
CANADA / JUDGMENT

R. v. Brush

2021 BCSC 2389

COURT

Supreme Court of British Columbia

DECIDED

24 November 2021

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2021 BCSC 2389 R. v. Brush

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Brush,

2021 BCSC 2389

Date: 20211124

Docket: 109072-3

Registry: Kamloops

Regina

v.

Dawn Marie Brush

Before: The Honourable Madam Justice S.A. Donegan

Oral Reasons for Judgment

(Re Findings of Fact)

Counsel for the Crown:

T. Livingston

Counsel appearing as amicus curiae:

C.E. Johnson

Appearing on her own behalf:

D. Brush

Place and Date of Trial/Hearing:

Kamloops, B.C.

November 23, 2021

Place and Date of Judgment:

Kamloops, B.C.

November 24, 2021

Introduction

- [1] By way of Indictment 109072, Dawn Marie Brush is charged that from January 1, 2017, to May 6, 2019, she did fail, without lawful excuse to provide necessities of life to Jeannette Rositch, a person under the charge of Ms. Brush and a person unable to withdraw herself from that charge, and so endangered the life of Ms. Rositch contrary to s. 215(2)(b) of the Criminal Code, R.S.C. 1985, c. C-46 [Code].
- [2] Ms. Brush entered a guilty plea to this offence on March 9, 2021. The first phase of her sentencing hearing began yesterday. Counsel have asked that I make findings of fact about the circumstances of the offence and then order a pre-sentence report and a psychological or psychiatric assessment to be prepared to assist me with sentencing. The findings would be sent to the report writers to inform their recommendations.

Circumstances of the Offence

Admissions of Fact

- [3] Pursuant to s. 724 of the Code, Ms. Brush has formally admitted certain facts that underlie this charge for the purposes of these sentencing proceedings. These admissions were reduced to writing and read into the record. They are marked as Exhibit 1 at the sentencing hearing.
- [4] The admitted facts are these:
- Jeannette Rositch is 71 years old. She was 68 years old in May 2019. She is severely developmentally disabled - she is non-verbal and requires assistance with eating, getting dressed, mobility (she requires a wheelchair to get around), toileting and personal hygiene. She requires 24-hour care for her own safety.
 - As of May 2019, Dawn Brush had been contracted for 13 years through Thompson Community Services ("TCS") to provide live-in care for Ms. Rositch. Ms. Rositch lived with Ms. Brush and her family in their home at 805 Fraser Street in Kamloops. Ms. Brush's responsibilities included ensuring that Ms. Rositch was properly fed and clothed. She was also responsible for ensuring that Ms. Rositch attended medical appointments and that her prescribed medications were given to her.

4. TCS is a contracted agency through Community Living B.C. Employees of TCS would, from time to time (approximately every six weeks), conduct home visits to ensure Ms. Rositch was being properly cared for.
5. Tokla Moreau was, in May 2019, a manager with TCS. She conducted a home visit to the Brush residence on May 2, 2019, along with Jeff Stevenson who had been Ms. Rositch's case worker through TCS. During the visit, Ms. Moreau made the following observations:
 - a. She thought Ms. Rositch looked thin, but noted she was covered in a blanket and wearing a cap.
 - b. She checked Ms. Rositch's bedroom and bathroom and thought they looked clean, though noted the house smelled of urine.
 - c. Ms. Rositch's medical records did not show any medical appointments for the year. Ms. Brush recalled that she told Ms. Moreau of an upcoming appointment.
 - d. Medication administration records showed Ms. Brush's initials indicating that Ms. Rositch had been getting her medications daily.
6. Mr. Stevenson had regularly reviewed and signed Ms. Rositch's medical administration records. He noted that while Ms. Brush needed prodding from time to time to keep them up-to-date, he did receive them. He, too, commented that the Brush residence smelled of urine on May 2, 2019, though he did not think it was coming from Ms. Rositch.

