

IN THE MATTER OF the NOVA SCOTIA REVIEW BOARD

AND IN THE MATTER OF the accused, **TYRONE YOUNG**

AND IN THE MATTER OF a hearing held pursuant to section 672.82 (Discretionary Hearing) of the Criminal Code

DISPOSITION ORDER (Amended)

WHEREAS on the 1st of June, 2021, the accused was found not criminally responsible on account of a mental disorder on charges of assault with a weapon, contrary to s.267(a) of the Criminal Code, possession of a weapon for a dangerous purpose, contrary to s.88(2) of the Criminal Code and mischief, contrary to s.430(4) of the Criminal Code;

AND WHEREAS the accused is currently detained at the East Coast Forensic Hospital;

AND WHEREAS a hearing was held on the 15th day of August 2022 to make a Disposition Order pursuant to section 672.54 of the Criminal Code;

AND WHEREAS the East Coast Forensic Hospital is designated for the custody, treatment, or assessment of the accused, in respect of whom an assessment order, disposition or placement decision is made;

IT IS ORDERED THAT the accused be conditionally discharged, on the following terms:

1. Keep the peace and be of good behaviour;
 2. Maintain good mental health;
 3. Adhere to the recommendations of the Community Mental Health Team;
 4. Comply with follow-up by the Forensic Community Program;
 5. Comply with conditions recommended by the Forensic Community Program;
 6. Abstain from alcohol, **cannabis** and/or illicit drugs and comply with random urine drug screening;
 7. Reside in the premises approved by the East Coast Forensic Hospital and abide by the rules of the residence;
 8. Notify the Review Board and the East Coast Forensic Hospital of any change of address;
 9. Appear before the Board when requested; and
 10. Remain within the Province of Nova Scotia unless authorization in writing has been received from the Board.
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THIS IS THEREFORE TO COMMAND YOU, the Director, Mental Health Program, Nova Scotia Health Authority, in Her Majesty's name, to execute the terms of this Order. The Board delegates to them the authority to increase or decrease the liberties of the accused pursuant to section 672.56 (1).

DATED at Halifax, this 28th day of October 2022.

A handwritten signature in blue ink, reading "Judith A. McPhee". The signature is written in a cursive style and is positioned above the printed name and title.

Judith A. McPhee, KC, Alternate Chair
Nova Scotia Criminal Code Review Board

TO: the accused, Tyrone Young
AND TO: Director, Mental Health Program, Nova Scotia Health Authority
AND TO: Public Prosecution Service
AND TO: Kelly Ryan, Counsel for the Accused

THE MATTER OF the NOVA SCOTIA REVIEW BOARD

AND IN THE MATTER OF the accused, TYRONE YOUNG

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Reasons for Disposition

Verdict

On the 1st of June, 2021, the accused was found not criminally responsible on account of a mental disorder on charges of assault with a weapon, contrary to s.267(a) of the Criminal Code, possession of a weapon for a dangerous purpose, contrary to s.88(2) of the Criminal Code and mischief, contrary to s.430(4) of the Criminal Code.

Current Status

Mr. Young is currently detained at the East Coast Forensic Hospital.

Facts

At approximately 7:40 am on the 28th day of January 2021, RCMP Eskasoni members received a call from a complainant stating that their neighbour's son (Tyrone Young) had chased them with two kitchen knives and tried to stab them. When the complainant and his partner tried to drive away, Mr. Young scratched the window in the driver's side of the door with the kitchen knife. The complainant stated that Sylliboy (Young) has mental health issues and the previous tenant in their apartment had similar issues. Constable Bonnell spoke with Mr. Young's mother who said that Mr. Young was in a mental health crisis; that he suffers from schizophrenia and was not taking any of his medications.

Disposition Information

The Board had before it the hospital report of Dr. Neilson dated July 26, 2022.

In December of 2021 Mr. Young was much more engaged on the rehabilitation unit and was participating in recreation therapy and activities offered by occupational therapy such as the canteen workstation, using the computer, the Apparel Shop, arts group, etc. Mr. Young also started to use L4 passes without issue until COVID resulted in a lockdown at the end of December 2021. There was some concern during March and April of 2022 that Mr. Young was behaving unusually. He was not engaging with staff as much as he had been, he was drinking a lot of coffee, not eating much and seemed preoccupied. Mr. Young denied any symptoms and stated he was feeling pretty good. His medication was increased and the issues seem to resolve. The cause of the change was not determined but Mr. Young, in July, did admit to using cannabis around the time of the behavioural changes. Upon the lifting of COVID restrictions, Mr.

Young had L4 passes restarted on June 7, 2022 to attend Lake City Woodworkers for work as well to attend the gym, cultural activities and essential outings. There were no concerns with his mental condition. His delusions have not been evident for many months.

Ms. Urquhart has estimated Mr. Young's risk to be in the moderate range mostly due to his illness and substance use. The report notes that he has improved considerably over the last year. He has been classified by the Disability Support Program and is assessed to be in need of a group home. He is on waitlists for such homes with the ideal placement being close to his family in Cape Breton. He has also been added to the waitlist for the Community Transition House. Mr. Young's insight is not at a level where he could benefit from psychosocial programming.

