

Citation: *R. v. Rathburn*, 2004 YKTC 24

Date: 20040416
Docket: 03-00723
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Chief Judge Lilles

R e g i n a

v.

Steven Troy Rathburn

Appearances:

Kevin Drolet

Edward Horembala, Q.C.

Counsel for Crown
Counsel for Defence

DECISION

[1] Mr. Rathburn is before the court on the following two charges: an assault on Tabitha Peever, his partner, contrary to s. 266 of the *Criminal Code* and possession of a handgun for a purpose dangerous to the public peace, contrary to s. 88 of the *Criminal Code*. Both charges relate to an incident that occurred on March 7, 2004. Mr. Rathburn entered pleas of “not guilty” to both charges. The Crown applied for a verdict of “not criminally responsible on account of mental disorder” pursuant to s. 16 and s. 672.34 of the *Code*. The facts placed before the court were not disputed by Mr. Rathburn.

Circumstances of the Offences

[2] Mr. Rathburn is a 32-year-old man who is in a common-law relationship with Ms. Tabitha Peever. They have a 13-month-old daughter. Mr. Rathburn has no history of significant alcohol or substance abuse problems and does not

appear to have anger problems, aggression or a history of violence towards others. He does not have a criminal record.

[3] The incident is described in considerable detail in Dr. Todd Tomita's psychiatric assessment, marked as Exhibit 1. Mr. Rathburn arrived home about 3:00 a.m. on March 7, 2004, acting and speaking in a bizarre and delusional fashion. He assaulted his partner by getting on top of her and choking her. Ms. Peever escaped to a neighbour who is also a good friend of the defendant and he came over to the house to assist Mr. Rathburn. Mr. Mackie, the neighbour, observed Mr. Rathburn's bizarre behaviour. Mr. Rathburn offered Mr. Mackie a key to a small safe, and told him to take a gun from the safe and shoot him. The police arrived and Mr. Rathburn was taken into custody. The residence was searched and an illegal handgun was located in the safe.

Psychiatric Assessment

[4] The psychiatric assessment refers to one previous psychotic episode in 1998 in Dawson City. It appears to have been triggered by stress and/or sleep deprivation. It resulted in unusual behaviour (babbling to himself) and in a violent outburst resulting in minor damage to a friend's car. Mr. Rathburn was subdued by fellow workers and hospitalized briefly. He responded well to anti-psychotic and sedative medication and was released from the hospital within days. The diagnosis was brief reactive psychosis of uncertain etiology.

[5] Mr. Rathburn remained free of psychiatric problems until weeks prior to the incident (about March 7, 2004) that brought him to court today. Mr. Rathburn had been working long hours, had little sleep and clearly was under considerable stress in relation to his taking over a small business in town.

[6] Mr. Rathburn has been in custody at the Whitehorse Correctional Centre since his arrest, on remand status. He was examined by Dr. Tomita, who reported as follows (page 3):

At the time the index offence occurred, the defendant appears to have had a sudden onset of severe psychotic episode that will be outlined below. This episode was marked by paranoid delusions, delusional misidentification, passivity delusions and auditory hallucinations.

Since the index offence, he has remained severely psychotic. His behaviour and thought processes have been severely disorganized. At times, he has been incoherent. He has required ongoing segregation while at Whitehorse Correctional Centre.

He received treatment with antipsychotic medication (Haldol) but unfortunately had some severe side effects. There was a period of relative lucidity that lasted a few days but he has become more severely ill once again.

He was started on a new antipsychotic medication (Risperidone) a few days ago. A CT scan of his head has been completed. The results are pending.

While at WCC, his behaviours have included talking to walls, engaging in martial arts manoeuvres while alone, yelling comments to the monitoring camera, suggesting that he is a player inside a video game. The defendant acknowledged that he had had periods of suicidal ideation since being admitted but was unable to provide me with details. He appeared to be hallucinating as he said that when he was in one of the segregation rooms someone had entered his room in the night and he had seen something coming up through a drain to try and get him during the night. He felt relatively safer in the current segregation unit he was in.

[7] In his analysis of Mr. Rathburn's criminal responsibility, Dr. Tomita states (at page 7):

It is difficult to consider each of the alleged offences separately, as the defendant has an extremely limited ability to reconstruct his emotional and psychological state during the material time. In relation to the assault charge, he was densely psychotic, appeared to believe he was someone else, and did not appear

aware of what the physical consequences of his actions might be. In regard to the weapons charge, it appears that he did acquire the weapons at some prior point but at the material time was so psychotic he would not (sic) have lacked the capacity to understand that possessing them was wrong.

