

Citation: *R. v. Whitehouse*, 2010 YKTC 68

Date: 20100614
Docket: 09-00384
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

BRAD EDWARDS WHITEHOUSE

Appearances:
David McWhinnie
David Christie

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] FAULKNER T.C.J. (Oral): In August of 2009, Brad Edwards Whitehouse was charged with two counts of uttering threats. After his arrest, the accused's mental condition was assessed by Dr. Heredia, a Whitehorse psychiatrist, and later by Dr. Ahmed, a psychiatrist at the Brockville Mental Health Centre in Ontario. Based on those assessments, the accused was found unfit to stand trial.

[2] Subsequently, after treatment at the Brockville Centre, Mr. Whitehouse's condition improved markedly and on April 21st of this year, he was found to be fit to stand trial. That finding having been made, Mr. Whitehouse entered guilty pleas to both charges and admitted the facts.

[3] The matter is now again before the Court. Unusually for matters of this kind, Mr. Whitehouse now asserts that he was criminally responsible for his actions and it is the Crown that seeks a finding of not criminally responsible.

[4] The facts may be very briefly stated. It is acknowledged that on the date in question, Mr. Whitehouse was angry with his father. There had been a dispute over whether Mr. Whitehouse should go to the hospital because of his mental condition at the time and, as well, as to whether or not he could remain in the father's home. Mr. Whitehouse uttered threats against his father to cause him serious harm. The police were summoned and Mr. Whitehouse also threatened the arresting officer. At the time, Mr. Whitehouse was very agitated and was yelling and striking the protective barrier in the police vehicle.

[5] The evidence of Dr. Ahmed is that, on admission, Mr. Whitehouse was floridly psychotic. Mr. Whitehouse suffers from Bipolar Disorder and has for a number of years. At the time of admission and, according to Dr. Ahmed, at the time of the commission of the offences, Mr. Whitehouse held a number of delusional beliefs as a result of his mental illness. In particular, Mr. Whitehouse believed that he was a member of the RCMP and the Canadian Security Intelligence Service, CSIS, and that at the time of the offences he was actually engaged in the arrest of a dangerous rapist.

[6] According to Dr. Ahmed, these delusional beliefs were quite persistent, subsiding only after months of treatment. Significantly, these delusions extended, during the early course of Mr. Whitehouse's treatment, to Mr. Whitehouse's interactions with the staff at the hospital, who were similarly threatened because they had, according to Mr.

Whitehouse, no authority to confine him, given his position as a government agent.

[7] The defendant, who testified on his own behalf, acknowledged living with Bipolar Disorder for a number of years. He agreed that he was off his medication and in a manic state at the time of the incidents with his father and with the police. However, he insists now that he simply acted out of anger at his father and at the police. He now regrets those actions, but says that he knew what he was doing. He admits that he claimed to be a government agent, but says that those claims were untrue and that he only made such claims once or twice.

[8] Mr. Whitehouse's assertion that he knew what he was doing and that his claim of being a CSIS agent was feigned is, in my view, understandable and indeed genuine, given the marked change in Mr. Whitehouse's mental state since August of last year. However, the issue is not what Mr. Whitehouse now believes, but what he thought on the date of the offences.

[9] I am satisfied, based on the findings of Dr. Heredia, and particularly Dr. Ahmed, that at the time of the offences, that is, in August of 2009, Mr. Whitehouse was operating under a set of delusions which fit him squarely within s. 16(1) of the *Criminal Code*. I say this having regard, of course, to the nature of the beliefs, but also, as to the question of whether they were genuinely held, the persistence of those beliefs, their application to others, including the hospital staff, the fact that the threats made upon his arrest were consistent with delusional beliefs, and the absence of any suggestion in the medical record that any of this was feigned.

[10] In the result, I find the accused not criminally responsible with respect to both

offences charged.

[Submissions by counsel re disposition]

[11] THE COURT: In terms of whether or not the Court should make a disposition, I think it is pretty clear, based on what Dr. Ahmed had to say, that, firstly, he has a much better handle than the Court would have on what would be appropriate for Mr. Whitehouse, and, secondly, he made it clear that there was an ongoing course of rehabilitative treatment that he had in mind. In that circumstance, I think it is appropriate to defer the disposition to the Review Board, and the matter is remitted to them, to hold a hearing as soon as practicable, but no later than 45 days after today. It is quite clear to me, based on all of the information that has been provided to the Court, that this man should not be in jail and, accordingly, I direct that the status quo ante should remain and that he should be returned to hospital until such time as the Review Board makes a disposition.

[Submissions by counsel re accused's attendance at Review Board]

[12] THE COURT: I think when the matter is remitted to the Board that, to use the vernacular, it becomes their call as to whether he is present or not. I do not think that I have any jurisdiction to make an order in that regard. If the other alternative is to have him spend the interim in Whitehorse Correctional Centre, I think that is a bad alternative, and would not support that.

[13] MR. CHRISTIE: Well, the only thing -- I know this will be before the Review Board, Your Honour, I appreciate that, but Whitehorse General Hospital is

always a possibility as well. I agree WCC is not appropriate but they do have a "secure facility" somewhat.

[14] THE COURT: Well, that can be explored. If there was medical evidence obtained that that was appropriate in the interim, I would consider that, but based on the information before me at present, I think he should be returned to the Brockville facility.

[15] MR. MCWHINNIE: Thank you, Your Honour. I will work with my friend in crafting that formal order for presentation to you.

FAULKNER T.C.J.