Hearing on August 15, 2022

A Discretionary Hearing, requested by the hospital, was held on August 15, 2022. Present for the hospital were Dr. Neilson, Sarah Urquhart, Kelly Isenor and Jenna Messervey. Mr. Morrison represented the Crown and Ms. Ryan represented Mr. Young. The Board consisted of Melanie Petrunia, Dr. Teehan, Christine Mosher, Stephen Scott and Judith McPhee, Alternate Chairperson. The purpose of the hearing was to request an increase in Mr. Young's privilege level from L4 to L6 to allow for overnight visits with his family.

Ms. Ryan asked what the status of Mr. Young's referral for genetic testing was. Dr. Neilson advised the referral had been made in January of 2021 due to Mr. Young having some unusual body traits. There has been no update on this referral and she said it can take up to a year to be seen. In terms of Mr. Young's insight into his schizophrenia, Dr. Neilson advised she believes he is at the level he will remain. He understands what schizophrenia is but not necessarily how it affects him. He does say he will continue to take his medication and that he does feel better. There are no medication changes planned with the last increases being in March and April of 2022 to address concerns at that time.

Mr. Young's mother is his substitute decision maker and indicates she is pleased with her son's progress. In response to Ms. Ryan's question about when Mr. Young was last assessed for competency, Dr. Neilson said it was at the time of the preparing the report (July 2022). Dr. Neilson advised she believes Mr. Young will default from treatment if he is not required to take his medication. Ms. Urquhart agreed he is probably at his baseline for insight, although she does not want to dismiss any possibility of increased learning as she states that Mr. Young does like to learn. Upon questioning by Ms. Ryan, Ms. Urquhart advised that should a placement become available for Mr. Young he is ready to go to that placement. Dr. Neilson said that having sheltered workshop type work and monitoring for substance use are important to Mr. Young's likelihood of success.

Ms. Messervey advised the Board that Mr. Young is doing well at Lake City Woodworkers and they report he is a good worker. He is using the bus to get back and forth from his work. It is Occupational Therapy's intention to do more functional testing with Mr. Young in September.

Mr. Morrison asked if the hospital was changing its recommendation from an increase level of community access of L6 to that of a conditional discharge. Dr. Neilson advised the team does not have any issues with a conditional discharge for Mr. Young. She said that if he were granted a conditional discharge he would be released gradually, starting with the L6 for visits to his family and continuing with his L4 for work, etc. She said he would definitely need a placement before a conditional discharge would be implemented.

In his submission, Mr. Morrison advised that Mr. Young continues to be a significant threat to the safety of the public and that substance use is still a concern. He advised that conditional discharges are to be used when the accused is ready for discharge and not at the stage where Mr. Young is presently. An L6 is the level of community access the Crown would recommend.

Ms. Ryan told the Board that a conditional discharge is a ceiling level of privilege and that there is recent case law out of Ontario suggesting that the Board should use it as such. She advised Mr. Young has done well over the past year, had has an L4 since the fall of 2021 and there were no issues with those passes. Unfortunately, COVID restrictions interrupted the passes but that Mr. Young has successfully restarted the L4 level in June of 2022 after the COVID restrictions were lifted. Mr. Young has shown more acceptance of his illness and recognizes he does feel better while on medication. He has been classified for a placement and is on waitlists for same. But for a placement not being available, Mr. Young would meet the test for a conditional discharge now. Ms. Ryan recommended the Board grant the conditional discharge as a ceiling level of privilege.

Disposition:

The Criminal Code directs the Board to consider, first of all, if the accused is a significant threat to the safety of the public. If he is not such a threat, or if there is a doubt in this regard, he is entitled to receive an absolute discharge. If, however, the evidence establishes that the accused is a significant threat to the safety of the public, then we must consider which of a conditional discharge or continued detention in hospital with a certain level of privileges is the necessary and appropriate disposition, taking into consideration the safety of the public, the mental health needs of the accused, his re-integration into society and his other needs.

The Board is satisfied, based on the evidence presented in the hospital report and orally at the hearing, that Mr. Young continues to be a significant threat to the safety of the public. However, Mr. Young has

been classified by the Disability Support Program, has improved over the past year, has the support of his mother, is working at Lake City Woodworkers on a regular basis and is using his L4 passes appropriately without issues. As this hearing is considered Mr. Young's annual hearing, the Board has concluded that the necessary and appropriate disposition which takes into consideration the safety of the public as well as the other statutory requirements is that of a conditional discharge to allow Mr. Young to visit his home in Eskasoni and to have him prepared to move into a group home placement when one becomes available..

DATED at Halifax, Nova Scotia, this 28th day of October 2022.

A handwritten signature in blue ink, reading "Judith A. McPhee". The signature is written in a cursive style and is centered on a light yellow rectangular background.

Judith A. McPhee, KC, Alternate Chairperson
Nova Scotia Criminal Code Review Board

This Disposition Order, with reasons, is the unanimous opinion of the Board, which consisted of Dr. Michael Teehan, psychiatrist, Chris Mosher, Stephen Scott, Melanie Petrunia and Judith McPhee, KC, Alternate Chairperson.