II. Visit to Dr. Wiltshire - May 6, 2019

7. Dr. Jonathan Wiltshire has been Ms. Rositch's family physician since 2009. He saw Ms. Rositch on a regular basis until 2017, when he saw her on January 12. In May 2019, having not seen Ms. Rositch in over two years, Dr. Wiltshire had his receptionist call Ms. Brush to make an appointment.
8. Ms. Brush brought Ms. Rositch to Dr. Wiltshire's office on May 6, 2019. Dr. Wiltshire immediately noticed that Ms. Rositch was cachectic, i.e., she had lost muscle mass to the point where she was, in Dr. Wiltshire's words, "just almost bone, to be honest."
9. During that appointment, Ms. Brush told Dr. Wiltshire that Ms. Rositch's weight was down, but that she was eating well. She also told Dr. Wiltshire that Ms. Rositch was regularly receiving her prescribed medications.
10. Because of Ms. Rositch's condition, Dr. Wiltshire recommended she be taken to Royal Inland Hospital ("RIH").
11. In a statement given to Corporal Ludlow of the RCMP on January 7, 2020, Dr. Wiltshire opined that Ms. Rositch would have died of malnutrition if no interventions were taken.

III. Admission to and Discharge from Royal Inland Hospital

12. Ms. Rositch was taken to RIH on May 6, 2019. She weighed 72 pounds on admission. She was noted to have crust on her eyes, a white film on her lips, and smelled strongly of urine.
13. An admission report prepared by Dr. Haywood-Farmer on May 6, 2019, noted that Ms. Brush told emergency room staff that Ms. Rositch had always been as thin as she presented on admission and had been regularly taking her medications.
14. Initial assessment of Ms. Rositch indicated that she was severely cachectic and unkempt and matted hair, overgrown nails, and a pressure sore on her right hip/buttock area. When a thermometer was put in her mouth, she sucked on it as a baby would a bottle.
15. While at RIH, Ms. Rositch was placed on a high calorie diet. She remained at RIH until July 3, 2019, when she was transferred to a group home where she currently resides. By September 10, 2019, Ms. Rositch's weight was up to 109 pounds.

IV. Police Investigation

16. The RCMP commenced an investigation into Ms. Rositch's condition on May 10, 2019, as a result of a complaint made by Wendy Pepin of Community Living BC.
 17. On May 14, 2019, Constables Jones and Guliami, along with Corporal Ludlow executed a search warrant on the Brush residence. Medical administration record sheets were seized from different locations in the residence.
 18. Graeme Hill is a pharmacist with Kipp-Mallery Pharmacy in Kamloops. After Ms. Rositch's hospitalization, Mr. Hill reviewed her medical administration records. Those records indicated that Ms. Rositch was receiving her prescribed medications. However, those records repeated previous prescription numbers with the dates being changed.
 19. Contrary to the medical administration records, Mr. Hill confirmed in a statement to Corporal Ludlow on May 13, 2019, that Kipp-Mallery had not filled any prescriptions for Ms. Rositch since July 10, 2017. That prescription would have been "empty" as of August 2017. A search of PharmaNet by Mr. Hill confirmed that no prescriptions for Ms. Rositch had been filled in British Columbia in the preceding 14 months.
- [5] Those are the admitted facts contained within Exhibit 1.

Additional Findings of Fact

- [6] Fortunately, Ms. Rositch received the care that she needed while in hospital and since that time she is now thriving.
- [7] Tanya Knighton, the manager of the assisted living facility in Kamloops where Ms. Rositch is residing, testified at this sentencing hearing. Her credibility and the reliability of her evidence was unchallenged and I accept her evidence without hesitation.

