



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**

RICK JOSEPH THIEMAN

**HELD AT: BC Review Board Offices
Vancouver, BC
07 May 2007
28 May 2007**

**BEFORE: CHAIRPERSON: B. Walter
MEMBERS: Dr. P. Constance, psychiatrist
 Dr. M. Lee**

**APPEARANCES: ACCUSED/PATIENT: Rick Joseph Thieman
ACCUSED/PATIENT COUNSEL: D. Nielsen
HOSPITAL/CLINIC: T. Vincent Dr. R. Lamba (by telephone)
 A. Westmacott
ATTORNEY GENERAL: L. Hillaby**

[1] CHAIRPERSON: On May 7th, 2007 the British Columbia Review Board convened an annual hearing to review the disposition of Rick Joseph Thieman. Following the evidence of the Director of Forensic Psychiatric Services, after the evidence of Mr. Thieman's then-fiancée, Ms. Foulds, and just after the examine him in chief of Mr. Thieman by his counsel, Ms. Nielsen, the Board adjourned the matter to be continued before the same panel at an early date convenient to all parties.

[2] The matter was rescheduled for continuation and completion on May 28th, 2007. Between May 7th and May 28th events unfolded which saw Mr. Thieman returned to the Forensic Psychiatric Hospital by an enforcement order of the Provincial Court dated May 16th, 2007, indicating that the accused had been found in breach of his disposition conditions. Under such circumstances, the current hearing will be considered both an annual review as well as a mandatory hearing convened pursuant to Section 672.94 of the Criminal Code, following an accused's court-ordered return to hospital pending further hearing. At the completion of the hearing on May 28th, 2007 the Review Board reserved its decision and reasons.

[3] By way of background, Mr. Thieman, the accused, is 22 years of age. On June 8, 2004 he was charged by indictment in the second degree murder of Mary Mae Dick, the accused's mother, contrary to Section 235(1) of the Criminal Code. The index offence and found facts are elaborated in admissions contained at Exhibit 6 in this proceeding. Briefly, on December 27, 2003 the RCMP in Quesnel, British Columbia received a report that the victim of the index offence, Ms. Dick, had been missing since December 26, 2003. In response to that report, the RCMP telephoned the victim's home. The accused, the victim's son, answered. An investigation ensued. The victim's body was discovered in the accused's bedroom closet. On further interview, the accused confessed to choking and killing his mother.

[4] On assessment the accused disclosed a family and childhood history of considerable parental discord and some residential or custodial instability. Mr. Thieman also disclosed early onset of drug use, including powerful hallucinogens, at age 15. The accused had been treated and assessed just weeks before the index offence due to suicidal ideation and self-disclosed psychotic symptoms. In October

2003 he had attended a residential treatment centre known as Nechako in Prince George for 20 days. While he was resident in that resource, and perhaps as a result of withdrawal from substances, he began to experience auditory symptoms. On discharge, he immediately relapsed to drug use, possibly to quell those same auditory symptoms.

[5] In response to those symptoms, the accused jumped off a bridge in a suicide attempt on November 3rd, 2003. Thereafter, he was admitted to the QUESST Unit in Quesnel and was initiated on antipsychotic medications. After the December 26th index offence, the accused apparently demonstrated symptoms of schizophrenia. Dr. Tomita was asked to assess the accused on behalf of the Court. In his March 2004 report he assigned a diagnosis of psychotic disorder, likely schizophrenia, as well as cannabis abuse disorder. While awaiting trial, the accused engaged in another suicide attempt at the Prince George Regional Correctional Centre.

[6] On July 2nd, 2004 the Court imposed a verdict of NCRMD and committed the accused to the Forensic Psychiatric Hospital. The accused's symptoms had resolved prior to his verdict and he denied any depression or suicidal ideation. He posed no significant management difficulties while held at the Forensic Psychiatric Hospital.

[7] Mr. Thieman appeared before the Review Board for the first time on July 30th, 2004 and was made the subject of a disposition of custody. In the period between July 2004 and his next hearing in June of 2005 the accused remained free of symptoms of either psychosis or depression. He engaged in no further self-harm attempts. He expressed sadness and remorse regarding the index offence and requested counselling with respect to his feelings.

[8] In October of 2004 he started alcohol and drug counselling at FPH, admitting to frequent marijuana use while in hospital. That counselling was terminated due to the accused's perceived lack of commitment to drug and alcohol counselling in January 2005. Nevertheless, all fluid screens taken in hospital proved negative for the ingestion of prohibited substances. With respect to other programs, the accused did not present as highly motivated to participate. In his first year in hospital he was involved in some altercations and bullying behaviour.

