



PROVINCE OF MANITOBA
CANADA

Review Board

IN THE MATTER OF:

Part XX.1
Criminal Code of Canada

AND IN THE MATTER OF:

Vince Weiguang Li

AND IN THE MATTER OF:

A Disposition Review hearing held in Winnipeg,
Manitoba on Monday, May 31, 2010

QUORUM:

John Stefaniuk, Chairperson
John Brown, Member
Dr. Thomas Thompson, Member
Peggy Dillon, Member

APPEARANCES:

Vince Weiguang Li

Mr. G. Bates,
Counsel for Mr. Li

Ms. C. Deegan,
Counsel for the Attorney General

DISPOSITION AND REASONS

Vince Weiguang Li appeared before the Review Board on Monday, May 31, 2010 for a Disposition Review hearing pursuant to Section 672.81(1) of the **Criminal Code of Canada**.

In making this disposition, we have considered the evidence before the Board at Mr. Li's hearing, including the medical report dated May 10, 2010, submissions by counsel, the evidence of Dr. S. Kremer, treating psychiatrist, and the victim impact statements filed in these proceedings. We have also taken into consideration the need to protect the public from dangerous persons, the present mental condition of Mr. Li and his reintegration into society and his other needs.

Background

Mr. Li was placed under the jurisdiction of the Review Board as a result of having been found not criminally responsible on account of mental disorder on March 5, 2009 in the Court of Queen's Bench at Winnipeg, Manitoba with respect to a charge of Second Degree Murder.

The facts surrounding the index offence and those related to Mr. Li's background and history are set out in the agreed statement of facts submitted by counsel in Mr. Li's trial before the Honourable Justice Scurfield in the Manitoba Court of Queen's Bench and in the reports of Dr. Rootenberg, Dr. Robertson, and the several progress reports of Dr. Yaren prepared following Mr. Li's incarceration and the direct evidence of the witnesses which also formed exhibits in this hearing.

Mr. Li was born in China in April, 1968, and while there is no history of mental health issues while he was growing up, he was frequently sick and fragile during his early childhood. A maternal uncle had an unspecified mental illness for many years, but there was no other family mental health history. According to the reports, Mr. Li denied any history of truancy, vandalism, or behavioural difficulties during his childhood or young adult years. He was a good student and obtained a Bachelor of Science degree in China.

He worked as a computer software engineer, and studied English, with the anticipation of emigrating to Canada, which he did in June, 2001. He married his wife, Ana, in 1995 in China, and, in 2005, went back to China and obtained a divorce, although he maintained a sporadic marital relationship with her until he left her in Edmonton just prior to the index offence. Ana reported that in the summer of 2004, Mr. Li was acting "weird" following several days when he did not sleep or eat regularly, "he cried a lot and told me he saw God". She thought he was just tired and she bought sleeping pills for him. The symptoms remitted spontaneously in about seven days.

He worked at various jobs in Winnipeg, Thompson and Edmonton after his arrival in Canada from China.

He had one psychiatric admission to hospital. In 2005, he went to Ontario from Winnipeg in search of employment. He was picked up by police walking on the highway on his way back to Winnipeg from Toronto and was admitted to William Osler Health Centre in Etobicoke. He was allowed to be discharged against medical advice and returned to Winnipeg, where he did not seek further psychiatric help.

According to the reports, in July of 2008, Mr. Li experienced auditory hallucinations in which God's voice told Mr. Li to move from Edmonton to Winnipeg. He traveled by bus. At a stop in Erickson, Manitoba he left the bus for a time, during which he followed other auditory hallucinations and disposed of some personal possessions. He boarded another bus while harbouring the delusional belief that God may be angry with him for not strictly following God's instructions, which Mr. Li found to be conflicting. It was on that bus that Mr. Li committed the index offence, suddenly and without provocation, while under a paranoid delusion that the deceased victim was a threat to his life, both before and after the deceased victim's death.

Mr. Li was initially committed to the PsychHealth Centre in Winnipeg and was under the care of Dr. S. Yaren. On June 8, 2009, he was transferred to the Selkirk Mental health Centre where he continues to reside. His current psychiatric care is under the supervision of Dr. S. Kremer.

Recommendations

The treatment team recommended that Mr. Li be granted limited hospital grounds passes under the supervision of two male staff members, one of whom would be security staff from the Centre. It was recommended that these passes should start at a duration of 15 minutes per shift, gradually increasing to a maximum of one hour per shift.

Ms. Deegan, on behalf of the Attorney General, submitted that no pass privileges should be granted at this time.

