

CANADA / JUDGMENT

R. v. Sigsworth

2020 BCSC 175

COURT

Supreme Court of British Columbia

DECIDED

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2020 BCSC 175 R. v. Sigsworth

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Sigsworth,

2020 BCSC 175

Date: 20200107

Docket: 22454

Registry: Rossland

Regina

v.

William Frederick Sigsworth

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s. 517(1) of the Criminal Code restricting the publication, broadcasting or transmission in any way of the evidence taken, the information given, the representations made and the reasons, if any, given in respect of the application for judicial interim release (bail).

Before: The Honourable Mr. Justice Crabtree

Oral Ruling re NCRMD and Disposition to Review Board

Counsel for the Crown:

A. Mayes

Counsel for the Accused:

G.J. Gray

Place and Dates of Trial/Hearing:

Rossland, B.C.

November 22 & 25, 2019

Vancouver

January 7, 2020

Place and Date of Judgment:

Vancouver, B.C.

January 7, 2020

INTRODUCTION

- [1] THE COURT: At the outset, I will preface my remarks by saying that I reserve the right to edit these reasons and add citations, should a transcript be produced.
- [2] The circumstances regarding this matter are tragic. In the early morning hours of May 2, 2019, Mr. Sigsworth killed his wife, Morag Sigsworth, by striking her on the head with a hatchet and cutting her neck with a knife.
- [3] Mr. Sigsworth is charged with second degree murder.
- [4] There is no doubt that Mr. Sigsworth caused the death of his wife. The Crown and defence filed an agreed statement of admissions of fact in the proceeding which leaves no doubt about the cause of death by unlawful act at the hand of Mr. Sigsworth.
- [5] The issue in this case is whether, pursuant to s. 16(1) of the Criminal Code of Canada, R.S.C. 1985, c. C-46 [Criminal Code], Mr. Sigsworth is not criminally responsible for killing his wife because, at the time he committed the acts resulting in her death, he was suffering from a mental disorder that rendered him incapable of appreciating the nature and quality of the acts, or knowing that they were wrong.
- [6] The Crown and defence submit, based on the totality of the evidence, including the admissions of fact filed as Exhibit 1, the expert opinion evidence of a qualified psychiatrist, Dr. Robertson, and the applicable law, that I should conclude that Mr. Sigsworth was suffering from a mental disorder at the time of the event. Counsel submit that due to his mental disorder at the time, Mr. Sigsworth was incapable of knowing what he did was morally wrong and, on that basis, should be found not criminally responsible.
- [7] For the reasons that follow, I conclude:

1. Mr. Sigsworth was suffering from a mental disorder at the time he killed his wife;
2. Mr. Sigsworth was capable of appreciating the nature and quality of his acts; and
3. Mr. Sigsworth was incapable of knowing, at the time he struck his wife, that what he was doing was wrong. On this basis, I find that he is not criminally responsible for the killing Mrs. Sigsworth.

LEGAL PRINCIPLES

- [8] I will briefly review the relevant principles of law to be applied in determining the issue in this case.
- [9] In *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625 [Winko] at para. 1, the court discussed how, in our society, the law must find a way in which to deal fairly with those persons who suffer from mental illness who commit criminal offences:
- [1] In every society there are those who commit criminal acts because of mental illness. The criminal law must find a way to deal with these people fairly, while protecting the public against further harms. The task is not an easy one.
- [10] At para. 65 the Court stated:
- [65] ... Every humane system of justice must provide for the disposition of cases where the perpetrator of the alleged crime is not criminally responsible. ...
- [11] Section 16 of the Criminal Code states as follows:
- 16(1) No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.
- (2) Every person is presumed not to suffer from a mental disorder so as to be exempt from criminal responsibility by virtue of subsection (1), until the contrary is proved on the balance of probabilities.
- (3) The burden of proof that an accused was suffering from a mental disorder so as to be exempt from criminal responsibility is on the party that raises the issue.
- [12] Through the Criminal Code and the jurisprudence, the law recognizes both the need to protect society from those engaged in criminal activity and to deal with individuals who lack the necessary intent to be held criminally accountable for their acts, in a fair and humane manner.
- [13] "Mental disorder" is defined in s. 2 of the Criminal Code as a disease of the mind. With regard to what is meant by that term, in *R. v. Cooper*, [1980] 1 S.C.R. 1149 [Cooper], the Court said at p. 8:

In summary, one might say that in a legal sense "disease of the mind" embraces any illness, disorder or abnormal condition which impairs the human mind and its functioning, excluding however, self-induced states caused by alcohol or drugs, as well as transitory mental states such as hysteria or concussion. In order to support a defence of insanity the disease must, of course, be of such intensity as to render the accused incapable of appreciating the nature and quality of the violent act or of knowing that it is wrong.

- [14] It is a question of law whether any particular mental condition is a disease of the mind. It is a question of fact whether the accused was suffering from a disease of the mind; and, if so, whether the accused was incapable of appreciating the nature and quality of the act, or of knowing that it was wrong because of the presence of a mental disorder.
- [15] The relevant time period for the inquiry is at the time the act was committed: *Cooper* at p. 10. If it is established, on a balance of probabilities, that at the time Mr. Sigsworth committed the act that he was suffering from a disease of the mind, there are two bases upon which he could be found not criminally responsible. They are: (1) that the accused was incapable of appreciating the nature and quality of the conduct or act; or (2) that the accused was incapable of knowing that the conduct or act was wrong.
- [16] In terms of the first branch of the test, in order to prove that the accused was incapable of appreciating the nature and quality of the act, it must be shown that he lacked the capacity to understand the physical consequences, impact, and results of his act. In other words, the first branch of the test outlined in s. 16(2) of the Criminal Code protects an accused who, because of a disease of the mind, is incapable of appreciating the physical consequences of his act: *R. v. J.R.V.*, 2011 BCSC 176 [J.R.V.], at paras. 14 and 15.
- [17] As to the second branch of the test, similar protection is afforded to an accused if he is incapable of knowing that the act was wrong. In this context, wrong means the accused was incapable of knowing the act was morally wrong, as opposed to legally wrong: *J.R.V.* at paras. 16 to 21.
- [18] The essence of the inquiry is whether the accused lacked the capacity present in the ordinary person to rationally decide whether his actions were right or wrong and hence able to make a rational choice about whether to do it or not, having regard to the everyday standards of the ordinary person: *R. v. Oommen*, [1994] 2 S.C.R. 507, at paras. 26 and 30.
- [19] The evidence of medical witnesses with respect to the cause, nature, and symptoms of the condition and how it is viewed and characterized from a medical point of view is highly relevant to the determination of these issues: *R. v. Rabey* (1977), 37 C.C.C. (2d) 461 (Ont. C.A.), *aff'd* [1980] 2 S.C.R. 513.

- [20] Where, as in this case, uncontradicted expert medical evidence has been put before the court as to the accused's mental disability, his capacity to appreciate the nature and quality of his actions, and his capacity to know whether or not the act was wrong, requires careful consideration and such evidence should not be unreasonably disregarded: *R. v. Molodowic*, [2000] 1 S.C.R. 420 at para. 10.
- [21] That said, the resolution of the issues raised are questions of law and fact, and are to be decided by the court, based on the evidence adduced. Accordingly, I turn first to setting out the evidence adduced at trial.