[8] Dr. Tomita offers the following opinion (at page 8):

1. In my opinion, with reasonable medical certainty, the defendant would have a defence of not criminally responsible available to him.
2. This individual urgently requires inpatient psychiatric care. I would be concerned that that if he remains in WCC custody in a segregation room, he may become a serious suicide risk. He is too sick to be in a jail general population.
3. He requires treatment with antipsychotic medication and may also benefit from treatment with mood stabilizing medication (either lithium, carbamazepine or valproate). His treatment has been complicated by severe side effects to antipsychotic medication (Haldol) that required the medication being stopped. He has recently been started on antipsychotic medication (risperidone) at WCC. Hopefully, he will respond quickly. He requires aggressive treatment with medication and the ability for him to receive it in a correctional environment may be limited. Typically, several weeks, and in some cases a few months, are required to adequately treat a psychotic episode.

[9] Considering the findings of Dr. Tomita and the submissions of counsel, I find that Mr. Rathburn is not criminally responsible on account of mental disorder.

Recommendations for Dispositions

[10] Dr. Tomita recommends that the court make a disposition pursuant to s. 672.45 and s. 672.54 of the *Code* with the following conditions:

1. That he be subject to the direction and supervision of the Director of the forensic psychiatric hospital

or other psychiatric facility that he will be detained in.

2. That at the Director's discretion, he may have unescorted or unsupervised access to the community depending on his mental condition, having regard to the risk the accused then poses to himself or others.
3. That as required by the Director, he attend at any time and place for purpose of assessment, counseling, assisting him with regard to any treatment, promoting his reintegration into society or monitoring his compliance with this order.
4. That he not acquire, possess or use any firearm, explosive or offensive weapon.
5. That he not consume alcohol or use hallucinogens.
6. That he not use any drugs except as approved by a medical practitioner.
7. That the Director may monitor his compliance with this order by testing for the use of alcohol, hallucinogens or unprescribed drugs where there are reasonable grounds to suspect that condition six or seven of this order has been violated and the accused shall submit to such testing upon the demand of the director.
8. That he keep the peace and be of good behaviour.
9. That he presents himself before the Yukon Review Board when required.

[11] Both counsel joined in Dr. Tomita's recommendation that the court, not the Review Board, make the disposition, and to do so without delay.

[12] Dr. Tomita anticipated such a disposition and expressed the following concern (at pages 8 and 9):

My understanding is that a Custody Disposition may mean the defendant continues to be detained at the Whitehorse Correctional Centre until a transfer can be arranged to a forensic psychiatric facility, either Alberta Hospital or Forensic Psychiatric Hospital in BC. It is my understanding that individuals from the Yukon will typically be transferred to Alberta Hospital in Edmonton.

This individual urgently requires psychiatric care and without it, I fear he will become more mentally disordered. Although he can receive psychiatric medications at WCC an extended period of time in segregation will likely be detrimental to his recovery.

[13] Both counsel shared Dr. Tomita's concern that continued detention at the Whitehorse Correctional Centre would be detrimental to Mr. Rathburn's health. Mr. Rathburn's counsel urged the court to attend the Correctional Centre to take a view of the segregation cell where Mr. Rathburn has been confined and would likely continue to be confined until some other arrangement could be made. Mr. Horembala said that it was not possible to adequately describe the cell in words and therefore not possible to fully appreciate Dr. Tomita's concern that Mr. Rathburn's condition would worsen if he remained there. Crown counsel was in agreement.

Segregation 1: Whitehorse Correctional Centre: "The Hole"

[14] Ms. Sandra Bryce, Acting Director of Community and Correctional Services, attended with the court to the Whitehorse Correctional Centre. Although the court was able to make its own observations, Ms. Bryce was later called to the stand to describe the conditions of Mr. Rathburn's confinement.

[15] Mr. Rathburn is confined in the segregation area of the prison and occupies a cell referred to as Seg. 1. This area is accessed by a large, solid steel door, which opens into an anteroom approximately 5 feet by 10 feet. Two cells, both 6 feet by 10 feet, approximately 10 feet high, face into this anteroom. Both cells are accessed by sliding, barred gates. The walls, floor and ceiling in this

area are made of solid concrete. Each cell has a steel bunk, a thin mattress and a blanket. There is a toilet bowl in each cell but no sink. Each cell is monitored by a camera. There is no natural light and the cells are dimly lit.