- [8] Ms. Knighton testified that Ms. Rositch came to live in this assisted living facility after her discharge from RIH on July 4, 2019. By this time, Ms. Rositch had gained about 12 pounds from the time of her hospital admission. With proper nutrition and care, by September, Ms. Rositch weighed over 100 pounds. Currently, Ms. Rositch's weight is between 165 and 170 pounds.
- [9] Ms. Rositch has since had a skin graft to repair the wound on her head and her hair has regrown. Her sleep has improved, as has her mood. She is now able to sit up, able to hold her head up and can even walk with assistance across a room. Her strength and mobility have dramatically improved. Ms. Rositch now has no significant health issues.
- [10] There are additional facts, not admitted by Ms. Brush, that the Crown seeks to prove as aggravating factors on sentence. The first relates to the state of the home in which Ms. Brush housed Ms. Rositch at the time Ms. Rositch left. The second relates to the alteration of the medical administration form sheets that were seized.
- [11] The statutory framework for resolving factual disputes at a sentencing hearing is contained in s. 723 and 724 of the Code. The evidentiary and procedural issues were recently explained in detail by the Court in *R. v. Pahl*, 2016 BCCA 234.
- [12] The statutory provisions were enacted in 1995. They codified the common law framework for resolving these types of factual disputes set out in *R. v. Gardiner*, [1982] 2 S.C.R. 368 at para. 51. Justice Kent summarized the features of what is commonly referred to as a Gardiner hearing in *R. v. Oswald*, 2019 BCSC 1861 at para 8:
- the party wishing to rely on any relevant fact has the burden of proving that fact;
 - the court must be satisfied on a balance of probabilities of the existence of any disputed fact before relying on it in determining the sentence;
 - however, the existence of any aggravating fact sought to be relied upon by the Crown must be established by proof beyond a reasonable doubt;
 - hearsay evidence is admissible provided it originates from a source that is credible and trustworthy;
 - while sentencing judges routinely accept and act on information counsel provide to them through submissions, the court cannot accept as fact an assertion made by counsel that is disputed and unsupported by any admissible evidence.

First Disputed Fact: State of the Home at the Time Ms. Rositch Left

- [13] Police officers searched the Brush residence on May 14, 2019, eight days after Ms. Rositch left the home and was admitted to hospital. Constable Jones, Constable Guglielmi, and Corporal Ludlow all testified about what they found. There is also a photographic record of what they found, now marked as Exhibit 3 in the sentencing hearing. The credibility of these witnesses and the reliability of their evidence is unchallenged and, as with the other witness that testified, I accept their evidence without question.
- [14] The officers arrived at the home just shortly before 10:00 a.m. that day. When Ms. Brush was informed about why the officers were there, she became quite distraught. She and her husband appeared shocked and expressed to Corporal Ludlow that they believed they had provided the best care for Ms. Rositch. They also expressed that they were devastated since being cut off from Ms. Rositch eight days ago. There was also some conversation about them packing up Ms. Rositch's belongings now that she was out of the house.
- [15] All three officers provided consistent descriptions of their impressions of the home. While they may have used different adjectives to describe what they saw and smelled, they all had the same impression that the home was quite messy, quite dirty, cluttered, and, overall, unsanitary. Upon entering the residence, the officers were greeted with the odour of urine, an odour that permeated the entire home. Animal feces was present on the floor. All of the rooms were cluttered, quite dirty and messy, but particularly so in the bedrooms, an area off the kitchen and another room (either the basement or the garage).
- [16] Corporal Ludlow had the impression that the home had not been cleaned for some time. Constable Guglielmi described an overwhelming odour of urine and feces, as well as an "old musty dirt" smell, one of "decay", throughout the house.
- [17] The bedroom that had been occupied by Ms. Rositch eight days earlier was messy, with garbage strewn throughout. Many items of garbage were found in an open garbage bag on the floor, as well as on the floor and in some of the drawers. Some of the trash on the floor and in the drawers included used sanitary pads. Clothing was piled high on the closet floor and up the sides of the closet walls.
- [18] The blankets and pillow on the bed, those that had been used by Ms. Rositch, were dirty and soiled. Constable Jones observed a "significant amount of skin flakes" in the bed. Constable Guglielmi observed a "translucent piece of skin" adhered to one of the bedsheets. The odour of urine emanating from the bed was strong. The pillow on the bed was stained, had a smear of blood, and smelled of urine. There is no evidence to suggest that anyone other than Ms. Rositch occupied this room and this particular bed within it. The evidence is overwhelmingly clear that this was not a bedroom in the process of being packed up for a move.