[9] In March 2005, in the absence of any symptoms of psychosis, the accused's medications were reduced. No change in his mental state or behaviour resulted. The

plan was to eventually transfer him to the relatively open Hawthorne Ward and from there to Coast Cottages. The accused has had contact with and support from his father throughout.

[10] The accused's second hearing was scheduled for June 20th, 2005. That hearing again resulted in a disposition of custody on the basis of the accused's consent and was imposed in the absence of a full hearing and in the absence of the parties. In March of 2006 the accused requested an early hearing with a view to seeking an alteration in his legal status. That request was not granted.

[11] In the year between June 2005 and his third hearing May 2006, the accused's psychotic symptoms remained in remission. There was no evidence of negative symptoms of mental illness. Once again, the accused engaged in no significant aggressive acts and did not demonstrate any suicidal expressions or gestures. In October 2005 the accused's medications were discontinued entirely until January 2006, with no relapse to symptoms noted. In January of 2006 he was introduced to an outpatient team at the Surrey Forensic Clinic. In February of that year he began visit leaves with a view to transitioning to Coast Cottages. Even at that relatively early stage in his progress the accused was anxious to be allowed to live independently. His treatment team did not consider him as candid or particularly disclosive regarding his mental state or his behaviour.

[12] In the course of that year as well the accused was the subject of a personality, or psychological, assessment by psychologist Dr. Brown. Her report, which was obtained by the Review Board and admitted as Exhibit 23 in these proceedings, was dated August 16, 2005. That assessment once again reviewed and confirmed the accused's history of familial and residential instability and family conflict; his extensive drug use since 1998; his attendance at a residential treatment program in 2003; the onset of psychotic symptoms in 2003, and his suicidal gestures. The assessment finds that the accused has "significant" personality pathology, including an inflated sense of self, superficiality and manipulation, shallow affect and emotion, lack of empathy and remorse. It concludes that the accused has considerably elevated antisocial or psychopathic traits. It also indicated that he had some insight into his illness. The accused did not relapse to substances in the course of the 12 month period between June of 2005 and May of 2006.

[13] On May 29, 2000 the accused had his third and most recent Review Board hearing. We learned that the accused had in fact been transitioned to Coast Cottages and that he was enrolled in academic programs. On the basis that he was considered manageable in the community, he was awarded a disposition of discharge subject to conditions.

[14] For the current proceeding Ms. Vincent, the accused's community case manager, provided a report labelled Exhibit 21 and dated April 23rd, 2007. In the past year the team has seen the accused every four to five weeks. In fact she tends to monitor Mr. Thieman on a weekly basis. The accused has remained resident at Coast Cottages this past year. He attends programs through that resource, but he does not enjoy living there and spends an absolute minimum of time at the residence. He has experienced some peer conflicts, although there is no indication of overt aggression. Although he follows the letter of his reporting conditions and requirements, Ms. Vincent indicates that he presents as vague and non-disclosive. He can be challenging and less than fully candid regarding his whereabouts. She considers him as only marginally compliant.

[15] Nevertheless, there has been no evidence of drug or alcohol abuse and he has remained mentally stable and apsychotic. The accused has continued to be enrolled in educational programs. He attended a computer accounting course from which he graduated in November of 2006. Despite his successful completion of the accounting course, he has not achieved full-time employment.

[16] The accused established a relationship with Ms. Foulds and began to have weekend visits with her. Ms. Foulds is a single mother of two children, aged 6 and 3. She became pregnant and gave birth to a baby boy on December 11, 2006. The accused is the father. The relationship has not been entirely stable. Ms. Foulds reported at least one incident of discord in September of 2006 when the accused had not returned their baby to her and she expressed some fear of the accused. On April 15th Ms. Foulds reportedly contacted the police again following an argument during which the accused refused to leave her premises. The RCMP attended and asked the accused to leave. As a result of that incident, which the accused did not disclose to his treatment team, his overnight visit leaves were withheld.

[17] The accused continues to be a challenge to supervise. He does not associate or identify himself as having mental health or addictions issues. He remains enrolled in a business management program in respect of which he has taken out some student loans.