EVIDENCE

- [22] Section 655 of the Criminal Code permits an accused person to admit any fact alleged against him for the purpose of dispensing with proof of that fact. Where such facts are admitted, the Crown is not required to call evidence to prove those facts and I am required to take those facts as conclusively established. In this case, Mr. Gray, counsel for Mr. Sigsworth, and Mr. Mayes, counsel for the Crown, have put before the court a lengthy statement of agreed facts. These were marked as an exhibit at the trial. The agreed facts put beyond doubt the finding that Mr. Sigsworth committed the unlawful act that resulted in his wife's death.
- [23] Mr. and Mrs. Sigsworth lived together in the matrimonial home for many years and have one daughter.
- [24] Following the death of her mother, the daughter was interviewed by the RCMP, during which she provided relevant background information. She stated that her mother and father were loving and supportive. Her parents were so in love that they often walked together holding hands. She had never known her father to be violent or aggressive, and he never raised his voice. Her parents each had their own bedroom, for the past 10 years. Her mother slept in a daybed in a side room and her father used the main bedroom with a double mattress.
- [25] Mr. Sigsworth retired from Teck Mine, approximately 17 years ago, following which he was admitted to the Psychiatric Unit at the Kootenay Bay Regional Hospital ("KBRH") in Trail, called the Daly Pavilion. He was there for approximately four months.
- [26] Since his admission to hospital, he has had approximately five episodes which she described as involving changed behaviour including: upset, depression, anxiety, weight loss, concern over mundane house-related issues, high cholesterol and blood pressure, and potentially obsessive-compulsive disorder behaviour.
- [27] Mr. Sigsworth was prescribed and on Prednisone, to treat a rash from an auto-immune condition called Grover's disease. Approximately one week prior to April 30, 2019, Mr. Sigsworth stopped taking his Prednisone regularly and stopped eating and drinking regularly. Mr. Sigsworth also refused to leave the house in the three weeks leading up to the incident.

- [28] The daughter spoke with her father and mother on the phone on May 1, 2019, at around 7:00 p.m. for approximately 15 minutes. She was told her father was still not eating, drinking, or taking Prednisone regularly. Her mother informed her that her father was convinced she was putting something in his food. The daughter talked to her father and found him to be incoherent and unable to respond to many of her questions. She stated that most of his responses were moans and mumbling. That said, she thought he could understand her.
- [29] Turning to the event itself, on May 2, 2019, at 1:00 a.m., Mr. Sigsworth called 9-1-1. He reported that he had killed his wife at their home. A transcript of his call with 9-1-1 is summarized as follows.
- [30] Mr. Sigsworth stated: "I just killed my wife" and "I hit her with an axe." He said that he hit her head with an axe and the axe was by the bed. He also stated that he cut her throat. He believed that she had been giving him some kind of drug with his suppers for a long time and that he could not stand it anymore. He was not injured, but he was upset most of the day and could not do anything because of whatever was in the food and the water. He had not been drinking the water because it made him groggy. He had asked his wife if she was putting something in his food and she told him she had not been. He and his wife were the only ones in the home. They slept in separate bedrooms, and he was currently calling from the kitchen. He remained on the phone with the call taker until the police arrived. He said he used a Gerber knife to cut his wife's neck and that the knife was in a case, in a dresser drawer in the bedroom.
- [31] At 1:06 a.m., members of the Trail RCMP attended the residence, aware that Mr. Sigsworth was still on the line with the call taker. They knocked on the door. Mr. Sigsworth came to the door and was directed to exit the residence, where he was detained for the murder of his wife. RCMP officers entered the residence through the front door to check on the health of Mrs. Sigsworth and to determine if she needed immediate medical assistance. The residence was observed to be very clean, showing nothing in disarray. An RCMP member entered the bedroom used by Mrs. Sigsworth and noticed a silver and black hatchet sitting across a pillow on the bed. Matted hair protruded from under the blanket that covered Mrs. Sigsworth. The officer pulled the blanket down and confirmed Mrs. Sigsworth was dead.
- [32] At 1:14 a.m., Mr. Sigsworth was advised that he was under arrest for the murder of his wife and he was then transported to the Trail RCMP detachment. On a search of the residence, a four-inch Gerber knife in a sheath was located in the top drawer of the dresser, in the bedroom that was normally occupied by Mr. Sigsworth. The body of Mrs. Sigsworth was later examined by a forensic pathologist and approximately 10 wounds were found to her head, consistent with being struck by a hatchet.

- [33] Severe blunt force trauma was found to her head. The left side of her skull had been caved in, revealing a large hole resulting from skull fragments that had separated. Multiple stab wounds were also observed at Mrs. Sigsworth's left neck, just underneath her jaw line. These were described as slice wounds to her neck which severed her trachea and right carotid artery.
- [34] A single open wound was also noted at the bottom of her neck and at the top of her chest. The primary cause of death could not be determined as between the blunt force trauma to the head and wounds to the neck. A severed carotid artery would have caused her to bleed out causing her death, in the event the trauma to her head did not cause her death.

