the people asking him questions.

[9] Mr. Shore is very happy with his move to the Garth Homer Society, which occurred in October 2015. He has had far fewer self strangulation attempts because his frustration level is reduced. There has been no evidence of psychosis. His mood is positive, and there is no evidence that he is hypomanic. There has been no evidence that he has been delusional. The behavioural plan developed by CLBC still guides the care that Mr. Shore receives. He has independent time for 5 hours a day, in addition to the time he spends working and doing volunteer work. At this point he is very close to being entirely independent in structuring his time.

[10] Staff at the Garth Homer Society is of the view that Mr. Shore is doing very well. There have been no incidents of violence and no sexually inappropriate behaviour. Mr. Shore attributed his progress to his religious convictions, which appear to have increased markedly.

[11] One of the key reasons that Mr. Shore has remained under the jurisdiction of the Review Board is that his index offences appear to have been sexually motivated, and he has made statements that were sexually deviant in nature. He has been treated with lupron for many years. During that time he has not engaged in any sexually violent

activities. He currently denies any thoughts that are sexually deviant. Dr. Miller testified that there is no evidence that Mr. Shore has had any paraphilic fantasies since 2003. Compared to his initial presentation these have de-escalated.

[12] Mr. Shore does use alcohol and marijuana from time to time. There is no evidence that he has a current serious problem with substance abuse. He has not engaged in any serious criminality of any type, during either the last review period or since he has been in the community, since 2007.

[13] Mr. Shore has friends but continues to struggle with forming close relationships. He is supported by friends and by members of his church. Although he has had some problems with employment, his employer is the twin brother of his friend Ryan. His employer appears to be very understanding of the challenges that Mr. Shore faces. Mr. Shore continues to work part time, which his treatment team believes is appropriate because it provides pro-social activity and an income supplement, which does not impact his PWD benefits. As well, he volunteers at a food bank in Esquimault, where he is viewed as a very positive worker.

[14] If granted an absolute discharge, Mr. Shore can continue to access services from the Garth Homer Society and CLBC if he wishes. He will not likely be able to access services from Victoria Mental Health because he has not shown any recent symptoms of psychosis. He can continue to receive services from his family physician, who can obtain psychiatric and psychological consultation from the Developmental Disorder Support Team.

[15] With respect to risk, Dr. Miller was of the opinion that Mr. Shore's risk of re-offending is low as long as he remains at the residence operated by the Garth Homer Society. He was of the opinion that Mr. Shore would have difficulty functioning should he decide to live independently, and this could bring with it increased risk that he might engage in behaviours that others would find threatening or violent. The potential violence would probably be of relatively low level and of an impulsive nature. Typically, when Mr. Shore is frustrated, he acts out in relation to property, not people. With respect to the paraphilia, Dr. Miller noted that there is a risk, albeit not a certainty, that these ideas would resurface if Mr. Shore discontinued his lupron. Mr. Shore still has a relatively complex medication regime. Dr. Miller said that, in the event that the Board grants Mr. Shore an

absolute discharge, he will provide Mr. Shore's family physician with clear instructions and recommendations with respect to his medications.

[16] Mr. Shore is receiving a higher level of support than CLBC usually provides. Their services are voluntary – they do not compel people to accept their services, so they could not require Mr. Shore to remain in his current residence. If he were to move out, they would still provide personal support to the level desired by Mr. Shore or recommended by the Review Board.

[17] Mr. Shore spoke clearly to the Board about his satisfaction with his current housing and support. He has developed a very close relationship with the manager of his residence and likes most of the staff, some of whom attend the same church he does. Feeling supported in his faith is very important to him and he accepts and tries to follow the advice they give him. He said that he will continue to take the medication prescribed, including lupron. He does not want to experience the same delusions and sexual thoughts that he did previously.

POSITIONS OF THE PARTIES

[18] The Director submitted that Mr. Shore has lived safely in the community for ten years. He has had significant support from CLBC and from his church. He benefits from his medication and other medical care. Mr. Shore was clear today that he plans to continue to accept and indeed welcome the support he receives. Dr. Miller questioned whether the risk at this point is foreseeable. Mr. Fudge for the Crown submitted that Mr. Shore's comments appeared credible. His testimony had the ring of truth. He has positive connections in the community. He is enjoying his increased freedom and wants to take advantage of the support provided to him in the community. Given the significant improvements in the last year it was the Crown's view that there was a fairly strong argument that Mr. Shore should be released from The Review Board's jurisdiction.

[19] Mr. Stamm, on behalf of Mr. Shore, submitted that he had demonstrated remarkable improvement over the past year and is entitled to an absolute discharge. He is happy with his current residence and he accepts support and advice from the staff at the Garth Homer Society. He has stable employment and this is likely to continue given his relationship to the owner of the business. He has had a lot of freedom over the last year and has managed it well.

ANALYSIS AND DISPOSITION

[20] The Board is required to make an independent decision when determining whether Mr. Shore is a significant threat to the safety of the public and therefore must remain in our jurisdiction under section 672.54. If he does not pose such a threat he is entitled to an absolute discharge. If he does pose a significant threat to the safety of the public we must then determine what disposition is to be made.

[21] Prior risk assessments have focused on the likelihood of Mr. Shore to commit sexual offences. We note that he has never been convicted of a sexual offence, and since being prescribed lupron in 2003 has not reported inappropriate sexual fantasies. Mr. Shore testified that he plans to continue taking lupron as he would not want to have the same sexual fantasies as he experienced previously.

[22] Mr. Shore has never been convicted of a violent offence, although he has in the past engaged in behaviour with staff that clearly could have been the subject of a criminal charge. This has occurred when he is frustrated and behaves impulsively. This past year, apparently as a result of the significant reduction in his psychiatric medications, his mood, behaviour and overall function have substantially improved.

[23] Mr. Shore's current housing and support is clearly very positive and we accept his evidence that he intends to remain in that situation. He is in complete agreement with his current medication regime. It is not reasonably foreseeable that he poses a significant risk of serious physical and psychological harm. We therefore grant him an absolute discharge.

Reasons written by A. MacPhail, Dr. R. Stevenson and A. Markwart concurring.

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