[18] In addition to the written evidence, Ms. Vincent also indicated that the accused had been less than candid regarding his assertions of Ms. Foulds' overnight hospital admissions due to false labour, over a period of three weeks. As indicated, his overnight visits with Ms. Foulds were withheld. Mr. Thieman's inconsistent disclosure, or perceived lack of candor, has been a key issue in his supervision. Under cross-examination by Ms. Nielsen, Ms. Vincent again confirmed that the accused has been free of any violence or aggression and, at least until May 7th, the commencement date of the current hearing, there was no evidence to suspect that he had been using drugs or alcohol.

[19] The treatment team does not consider Ms. Foulds as a consistent source of reliable information. The lack of clarity surrounding her relationship with Mr. Thieman is also an issue of concern.

[20] Dr. Lamba also rendered a report and provided oral evidence via teleconference link. Dr. Lamba has treated the accused since June of 2006 and sees him every five or six weeks for approximately one hour. Dr. Lamba remains concerned that the accused does not appear to have taken personal responsibility for the index offence and has, in his opinion, demonstrated no emotional response thereto. Dr. Lamba believes that the accused's presentation, his personality traits and lack of candor have required closer monitoring and supervision in order to continuously assess and manage any risk the accused poses. Dr. Lamba confirmed that the accused is not medicated but has nevertheless remained free of psychosis or negative symptoms of his illness and he has revealed no evidence of relapse to substances.

[21] Dr. Lamba's main management concern with respect to Mr. Thieman is his personality features as disclosed in the personality assessment as well as his overconfidence in his own recovery and stability. Despite the accused's mental stability and apparent abstinence, Dr. Lamba believes that the accused's management and treatment are complicated by his personality traits. He believes he cannot entirely

rely on the accused as a reliable source of information. He feels that the accused discloses selective information with a view to manipulating the team and achieving his goals. Clearly, the accused has some anger at feeling over-monitored. That anger remains close to the surface, persuading the treatment team to recommend that the accused attend anger management counselling.

[22] In terms of risk, given his history Dr. Lamba is concerned that, with the apparent volatility, instability and occasional conflict which marks their relationship, Mr. Thieman could pose a potential risk to his spouse or her children. Mr. Thieman's risk primarily flows from his personality feature and of course would be exacerbated or heightened by the potential of his relapse to drug abuse or the possible, but less likely, reemergence of psychotic symptoms. Dr. Lamba does not propose to approve that the accused cohabit with Ms. Foulds until the relationship is more stable and until he believes the accused is more disclosive allowing improved assessment and management of any risk he poses. He would like to see Mr. Thieman establish a more trusting therapeutic relationship with his treatment team by demonstrating a period of honest, open and reliable communication. He would also like to see more information and demonstration that Ms. Foulds can be a reliable source of information and that the relationship can be considered a mature and stable one.

[23] Dr. Lamba would also like to have collateral sources of reliable information about the accused's functioning in community. He believes that psychosis is less of a risk factor than the accused's AXIS II issues. He finds the accused arrogant, grandiose and failing to assume any personal responsibility for his communications. Nevertheless, he has not seen the accused overtly angry or hostile, nor has he assessed the accused in connection with his care or supervision of young children. Under cross-examination, Dr. Lamba was prepared to acknowledge that keeping Mr. Thieman apart from his so-called family would be an additional potential stressor. Ms. Vincent and Dr. Lamba recommended a further disposition of discharge subject to conditions requiring the accused to remain at Coast Cottages.

[24] Speaking personally, I was at a bit of a loss to know what to make of the treatment team's evidence with respect to their interactions with Mr. Thieman or, more specifically, what weight to assign in terms of risk assessment to the evidence of the accused's and the treatment team's interrelationships. I found Dr. Lamba's evidence non-specific and unclear on the issue of significant threat.

[25] Ms. Nielsen, on behalf of Mr. Thieman, called his so-called fiancée, Ms. Foulds, as a witness. Ms. Foulds' evidence indicates that she has known the accused for two years and they met at school in 2005. They have a five-month-old child. There are two other young children in her home. She indicates that the accused is helpful in the care of the children. She was examined about two incidents of conflict including the arguments which prompted her to phone Cottage staff and the incident in April where she enlisted RCMP intervention following an argument and the accused's refusal to depart her residence. She expressed no fear for her own or her children's safety. Interestingly, she assumed personal responsibility for both of the above mentioned conflicts. She did say she, as well as her own mother and grandmother, were aware of the accused's legal and psychiatric background. That assertion was subsequently rebutted.

[26] Ms. Nielsen presented Mr. Thieman to give evidence. He expressed his motivations and desire to live with his fiancée and her children. He indicated that he attends at his business management program four days a week and would like the opportunity to establish his own bookkeeping business. He indicated he has used his disposition prohibitions and the threat of return to hospital as incentives to avoid relapse to substances. Following the accused's evidence in chief, the hearing was recessed for early continuation to provide an opportunity for the other parties, as well as the Review Board, to question Mr. Thieman.