[16] The defendant is confined in this space 24 hours each day, subject to one hour of exercise or fresh air, provided circumstances permit. Family visitation is possible through a glass partition if the defendant is able to be escorted to another section of the prison. A psychiatrist attends one evening a week and a physician is available once a week for a clinic. A nurse is available during normal working hours throughout the week. Together, they provide medical services to all the inmates, currently numbering around 70.

[17] This segregation area is referred to as “the hole” or “the digger” and is normally used to punish inmates for misbehaviour or for breaching prison rules. It is also used for short periods of time, perhaps a matter of hours, to calm down an inmate who is having an emotional episode.

[18] On the other hand, the staff keeps the area as neat and clean as they can. They make the best of a bad situation. And while the staff are trained as correctional officers and are trained to deal with safety issues they are not well equipped to deal with inmates in Mr. Rathburn’s condition. Staff members feel frustrated. The use of the segregation area for mentally ill persons adversely affects their morale and that of other inmates. In my presence, the staff made statements like, “...he shouldn’t be in a box like this”, “...it turns my stomach”, “...it’s ridiculous” and “...it’s not a proper place to put someone who is mentally ill”.

Correctional Centre: A Hospital?

[19] Yukon Regulation M.O. 1993/011 provides as follows:

Pursuant to section 672.1 of the *Criminal Code* (Canada), the Minister of Health and Social Services orders as follows:

1. The following be designated as hospitals for the custody, treatment or assessment of an accused in respect of whom an assessment order, a disposition, or a placement is made under the *Criminal Code* (Canada):

Whitehorse General Hospital,
Whitehorse, Yukon Territory

Mental Health Services, Health Canada
Whitehorse, Yukon Territory

Whitehorse Correctional Centre
Whitehorse, Yukon Territory

[20] It is clear from Dr. Tomita's recommendations that he was concerned that if the court merely made a disposition that Mr. Rathburn be detained in a hospital, that he would remain in the Whitehorse Correctional Centre for a prolonged time period and that as a result, Mr. Rathburn's mental health would deteriorate or his recovery would be impaired. After viewing the segregation area in the prison where he is detained, I find that his concerns are well founded.

[21] Moreover, these concerns are not new as they relate to the detention of mentally ill individuals. In *D.J. v. Yukon (Review Board)*, [2000] Y.J. No. 80 (S.C.), Veale J. relied upon the comments made by the Yukon Review Board (at para.15):

It is an understatement to say that this facility is less than appropriate to serve as a hospital for persons who are found not criminally responsible by reason of mental disorder. Calling a prison a hospital does not change the nature of the facility from a penal environment to a therapeutic environment. This observation is all the more compelling in relation to persons such as DJ who, because of their FAS deficiencies, are susceptible to victimization and general adverse influences arising from exposure to the inmate population of the prison.

Persons found by the courts to be NCR are not criminals, but rather persons inflicted with a mental disorder. Dispositions requiring that they be held in custody must not be [sic] regarded as a [sic] form of punishment. The purpose of custodial dispositions is to protect the public from persons suffering from mental disorders that result in them being a significant risk to the public. The hospital facilities to which they are assigned are expected to be able to provide therapeutic resources that may enable them to improve and eventually be re-integrated back into society, if that is possible.

[22] In considering the suitability of the Whitehorse Correctional Centre to D.J., an individual affected by Fetal Alcohol Syndrome, the Board stated (at para 18):

It has been made abundantly clear to the Board that the Whitehorse Correctional Centre, in its capacity as a “hospital”, does not provide any appropriate therapeutic treatment services worthy of the designation of a hospital.

[23] Nevertheless, in the absence of other suitable resources, the Board reluctantly continued D.J.’s placement at the Whitehorse Correctional Centre, even though it was not the least onerous of restrictive placements. A more suitable placement was not available due to financial considerations and administrative delays by the Yukon Government.

[24] Justice Veale concluded (at para 38):

The WCC segregated custody disposition deprived the applicant of the residual liberty associated with a placement at the ARC or any other less restrictive placement. This infringed on the applicant’s right under s.7 of the Charter.