Mr. Bates, counsel for Mr. Li, submitted that the Board ought to follow the recommendations of the treatment team, and suggested that incremental privileges were necessary to properly assess Mr. Li's ability to proceed to re-integration into society.

Reasons for Decision

Victim Impact Statements

In reaching its decision the Board has considered the victim impact statements that were filed with the Board. Two of the statements were read aloud at the outset of the hearing.

The Board was asked to accept a victim impact statement submitted by Ms. Ptashnik which was intended to be submitted to the Board for Mr. Li's first hearing, but arrived at the Board's offices too late for that hearing. Neither counsel objected to the admission of the statement (subject to the following). Both counsel agreed that the third, fourth and fifth paragraphs of the statement were not properly included in a victim impact statement and should not be considered by the Board. Those paragraphs went well beyond the scope of expressing the effect of the index offence on the victim. Mr. Bates also objected to the inclusion of paragraph 2. The Board did not find that latter paragraph objectionable and we accepted the statement submitted by Ms. Ptashnik with paragraphs 3, 4 and 5 redacted.

Evidence and Submissions at the Hearing

We agree with the opinions presented by Dr. Kremer and conclude that Mr. Li, in his current condition, continues to represent a significant risk to the safety of the public.

Having also considered the evidence presented at Mr. Li's first hearing, we are in no doubt that the substantial risk factors with respect to Mr. Li are: his major mental disorder and the psychotic symptoms he experiences when his mental condition seriously decompensates; his lack of insight into his illness and the need for treatment; his history of being non-compliant with prescribed treatment; his history of poor judgment; and his history of having exhibited dangerous behaviour when he has become psychotic, including actual physical harm and threats of significant violence.

We are of the opinion that without the continued, close supervision provided by detention in hospital, Mr. Li would be a significant risk to the safety of the public, and that neither an absolute discharge nor a discharge upon conditions would be appropriate.

We are of the opinion that Mr. Li should be confined to the locked ward at the Selkirk Mental Health Centre, and that if he is to leave the locked ward, he must be escorted by two staff members, and, if it is necessary for him to leave the hospital, he must be escorted at all times by a peace officer.

The sole issue left to be considered by the Board was the question of hospital grounds pass privileges. The Crown was adamant in opposing the granting of *any* such passes. Ms. Deegan argued that it was too early for the Board to consider such passes and further submitted that "any risk was too much of a risk". Mr. Bates, on behalf of his client, argued that the limited, incremental grounds pass privileges recommended by Dr. Kremer are appropriate, but he questioned whether having a security officer as one of the pass supervisors was necessary and whether that requirement would severely limit the ability of Mr. Li to receive passes when no security staff was available.

While we must take into account the gravity of the index offence in making our decision, the prime consideration must be the four factors set out in the Criminal Code, viz.: the need to protect the public, the mental condition of the accused, the accused's re-integration into society, and the other needs of the accused. In considering these factors we are bound by the evidence presented to us.

The evidence of Dr. Kremer was the only evidence before us as to Mr. Li's current condition. Both in his report and in his oral evidence, Dr. Kremer expressed the opinion that, as Mr. Li's antipsychotic medications took effect, he was able to gain some insight into the fact that he had a mental illness and that his delusional beliefs were a product

of that illness. Dr. Kremer also reported that during Mr. Li's time in the secure area of the Selkirk Mental Health Centre, Mr. Li continued to evidence stability of mood, and that he did not represent any type of management problem. When questioned by the Board, Dr. Kremer expressed his opinion that Mr. Li's risk of elopement was low and that Mr. Li did not express any desire to escape from custody. Dr. Kremer also gave evidence that Mr. Li had not been maintaining any suicidal thoughts, and, therefore, the risk of self-harm was low. Dr. Kremer's evidence was that Mr. Li continued to report some level of auditory hallucinations over the last year, but that these were greatly reduced in frequency and intensity. In fact, according to Dr. Kremer, Mr. Li had reported only three incidents and the intensity of these reported incidents was so low that Mr. Li was unsure as to whether he was experiencing an auditory hallucination or whether it was his own thoughts. In his report Dr. Kremer stated:

- Mr. Li has evidenced progressive improvement during his time in hospital;
- there are some residual concerning elements, namely that Mr. Li periodically continues to experience some auditory hallucinations and that, when thinking retrospectively about the events surrounding the offence, Mr. Li at times has confusion as to how he could have sustained such a distorted view of reality;
- he has developed a heightened insight regarding the fact that he has an illness and that he requires treatment;
- there is no evidence that Mr. Li experiences any type of homicidal ideation, intention or plan;
- there has been a significant reduction in both perceptual abnormalities such as auditory hallucinations and delusional beliefs and Mr. Li represents a significantly lower risk to re-engage in violence as compared to when he was experiencing those symptoms intensively at the time of the offence;
- he has shown himself to be someone who responds to treatment with antipsychotics;
- he possesses a personal support system in the form of his ex-wife and his regular contact with family in China.