[27] In the course of arranging to continue the hearing the Review Board took steps to obtain the August 2005 psychological assessment referred to by Dr. Lamba which has been entered as Exhibit 23. In the interim we were also informed of the issuance of an enforcement order made on May 16th, 2007, returning the accused to the Forensic Psychiatric Hospital pending a hearing of the Review Board. That order is found at Exhibit 24 and forms the basis, at least in part, of the continuation proceeding.

[28] In scheduling the further day of hearing we were provided with a further update from Ms. Vincent at Exhibit 25, as well as her May 15th letter to the RCMP requesting the accused's apprehension, and a further report from hospital inpatient case manager Bhauruth which has been filed as Exhibit 26 in this matter.

[29] When the Board reconvened on May 28th all parties were in agreement that it would be considered both an annual and a mandatory hearing under Section 672.94 of

the Criminal Code. The parties also agreed to allow the Director to reopen its case and to adduce evidence of the events that had unfolded since the May 7th hearing and which persuaded the Director to now recommend the termination of the accused's discharge on conditions in lieu of an order of custody for a period of 12 months. The Crown agreed, without taking a position on the duration of the order. The accused, through counsel, was in agreement and accepting of a disposition of custody, albeit of a duration of six months.

[30] The Director's fresh evidence began with Ms. Vincent's written submission and oral evidence. Ms. Vincent's version of events may be summarized essentially as follows: On May 14th, 2007 Coast Cottage staff reported an incident of domestic discord between the accused and his then-fiancée, Ms. Foulds. That report was confirmed by one from Ms. Foulds' mother. On subsequent investigation Ms. Foulds reported that she was feeling harassed and threatened by the accused in his attempt to see the children. Apparently, the accused had appeared late for a visit and refused to leave the premises. He stuck his foot in the door of Ms. Foulds' apartment so that she could not close it. He eventually left and phoned her home repeatedly.

[31] On that same date, May 14th, 2007, the accused was, in response to reports received, directed to attend at the Forensic Outpatient Clinic. He minimized the incident and the events but then disclosed some past physical altercations in the relationship, indicating that his fiancée was the key actor in precipitating those incidents. In her report Ms. Foulds had also expressed fear of the accused's possible elopement with their child. On interview Mr. Thieman denied any serious elopement plans. He was advised that he was to have no contact with his fiancée or the children for the time-being, a requirement which might be of questionable legality.

[32] As a result of his appearance, Mr. Thieman was also asked to submit a urine sample, which tested positive for cocaine. On May 15th, 2007 Coast Cottages reported that the accused had not returned to his residence. Breach proceedings were initiated as outlined in Ms. Vincent's letter to the RCMP watch commander at Port Coquitlam, which forms part of Exhibit 25. The accused was apprehended on Riverview grounds on May 16th, 2007, at which point he disclosed a plan to elope to Alberta. The accused demonstrated no signs of psychosis throughout these events.

[33] Ms. Vincent also reported that in her conversations with Ms. Foulds' mother that individual indicated she did not know the accused's legal or psychiatric history. This contradicts Ms. Foulds' evidence given on May 7th. Ms. Foulds' mother also disclosed her reservations based on observations about the accused's interaction with the children.

[34] Ms. Vincent's evidence with respect to the current relationship between Mr. Thieman and Ms. Foulds was that Ms. Foulds indicates she wants nothing more to do with the accused. She has pursued legal avenues including a temporary restraining order. Nevertheless, there was evidence that Mr. Thieman and Ms. Foulds have had recent telephone contact.

[35] Ms. Nielsen disclosed and presented in evidence a Provincial Court order giving Ms. Foulds interim sole custody and guardianship of the couple's child, Brody Thieman, and further ordering that the accused is not to enter Ms. Foulds' premises. Finally, the Court indicated that the accused would have liberty to apply to set aside this order. The order was granted *ex parte* on the basis of an affidavit filed by Ms. Foulds. Both the interim order and that affidavit are identified as Exhibit 27 in this matter.

[36] In support of the Director's request for a disposition of custody Ms. Vincent testified that in order to consider the accused for community management the team would like to see him engaged in drug and alcohol programming, resident at a supervised setting, which was no longer available to him at Coast Cottages, as well as random urine testing to confirm compliance with his drug prohibitions in THE wake of his positive cocaine test. Ms. Vincent also indicated that it may be Ms. Foulds' plan to relocate to avoid further contact with the accused.