[25] Justice Veale relied upon a recent decision of the Supreme Court of Canada in coming to this conclusion, stating (at para 39):

In *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625, a majority of the court,

per McLachin J., ruled that the legislative scheme dealing with not-criminally-responsible accused does not violate s. 7 of the Charter. However, that ruling does not preclude the finding of a s. 7 violation where governmental actions operate to thwart that scheme's "emphasis on providing opportunities to receive appropriate treatment" (para. 39). In addition, I find that the respondents have infringed the applicant's Charter right under s. 7 in failing to protect his liberty "to the maximum extent compatible with...[his] current situation and the need to protect public safety" (para. 98). I am supported in that finding by the reasoning of McLachlin J. in *Winko v. British Columbia (Forensic Psychiatric Institute)*, supra at paras. 42, 43:

By creating an assessment-treatment alternative for the mentally ill offender to supplant the traditional criminal law conviction-acquittal dichotomy, Parliament has signaled that the NCR accused is to be treated with the utmost dignity and afforded the utmost liberty compatible with his or her situation. The NCR accused is not to be punished. Nor is the NCR accused to languish in custody at the pleasure of the Lieutenant Governor, as was once the case. Instead, having regard to the twin goals of protecting the safety of the public and treating the offender fairly, the NCR accused is to receive the disposition "that is the least onerous and least restrictive" one compatible with his or her situation, be it an absolute discharge, a conditional discharge or detention: s. 672.54.

[26] In the result, Veale, J. held that continued detention of a mentally retarded fetal alcohol syndrome person at the Whitehorse Correctional Centre violated his s. 7 *Charter* rights to life, liberty and security of the person. He ordered *habeas corpus* of D.J. into the care and custody of another facility on terms and conditions specified in the order. The reasoning in *D.J.*, supra, was implicitly approved by the Supreme Court of Canada in *Penetanguishene Mental Health*

Centre v. Ontario (Attorney General), [2003] S.C.J. No. 67 and *Pinet v. St. Thomas Psychiatric Hospital*, [2003] S.C.J. No. 66.

[27] It is important to note that the impropriety of using the Whitehorse Correctional Centre as a hospital was identified four years ago by the Supreme Court of this Territory. It appears that nothing has been done since that time to remedy the situation. The kindest explanation for this inaction would be that the Justice Department officials were asleep on their watch and did not read the *D.J.*, *supra*, decision. Unlikely. Another explanation would be that they were aware of it, and with total indifference to the court and Parliament and the plight of the mentally ill and handicapped, chose to do nothing about it.

[28] The designation of the Whitehorse Correctional Centre as a “hospital” pursuant to s. 672.1 of the *Code* and the use of the segregation cell or “the hole” as a “hospital room” raises additional concerns. In particular, I refer to the statement by the Yukon Review Board quoted in the *D.J.* case, *supra*, that “...Calling a prison a hospital does not change the nature of the facility from a penal environment to a therapeutic environment”. In other words, “if it looks like a duck, walks like a duck and sounds like a duck” it is probably a duck – and not a hospital.

[29] Similar situations arose shortly after the introduction of the *Young Offenders Act*, when several provinces designated areas within a “secure custodial facility” as “open custody”, presumably to save the expense of building and staffing separate facilities. In a number of cases, the court looked behind the designation of a facility by the province to determine whether it was in fact open or secure. In *Re Christopher F. and The Queen* (1984), 16 C.C.C. (3d) 258, the Manitoba Court of Appeal ruled that the designation of a part of a secure custody facility as open custody was proper where the open custody section was in fact a cottage in which the doors were kept unlocked. However, in *Re Darren B.* (1986), 27 C.C.C. (3d) 468, the Nova Scotia Supreme Court, Trial Division, ruled that a

part of the Queen’s County Jail was not properly designated as open custody. The court noted that the jail in question was a “relatively small building,” with the open custody portion consisting of a room with cells off it that were unlocked. A guard was placed outside the door. The court held that the dual designation of the jail as both an open and secure placement was improper. Chief Justice Glube noted:

[I]t is not the fact that the young person is not free to leave the facility which offends the definition but rather the lack of facilities and programmes for guidance and assistance and the failure to meet the principles stated in s. 3 of the Act along with appropriate rules and regulations.

[30] The court ordered the young person removed from the facility and detained in a facility properly designated as open custody.

[31] Similarly, in *Re L.H.F.* (1985), 24 C.C.C. (3d) 152 (P.E.I.S.C.) the court held that a room in part of the county jail was not properly designated as an open custody facility.