- [19] The foul odour within the home was so overpowering to one of the officers that she was forced to go outside on at least two occasions during the search to get some air to avoid vomiting. After completing the search, the officer testified she felt unwell and later developed a rash on areas where her skin had been exposed while inside the home. When this officer processed paper exhibits seized from inside the home later that same day at the detachment, the distasteful odour from the house, that is the odour of decay and urine, was present in the documents. The odour so distasteful to others working in the area that the officer had to move to another, less public, area of the detachment to complete her processing of the exhibits.
- [20] Other rooms and areas in the house were very cluttered and covered with garbage, boxes, garbage bags, and miscellaneous items. What was described as the spare bedroom was filled with garbage bags, boxes and trash. On the right side of this particular room, numerous cardboard boxes, plastic totes, and miscellaneous items were precariously stacked up to the ceiling. Constable Jones tried to search these boxes, but found that she had to discontinue her search in this area when mouse feces from the boxes "rained down" on the top of her head. The other officer who was present when this occurred described it in similar terms.
- [21] Another area of the home, either the basement or the garage (the officers could not tell from the photographs) was so stacked with garbage and items that walking in the area of the room depicted in the photos would not be possible.
- [22] The main living area of the home (the kitchen, the dining room and the living room) were cluttered and messy, but not as significantly as the bedrooms and other areas I have described. An area off the kitchen (what appears to be perhaps a laundry area) was so cluttered with household items and garbage that the officer could not pass through until items were moved out of the way. Again, it is overwhelmingly clear that this was not a home in the process of being packed up for a move.
- [23] The Crown asks me to find that it is proven that the home, as it was found on May 14, 2019, was in a similar condition at the time Ms. Rositch last lived there, some eight days earlier, and that the home was not a proper place for Ms. Rositch to be cared for.
- [24] The Crown points to all of the uncontested facts that lend support to this finding, including the emaciated state of Ms. Rositch at the time she was removed from the home, which demonstrates that she had suffered from a significant period of neglect. The Crown also asks me to rely upon the common sense inference that this residence could not have reached this advanced state of disarray and uncleanness in a mere matter of eight days.
- [25] Mr. Johnson, a friend of the court, on behalf of Ms. Brush, submits that the Crown has failed to prove that the state of the home at the time of Ms. Rositch's removal was comparable to how it was found on May 14. He argues that there are admitted facts that are inconsistent with such a finding. Specifically, Mr. Johnson submits that, on May 2, four days prior to the removal of Ms. Rositch from the home, two employees of TCS visited the home for the purpose of ensuring that Ms. Rositch was being properly cared for. Other than an odour of

urine they both noticed throughout the house, the two found nothing that caused them concern. Ms. Moreau checked the bedroom and bathroom used by Ms. Rositch and thought they looked clean. Mr. Johnson argues that, had the home been in a state similar or comparable to what police found 12 days later, they would have expressed some concern or taken some action.