The Board questioned Dr. Kremer regarding the need to have supervision provided by security staff instead of staff in general, as is ordinarily the case with supervised passes issued by the hospital. The only rationale expressed by Dr. Kremer for recommending that one of the staff supervisors should be security staff was that no one knows how

Mr. Li might react to receiving these pass privileges. With the greatest respect to Dr. Kremer, that is the case with every patient at the point at which they first receive new privileges.

There were many other factors and observations which supported Dr. Kremer's recommendations for the granting of the modest pass privileges, and the evidence of Dr. Kremer was the only evidence presented to us. In considering the factor of re-integration into society, we are of the view that it is necessary to start with small measures in order to assess the patient's progress.

In her questions of Dr. Kremer, Ms. Deegan attempted to elicit evidence that Mr. Li posed an elopement risk and that he continued to pose a risk of harm to himself. In our assessment, the evidence before the Board does not support those positions. In her submission Ms. Deegan also argued that Mr. Li might be at risk of harm from third parties while on supervised passes. We do not see any evidence that supports this assertion or that suggests that Mr. Li would be under any greater risk of harm or that he would be in receipt of any lesser degree of protection than any member of the public in general. The Board is also not prepared to accept the submission advanced by Ms. Deegan that absolutely no degree of risk is to be tolerated. If that were the applicable standard (which is not the case), it would be difficult to imagine how any patients under the jurisdiction of this Board would have any prospect of acquiring even modest liberties, let alone passes to reside in the community, conditional discharges and, where there is the absence of a significant risk, an absolute discharge.

The Selkirk Mental Health Centre has recently begun to hire and train security staff who will be designated peace officers. The peace officer designation is significant in that it carries with it the ability to pursue and apprehend an absconding patient. The evidence is that the hospital will have two security officers, one of whom will perform a monitoring function and the other who will be available for other duties. This is the first hearing at which it has been suggested that a patient be supervised by a peace officer while on a grounds pass. Based on Dr. Kremer's evidence that Mr. Li poses a low risk of elopement, that there is a low risk of self-harm and that he has been entirely compliant with the directions of his treatment team and hospital staff, it is our view that a sufficient level of safety is provided in ordering that Mr. Li be supervised by two staff members, at least one of whom is equipped with a two-way radio or cell phone and who could then contact security staff or police in case any issue should arise. The Board is also cognizant of the staffing limitations in place at the hospital and it is concerned that the effect of an overly restrictive supervision condition will amount to a *de facto* denial of grounds passes. We will, however, include a provision that the security staff at the hospital be informed when his ground passes are to occur.

We are of the opinion that these provisions are the least onerous and least restrictive conditions that we can impose having regard to the need to protect the public (including Mr. Li himself), the patient's mental condition, his reintegration into society and his other needs.

Finally, we would like to note in these Reasons that, with the consent of all parties, an Order setting out this disposition was previously issued and came into force on the 7th day of June, 2010.

Disposition

In accordance with Section 672.54(c) of the **Criminal Code of Canada**, Vince Weiguang Li is detained in custody in a hospital, subject to the following conditions:

1. That he reside on the locked forensic ward at the Selkirk Mental Health Centre, Selkirk, Manitoba;
2. That upon the recommendations of the treatment team, the person in charge of the hospital may grant staff supervised hospital grounds pass privileges, subject to the following provisions:
 - i) passes start at fifteen minutes and increase incrementally to a maximum of one hour, twice daily;
 - ii) the treatment team is of the opinion that his condition is stable and that it would be appropriate and safe for him to leave the locked ward;
 - iii) while he is away from the locked ward on any supervised hospital grounds passes, he is to be escorted at all times on a two-to-one basis by two staff members who are equipped with either a two-way radio or a cell phone;
 - iv) security staff at the hospital are informed when each grounds pass is to occur;
3. That if he is required to leave the hospital grounds for any reason, he is to be escorted at all times by a peace officer;
4. That he present himself before the Review Board as directed by the Chairperson thereof;
5. That he keep the peace and be of good behaviour.

DATED this 11th day of June, 2010, at Winnipeg, Manitoba.



John Stefaniuk, Chairperson,
Manitoba Review Board