[32] In this case, it is self-evident that “the hole” in the Whitehorse Correctional Centre, normally used to punish inmates, is not and cannot be a “hospital room”. Such a designation would be inconsistent with the wording and intent of s. 672.54 and the directions given by numerous Supreme Court of Canada decisions.

International Law Considerations

[33] International human rights law, including a variety of declarations, treaties and covenants, applies to all persons including prisoners with mental illness. The *International Covenant of Civil and Political Rights* (1 C.C.P.R.) 999 U.N.T.S. 171, was ratified by Canada and came into force on March 23, 1976. Article 7 provides that no one “...shall be subjected to torture or to cruel, inhuman or

degrading treatment or punishment”. Article 10 imposes positive obligations on correctional authorities, “...All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”.

[34] The Basic Principles for the Treatment of Prisoners, U.N. Doc. E/5988 (1977) establishes prisoners’ entitlement to a quality of health care comparable to that available in the outside community. The Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, U.N. Doc. A/43/49 (1988) establishes the obligation of authorities to ensure prisoners are given medical screening upon admission and provided appropriate medical care and treatment as necessary. The United Nations Standard Minimum Rules for the Treatment of Prisoners, U.N. Doc. E/5988 (1977) at para. 62, provides, “...The medical services ... shall seek to detect and shall treat any ... illnesses or defects which may hamper a prisoner’s rehabilitation. All necessary ... psychiatric services shall be provided to that end.”

[35] The Standard Minimum Rules recognize and impose a positive obligation on correctional authorities to vary the housing, supervision and care of offenders with mental disorders according to the degree of their illness. Psychiatric or acutely ill prisoners should be placed in specialized institutions under medical management. Standards of care should not be lowered because those needing medical treatment are prisoners.

[36] The treatment of Mr. Rathburn by the Yukon Correctional authorities by placing him in Seg. 1 or “the hole” for an extended period of time while on consent remand, represents a gross violation of international norms. The psychiatric assessment indicates that his continued placement in Seg. 1 would likely exacerbate his medical condition.

[37] The Human Rights Watch publication entitled “Ill-Equipped: U.S. Prisoners and Offenders with Mental Illness” (available on their website: hrw.org) points out

that the professional responsibilities of health care professionals is not abated or compromised by the “prisoner status” of their patients:

Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standards as is afforded to those who are not imprisoned or detained. Clinical medical decisions should be governed by medical criteria. International principles of medical ethics require prison medical staff to provide ‘the best possible health care for those who are incarcerated,’ with decisions regarding their care and treatment based on the prisoners’ health needs, which should take priority over any non-medical matters.

[38] The treatment of Mr. Rathburn by the Whitehorse Correctional Centre has placed the resident nurse in a very difficult position, torn between her professional and ethical responsibilities and her responsibilities to her employer. The doctors who provide medical services to the Whitehorse Correctional Centre are not similarly constrained, for as independent contractors they must be governed entirely by medical ethics and their obligations to their patients whose best interests they serve. This would include, in my opinion, an obligation to take a firm stand against the continued confinement of a patient where the conditions are having a negative impact on his or her health and recovery.

[39] International instruments do not have the force of law unless they have been incorporated into domestic law. On the other hand, they can be utilized to interpret domestic legislation and to establish “reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” under the *Charter*.

[40] In 1998, in *Ordon Estate v. Grail*, [1996] 96 S.C.C.A. No. 619, Iacobucci and Major JJ., writing for the court, stated (at page 526):

Although international law is not binding upon Parliament or the provincial legislatures, a court must presume that legislation is intended to comply with Canada's obligations under international instruments and as a member of the international community. In choosing among possible interpretations of a statute, the court should avoid interpretations that would put Canada in breach of such obligations.

[41] See also *Baker v. Canada (Minister of Citizenship and Immigration)*, [1997] 2 S.C.R. 817 wherein Justice L'Heureaux Dubé made the same point, relying on firmly rooted principles of statutory interpretation:

[T]he legislature is presumed to respect the values and principles contained in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. *In so far as possible, therefore, interpretations that reflect these values and principles are preferred.*

Charter Breach

[42] For the reasons articulated by Mr. Justice Veale in *D.J., supra*, I find that the continued detention of Mr. Rathburn in the segregation area of the Whitehorse Correctional Centre is a violation of s. 7 of the *Charter of Rights and Freedoms*. Moreover, in light of the observations by Dr. Tomita that Mr. Rathburn's mental health and recovery would be adversely affected by his continued detention in that facility, I have no hesitation in finding that his s. 7 right, not to be subjected to any cruel and unusual treatment or punishment, would also be violated. The Crown has not suggested that s. 24(2) of the *Charter* would apply to justify these breaches.