- [26] In addition to these facts, Mr. Johnson points to a reasonable alternative possibility or explanation for the deterioration of the home between the time of Ms. Rositch's removal and the police attendance. The Brushes told police they were devastated by the loss of Ms. Rositch, a person they had cared for and lived with for 13 years. Mr. Johnson suggests that this devastation, along with them packing Ms. Rositch's belongings, provides a reasonable possibility or explanation for what police found.
- [27] I am satisfied the Crown has proven beyond a reasonable doubt that the state of the home at the time of Ms. Rositch's removal was comparable to how it was found on May 14. It was unsanitary and not a proper place for Ms. Rositch to have received the care that she required.
- [28] In making this finding, I consider all of the admitted facts and evidence I have accepted in context. The state of the home on May 14 was such that it could not possibly have achieved that state in a short period of time, certainly not eight days. The evidence from the officers, coupled with the photographs they took, prove the home had experienced a significant period of neglect. The sheer volume of trash and items throughout, the strong odour of urine, dirt, and decay could not have happened overnight. Mouse feces could not accumulate on stacked boxes to the extent that they rained down in a dust as they did on Constable Jones in such a short period of time.
- [29] This common sense inference is consistent with, and supported by, other admitted facts. Ms. Brush admits that she failed to provide the necessities of life to Ms. Rositch for roughly a two-and-a-half-year period until the day of her removal from the home. Ms. Rositch's severely emaciated state on May 6, when she was admitted to hospital, and then eight days later when she was photographed in hospital, in conjunction with her rapid improvement in weight and health when she received proper care elsewhere, overwhelmingly proves that Ms. Brush did not provide Ms. Rositch with adequate nutrition. The state of Ms. Rositch's hair, her nails, the wounds on her skin, and the odour she emitted on admission to hospital proves that Ms. Brush did not provide her with anywhere near adequate care.
- [30] As well, Ms. Brush admits that during the timeframe of the indictment she did not take Ms. Rositch to the doctor. She admits she did not fill any of her prescriptions after July 2017, which means that she did not provide Ms. Rositch with her prescribed daily medication after that time. She provided medical administration forms after that time to Mr. Stevenson, falsely recording that she had provided Ms. Rositch her prescribed medication.

- [31] I do not think it is an understatement to say that Dr. Wiltshire's intervention on May 6, 2019 saved Ms. Rositch's life. Recognizing that he had not seen his long-time patient since January 12, 2017, the doctor reached out to Ms. Brush to bring her in for a visit. Fortunately, Ms. Brush did so on May 6, but unfortunately, her deception about her care of Ms. Rositch continued. Ms. Rositch's emaciated state and her recovery when properly nourished establishes that Ms. Brush was untruthful to Dr. Wiltshire on May 6 when she said that Ms. Rositch was still eating well. Ms. Brush's failure to fill the prescriptions that Ms. Rositch required for nearly two years establishes that she also was untruthful to Dr. Wiltshire when she told him that Ms. Rositch was regularly receiving her prescribed medication. When Ms. Rositch went to RIH, Ms. Brush was again untruthful to emergency room staff when she said that Ms. Rositch had always been as thin as she presented on admission and had been regularly taking her medications.
- [32] The TCS employees noticed that the home smelled of urine on May 2. Although stronger on May 14, this observation is consistent with the smell of urine that overwhelmed the officers. Again, there is no evidence to suggest that anyone other than Ms. Rositch used the bedroom and bed in the room depicted in the photographs and described by the officers.
- [33] Aspects of Ms. Rositch's condition as she was found on May 6 are consistent with the state of her bed as found on May 14. For example, on May 6, Ms. Rositch smelled strongly of urine. Her bed, eight days later, still smelled strongly of urine, as did the home throughout. On May 6, Ms. Rositch was nearly bald and the hair that remained on her head was unkempt and matted. She had an open sore on her temple that later required a skin graft to repair. Eight days later, her pillow and the bed in which she slept still smelled strongly of urine. Her pillow was also stained and had a blood smear consistent with what one would expect from the wound on her head. Her bedsheets were full of skin flakes. On May 6, Ms. Rositch was found to have a pressure sore on her right hip/buttock area. Eight days later, police found a piece of translucent skin found adhered to her bedsheets.
- [34] In making this finding, I am not finding that the home was in the exact state it was found on May 14 at the time Ms. Rositch left, nor am I finding it was in that state during the entire two-and-a-half-year period that Ms. Brush failed to provide Ms. Rositch with the necessities of life. Rather, I am finding that the Crown has proven beyond a reasonable doubt that at the time Ms. Rositch left, the state of the home was similar or comparable to how it was found on May 14. In short, the home was unsanitary, unkempt, and not an environment suitable to provide Ms. Rositch with proper care.
- [35] The fact that on May 2 Ms. Moreau thought the bedroom and bathroom occupied by Ms. Rositch looked clean, and that she and Mr. Stevenson did not have concerns during their home visit does not raise a reasonable doubt in my mind. I give the fact of their observations, in context, very little weight.

