

[1] These are the reasons in the matter of Todd Francis Wickenheiser. On September 11, 2007, the Review Board convened in Kelowna to hold an annual review pursuant to S. 672.81(1) of the Criminal Code. Mr. Wickenheiser was last before the Review Board on October 3, 2006 at which time he was discharged subject to conditions. Since that time he has remained resident in the community, living with his father who was the victim of the index offence.

[2] Mr. Wickenheiser came under the jurisdiction of the Review Board subsequent to the index offence of common assault committed on or about October 15, 2005. While in a psychotic state, the accused attacked his 74 year old father and tried to smother him with a pillow while he was sleeping. Fortunately, the victim managed to fend his son off without sustaining serious injury and subsequently attended at the police station. The police Report to Crown Counsel (found at Ex. 1) details the circumstances as well as numerous prior contacts the police had with the accused during the preceding 9 months, all due to disturbed and aggressive behaviour arising from his delusional beliefs of being poisoned, and other paranoid ideation.

[3] Mr. Wickenheiser was found NCRMD in Kelowna on November 29, 2005 and ordered detained at FPH. His initial hearing by the Review Board was held on January 10, 2006 at which time he was ordered detained in custody with a provision for visit leaves up to 28 days. At the time of that hearing he remained quite ill with persisting delusions about the Hell's Angels spying on him. He had no insight regarding the existence of mental illness or any role that medications might play in improving his functioning. There was also some diagnostic uncertainty requiring further investigation and observation.

[4] With treatment and a change in medication to the drug Sulpride, there was a gradual improvement in the accused's mental state, such that by June 2nd, 2006, he was granted a 26 day visit leave to his father's home in Kelowna. Subsequent visit leaves were undertaken successfully, leading the Hospital to request an early review with a recommendation for a change of status to a conditional discharge, which was granted on October 3, 2006.

[5] Mr. Wickenheiser has only one previous criminal conviction for driving with an elevated blood alcohol in 1985. His medical history is significant for a serious head injury sustained in a motor vehicle accident leading to a one month coma at age 5. He did not do

well at school and quit his vocational program in grade ten. He has a history of excessive alcohol consumption in his early years but not since 1990. There is no other history of ongoing substance abuse.

[6] Mr. Wickenheiser lived in assorted communities during his early twenties but returned home in 1990 when his mother was dying. He has continued to live with his father ever since. Over those years he has assisted his father around the home but has not held outside employment for any significant period of time.

[7] The accused's formal psychiatric history appears to have started in late 2003. Over the next 2 years he had many presentations to the Kelowna hospital with somatic delusions and increasingly aggressive behaviour toward his father. He was seen for some time by the local mental health team and given Quetiapine which unfortunately was relatively ineffective even before he discontinued it in June 2005. He has a distant history of one suicide attempt while drunk at age 16.

[8] In anticipation of the current hearing, written reports were received from Ms. Jessome and Dr. Stevenson of the Forensic Community Services. Ms. Jessome's home visits with Mr. Wickenheiser were supplemented by his monthly contacts with local mental health worker Dean Mitchell.

[9] In her report, Ms. Jessome describes a stable year in which Mr. Wickenheiser has functioned well at home with his father. He still has limited insight into the nature of his illness and the necessity for ongoing medication, but through education has been able to identify many of his prior beliefs as being false. He has been compliant with his medication regime, which has been adjusted according to symptoms and side effects by Dr. Stevenson.

[10] Dr. Stevenson's report gives a current diagnosis of Schizophrenia – Paranoid subtype. His risk assessment identifies violence while actively ill, the absence of intimate relationships, employment problems, the existence of a major mental illness and prior alcohol abuse as significant historical factors. He also identifies lack of insight, residual delusional beliefs and rigid thinking style as additional risk factors. On the positive side, Mr. Wickenheiser has no history of violence prior to his illness, no personality disorder, relative abstinence from alcohol for many years, a good response to medication with alleviation of many symptoms, a stable residential placement and personal support from his father.

[11] At the hearing, Ms. Jessome supplemented her report with evidence that Mr. Wickenheiser had repeatedly said he would likely discontinue his medications after one year and that his father would be aware if his symptoms returned. She was less confident about his ability to get his son back into treatment. She reported that Mr. Wickenheiser would be eligible to return for ongoing care at Kelowna Mental Health and that his medication, Sulpride, although more difficult to obtain, would be available with special effort. She described the family home as being in a neighborhood and not isolated.

[12] Dr. Stevenson described Mr. Wickenheiser as having some residual delusional beliefs that do not interfere with his functioning. He acknowledged that Mr. Wickenheiser's stable residence in the family home decreases his risk. As the community is now familiar with his history, it may, therefore, intervene more readily.

[13] Mr. Wickenheiser gave oral evidence. He denied saying he wanted to quit the medication and said he did not dispute the psychiatric diagnosis. However, he said he was hoping to "grow out of it" similar to the allergies he had as a child. He said he hoped the medications would not be necessary for the rest of his life as he was "not a pill person".

[14] The accused's father, Mr. Frank Wickenheiser, also gave evidence. He described a very significant improvement in his son, not just in comparison to the 2 year period of acute illness, but also compared to the previous eighteen years. He described his son as always ready to "fly off the handle" but says that now he is much more "reasonable and rational" and calm. He says he would now be comfortable to return to hunting with his son, even compared to one year ago. He attributes the improvements to "the pills he's getting" and does not think his son will ever get sick again. If that should happen, he says he would go for help right away.

[15] In closing, the Director recommended a conditional discharge but with relaxed conditions regarding the use of weapons for hunting. Crown Counsel acknowledged being "on the fence" regarding conditional vs. absolute discharge. He did state that if a conditional discharge were to be granted it should still contain a weapons prohibition as a significant level of risk would be implied. Defense counsel emphasized that the current medication was not previously available, that there was a long history of Mr. Wickenheiser reaching for medical assistance when he was distressed, and that he was likely to improve in insight regarding the need for medication with the "efflux of time". He therefore requested an absolute discharge.