[43] Although I have not been asked to strike down the designation of the Whitehorse Correctional Centre as a "hospital" pursuant to s. 672. 1 of the *Code*,

I have no hesitation in finding that for the purposes of this case, the segregation area where Mr. Rathburn has been housed is not a hospital within the meaning of the *Code*. No other part of the Whitehorse Correctional Centre was suggested as meeting the definition of hospital, either in its physical structure or by reason of the treatment available. For the purposes of this case, the designation of the Whitehorse Correctional Centre as a hospital is inoperative.

Other Dispositional Alternatives

[44] Counsel advised the court that the practice in the Yukon has been to utilize the Forensic Psychiatric Hospital in Port Coquitlam, British Columbia and the Alberta Hospital in Edmonton, Alberta for those inmates who require assessment or long-term treatment in a supervised facility. Ms. Bryce advised the court that, at the current time, no agreements exist with Alberta or British Columbia to provide such services but that arrangements may be made for individual clients on an “ad hoc” basis, but not without difficulty, as there is a shortage of these kinds of services across the country.

[45] The Whitehorse General Hospital is also designated as a hospital within the Yukon Territory pursuant to s. 672.1 of the *Criminal Code*. I am satisfied that this would be a less restrictive and less onerous placement for Mr. Rathburn than the Whitehorse Correctional Centre, taking into account the factors enumerated in s. 672.54 of the *Code*. I am also satisfied that the Forensic Psychiatric Hospital and the Alberta Hospital would be less restrictive. As stated in the *D.J., supra*, case, financial considerations and other administrative concerns are not valid excuses for depriving Mr. Rathburn of his liberty, meaning the least onerous and restrictive placement.

Conclusions

[46] 1. With respect to the charges before the court, I find Mr. Rathburn not criminally responsible by reason of mental disorder.

2. I find that the Whitehorse Correctional Centre is not the least onerous and least restrictive disposition for the defendant, taking into account the factors set out in s. 672.54 of the *Code*.
3. I find that his continued detention in the Whitehorse Correctional Centre would violate Mr. Rathburn's s. 7 and s. 12 *Charter* rights. These violations are not saved by s. 1 of the *Charter*.
4. As a *Charter* remedy, I find the designation of the Whitehorse Correctional Centre as a "hospital" inoperative for the purpose of this case.

[47] By way of disposition, I order that:

1. Pursuant to section 672.54(c) of the *Criminal Code* the respondent, Stephen Troy Rathburn, shall be detained in hospital subject to the following conditions:
 - a. The respondent shall keep the peace and be of good behaviour;
 - b. The respondent shall appear before the court and the Yukon Review Board as directed by the court, the Yukon Review Board, or the Director of Community Corrections or his designate;
 - c. The respondent shall be subject to the direction and supervision of the Director of Community Corrections or his designate, which may include the director of the forensic psychiatric hospital or other psychiatric facility where he may be detained from time to time;
 - d. The respondent shall not be detained in the Whitehorse Correctional Centre except while the Director of Community Corrections makes arrangements for his transfer to a hospital on or before 6:00 o'clock in the afternoon on the 17th day of April, 2004;

- e. The respondent shall be detained in the Whitehorse General Hospital, the Forensic Psychiatric Hospital in Port Coquitlam, British Columbia, or the Alberta Hospital in Edmonton, Alberta;
 - f. The respondent shall be permitted reasonable freedom of movement and access to the amenities of the hospital where he is detained under the direct supervision of the Director of Community Corrections or his designate;
 - g. The respondent shall attend as directed to the Director of Community Corrections or his designate and in the manner so directed for the purpose of assessment, counseling and consultation to assist the respondent with respect to his rehabilitation and reintegration into society;
 - h. The respondent shall report as directed to the Director of Community Corrections or his designate and in the manner so directed to supervise his compliance with the terms of this order;
 - i. The respondent shall not possess any firearm, ammunition or explosive device;
 - j. The respondent shall not possess or consume any alcohol or other intoxicating substance and shall provide such sample of his breath or bodily fluids as may be demanded by a peace officer or medical practitioner who reasonably suspects that he is in breach of this condition.
2. This order for Disposition shall be reviewed by the Yukon Review Board within a period of 90 days.

Lilles C.J.T.C.