- [36] First, there are no facts presented about the duration of their visit and how closely they looked in those two rooms. As well, in anticipation of a regularly scheduled visit, tidying the common areas of the home as well as Ms. Rositch's bedroom and bathroom are to be expected. Doors can be closed to other rooms.
- [37] Second, and more significantly, I find that the weight to be given to the fact of their observations is significantly diminished by their apparent conclusion that Ms. Rositch was being properly cared for. The house smelled like urine. Ms. Moreau thought Ms. Rositch looked "thin," but she did not remove the blanket that covered her emaciated body, nor did she remove the cap that covered her scalp and matted hair and wound on her temple. She and Mr. Stevenson saw her face though. I have seen the photographs of Ms. Rositch's face taken several days later at the hospital. Ms. Rositch does not look "thin". She looks skeletal, or as Dr. Wiltshire observed on May 6, she looks as a person who has "lost muscle mass to the point where she is just almost bone", or as Ms. Knighton aptly described it, she looks like a person who was dying. Ms. Rositch looked that way because she was. As of May 6, 2019, Ms. Rositch was in such an advanced state of neglect that she would have died of malnutrition if no interventions were taken. Fortunately, those interventions were taken and she is now thriving.

Second Disputed Fact: Knowledge of Manipulation of the Medical Administration Records

- [38] As the caregiver for Ms. Rositch, Ms. Brush was required to fill her prescriptions and provide her with those medications as directed by her doctor. Ms. Rositch was prescribed various medications by her doctor and was required to take them on a daily basis. In addition to filling her prescriptions and providing her the medication, Ms. Brush was also required to record that she had indeed administered the medication on a document called a medical administration record. Several of these records from during the relevant timeframe were seized from the Brush home by police. They were found in various locations in the home, strewn about.
- [39] Ms. Brush admits that Ms. Rositch's prescriptions were not filled after July 10, 2017. She also admits that she initialled the medical administration form sheets after that time, to indicate that Ms. Rositch was indeed receiving her prescribed medications as directed. Of course, because the prescriptions were not filled, Ms. Rositch was not actually receiving her medications. Ms. Brush also admits that Mr. Stevenson regularly reviewed and signed the medical administration forms she initialled. While he noted that Ms. Brush needed prodding from time to time to keep these forms current, he did receive them.
- [40] Exhibits 5, 6 and 7 are copies of the medical administration record sheets seized by police in the search of the Brush home. Ms. Brush admits she initialled the entries in the records and that the records themselves were manipulated or altered. They repeat previous prescription numbers with the dates being changed. One record found in the middle of the living room floor has the relevant portion with the details of the prescription dates cut out, clear

evidence of the effort to manipulate the documents to make them seem current. Ms. Brush admits that she initialled these manipulated records. She clearly did so to make it seem that Ms. Rositch was receiving her daily medication.