[37] The Director also called evidence from Mr. Thieman's inpatient case manager, Mr. Bhauruth, who filed a report labelled as Exhibit 26 in this proceeding. He confirms that the accused admitted to further cocaine use since late April or early May, even holding that substance and using it proximate to the time of his treatment team meetings. Mr. Bhauruth also indicated that the accused's father has offered to supervise the accused while in the community but the accused has declined this opportunity. The accused has indicated that he will participate in drug and alcohol and anger management programming. If detained, plans would be to move the accused to

less secure wards, gradually increase his privileges, refer him for a drug and alcohol treatment assessment, and to consider allowing him to attend school under day leaves from the hospital within a couple of weeks. Mr. Bhauruth confirmed that the accused has lost his placement at the Coast Cottages for the time-being.

[38] The Director recalled Dr. Lamba, who also supported a period of custody. He repeated his past concerns about the accused's candor and reliability and the monitoring challenges he posed in the community. Dr. Lamba does not believe the accused ought to have ongoing contact with his former fiancée. He had no hesitation indicating that in his opinion the accused's relapse to cocaine use could be expected to significantly increase his potential risk and that that relapse should be considered cause for considerable concern. Considering the accused's history of violence towards a female and in a past relationship, Dr. Lamba now believed that the accused could be considered a high risk to respond violently in the context of an intimate relationship.

[39] Mr. Thieman gave evidence, in the course of which he agreed to a short period of custody with the possibility of day leaves to continue his educational programs which consist of 16 hours of classroom time per week between now and September. If he is expelled from his program, Mr. Thieman will be expected to repay already used parts of his student loan. He admitted he had reinitiated phone contact with his fiancée after the recent altercations but he does not plan to challenge the order restraining him from attending at her premises. He has not decided whether to challenge Ms. Foulds' sole custody of their son. He admitted he started using cocaine at the end of April because things were not going well. Under questioning he admitted that he is "highly addicted" to crack cocaine and that he could be considered dangerous under the influence of that substance. He agrees to pursue drug and alcohol counselling.

[40] Mr. Thieman was subjected to considerable cross-examination by Ms. Westmacott on behalf of the Director. It was helpful to observe Mr. Thieman's attempts to bolster his own credibility by couching his answers in expansive, and indeed excessive, verbiage rather than simply answering the questions put to him.

[41] In finding that Mr. Thieman still poses a significant threat of physical and/or psychological harm to others, we considered:

- Mr. Thieman has a lengthy history of anger dyscontrol and temper outbursts;
- He has a history of severe substance abuse since the age of fifteen;
- There is a dearth documented reports of Mr. Thieman exhibiting objective psychotic symptoms or signs despite multiple contacts with health professionals. Mr. Thieman's psychotic symptoms have been by self-report and in response to external events;
- Mr. Thieman did not evidence any psychotic behaviour or symptomatology in the months, weeks or hours prior to the index offence. There was no evidence of psychotic symptomatology immediately following the offence;
- A previous girlfriend, C.M., broke off her relationship with Mr. Thieman because of his jealous, controlling and assaultive behaviour;
- Mr. Thieman exhibited some similar attitudes and behaviours towards female co-employees which led to his dismissal.
- Mr. Thieman had a longstanding conflicted relationship with his mother characterized by his abusive, controlling, threatening and demeaning behaviour;
- His mother is reported to have been afraid of her son;
- The index offence occurred in the circumstances of increasing conflict between Mr. Thieman and his mother because his mother wanted Mr. Thieman to leave her home. Mr. Thieman reported that he became angry and recalls the details of the events of the offence;
- Apart from his self-report of brief psychotic symptoms after his arrest, Mr. Thieman has not been diagnosed with a psychotic disorder. His presentation is consistent with a severe personality disorder with significant psychopathic characteristics;
- In the two months prior to May 7 there were two incidents reported by Ms. Foulds, one to the Coast Cottages and the other to the police, of Mr. Thieman's intimidating and threatening behaviour towards her and or her children;
- Subsequent to May 7, a further conflict between Ms. Foulds. and Mr. Thieman escalated to the point where Ms.Foulds called her mother to assist her;
- Ms. Foulds reports that she is afraid of Mr. Thieman, not only from physical harm to herself, but also because of his attitude towards their child and her two other children;
- Mr. Thieman acknowledged that he had been using cocaine fairly regularly since the end of April 2007;