- [41] Ms. Brush does not, however, admit that she was the person who manipulated these documents, nor does she admit that she knew she was signing manipulated documents.
- [42] The Crown does not ask me to find that Ms. Brush was the person who altered or manipulated the documents. Rather, the Crown asks me to find that Ms. Brush knew the documents were altered when she initialled them. Mr. Livingston argues that the purpose for which Ms. Brush recorded that Ms. Rositch had received her prescribed medication each day was to deceive those providing oversight of the care she was providing Ms. Rositch. When considered in light of that purpose and in light of the facts that have been admitted, the Crown argues that the only reasonable inference to draw is that Ms. Brush knew the forms she was initialling were manipulated.
- [43] Mr. Johnson submits that the Crown has failed to prove this fact beyond a reasonable doubt. He argues there is no evidence pertaining to who, in fact, altered the documents and there are other objectively reasonable inferences to be drawn. He emphasizes that the documents were found strewn throughout the home and the presence of other family members who lived in the house.
- [44] An inference is a deduction of fact that is logically and reasonably drawn from other established or admitted facts. The court must consider other objectively plausible theories or reasonable possibilities that arise from the evidence or the absence of evidence that may be inconsistent with guilt, but pure conjecture or speculation does not suffice to negative any inference of fact that may otherwise be drawn: *R. v. Villarorman*, 2016 SCC 33.
- [45] I am satisfied the Crown has proven that Ms. Brush initialled these documents knowing that they had been altered. I cannot conclude, and do not conclude, that she was the person who altered them, but when I consider Ms. Brush's conduct in relation to those documents in light of the admitted facts, the only objectively reasonable inference to be drawn is that Ms. Brush knew they were altered documents when she initialled them.
- [46] Again, Ms. Brush admits that she had been contracted to provide care for Ms. Rositch. She admits she was responsible for ensuring, among other things, that her prescribed medications were given to her as directed. Ms. Brush filled no prescriptions for Ms. Rositch after July 2017, yet she filled out numerous medical administration form sheets over many months after that, indicating that she had given Ms. Rositch her required medication on a daily basis. Ms. Brush's initials appear on these documents. They appear hundreds of times. They are all untrue. Without filling the prescriptions, Ms. Brush had no updated prescription fill dates on these forms. She knew she had to provide signed forms to Mr. Stevenson on a regular basis and did, in fact, provide them. She could only do so if the forms were altered.

[47] Ms. Brush falsely recorded that Ms. Rositch had received her prescribed medication many, many times when this was not true. The only reasonable inference to be drawn from the whole of the evidence and the admitted facts is that her purpose in doing so was to deceive Mr. Stevenson. This purpose is consistent with her actions on May 6 when she similarly deceived Dr. Wiltshire and emergency room staff about Ms. Rositch receiving her medications. In light of this deceitful purpose in initializing these forms, I find the only reasonable inference to be drawn is that Ms. Brush knew the forms were altered or manipulated when she initialled them. If she did not, then she would not have been able to deceive Mr. Stevenson. There is no other plausible theory or reasonable possibility on the evidence and facts admitted or absence of evidence or facts.

[48] That completes my findings. I will direct that a transcript of these reasons be prepared. I will, once they are transcribed, edit them for grammar and readability, but will not otherwise alter them.

[49] Counsel, I take it you are perhaps jointly seeking the preparation of a pre-sentence report and psychiatric assessment or is this a defence application?

[SUBMISSIONS RE COURT'S JURISDICTION TO ORDER REPORTS] (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS) (PROCEEDINGS RECONVENED) [SUBMISSIONS RE COURT'S JURISDICTION TO ORDER REPORTS CONTINUING]

[50] THE COURT: I am satisfied that I have the jurisdiction to order these three reports. I will order the preparation of a pre-sentence report. I will also order the preparation of a forensic psychiatric assessment to assist with sentencing. Finally, I will order the preparation of a psychological assessment to assist with sentencing. These orders are made pursuant to ss. 721(4) and 723(3) of the Code. The matter is adjourned to January 10, 2022 at 2 p.m. to fix a date for continuation of this sentencing hearing. Thank you.

"S.A. Donegan J."

DONEGAN J.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/21/23/2021BCSC2389.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-brush-2021>

Prepared on 26 October 2026 · Esheria