POST-EVENT DETAILS

- [35] I will now turn to the events that occurred following the index event. As I have noted, Mr. Sigsworth was arrested. While under arrest and in custody at the Trail detachment of the RCMP, he refused to take medication or drink any water. He was escorted on May 3, 2019, to the KBRH by the B.C. Ambulance Service. There he was examined by a doctor and a psychiatrist. Based on the examination, Mr. Sigsworth was admitted to the Daly Pavilion, a 12-bed psychiatric in-patient unit, where he was certified under the Mental Health Act, R.S.B.C. 1996, c. 288.
- [36] On May 14, 2019, an order was made in Provincial Court to have Mr. Sigsworth assessed under s. 672.11 of the Criminal Code, to determine whether he was, at the time of the commission of the alleged offence, suffering from a mental disorder so as to be exempt from criminal responsibility pursuant to s. 16 of the Criminal Code.
- [37] Dr. Robertson examined Mr. Sigsworth on a number of occasions between the date of the assessment order and July 4, 2019. Dr. Robertson was a consultant psychiatrist at the Forensic Psychiatric Hospital for just over nine years, from July 2010 to September 2019. He is currently a psychiatrist at the Complex Pain Clinic at St. Paul's Hospital, in Vancouver. He completed his forensic psychiatry sub-speciality at the University of British Columbia in 2015. Dr. Robertson's curriculum vitae is marked as an exhibit in these proceedings and attached to Exhibit 1, Item "C". Dr. Robertson prepared a report, dated July 4, 2019, based on the information and observations gathered and which has been marked an exhibit in the proceedings. Subsequent to the preparation of the report in July, the Crown and defence jointly interviewed and questioned the doctor on August 1, 2019. The interview was conducted by conference call, during which Dr. Robertson maintained the opinions expressed in his report.
- [38] By admission of counsel, Dr. Robertson was qualified to provide expert opinion evidence in the field of mental disorders and the mental state of individuals at the time of the commission of an alleged offence. He testified at the trial on January 7, 2020.

[39] Dr. Robertson's views and opinion are based on the sources of information which counsel acknowledged are accurate and include the following:

1. Mr. Sigsworth's medical information and staff observations made of him at the Forensic Psychiatric Hospital;
2. the report to Crown counsel;
3. the referral information;
4. collateral information from the pretrial centre, the social worker, the Sigsworths' daughter, Dr. Wilson, and Drs. Lyttle and Segal;
5. a note of the admitting physician, Dr. Gharakhanian;
6. approximately seven examinations/interviews of Mr. Sigsworth by Dr. Robertson; and
7. a psychological report of Dr. Druhn, dated June 26, 2019.

DR. ROBERTSON'S OPINION

[40] Dr. Robertson is very familiar with the duty of an expert, to provide opinion evidence based on his specialty that is fair, objective, and non-partisan. He approached both the preparation of his report and his testimony in court with this duty in mind. He undertook a thorough review of a significant body of collateral information that was available, some dating back many years. In the course of his assessment, he examined and considered the following: 1) the possibility of Mr. Sigsworth malingering or feigning his condition; 2) the prior relationship of Mr. and Mrs. Sigsworth; 3) the existence of pre-existing animus; 4) the previous mental health issues suffered by Mr. Sigsworth; 5) the effective state of Mr. Sigsworth at the time of the offence; and 6) the role the mental disorder had in bringing about the behaviour in question.

[41] This comprehensive review of Mr. Sigsworth's medical history, identified a history of recurrent episodes of depression, two of which were described as moderate to severe, meeting the criteria for a major depressive illness. One such episode occurred in 2001 and another, in 2011. He was hospitalized with respect to the first incident. In addition, there was some evidence of psychosis observed during the depressive episode in that year. It was also noted that during the 2011 episode Mr. Sigsworth thought or expressed the view that his wife might be poisoning him or tampering with his food.

[42] Based on Dr. Robertson's interviews of Mr. Sigsworth and the information available to him, he concluded that in the months leading up to the event or otherwise described as the index offence, Mr. Sigsworth was exhibiting symptoms consistent with a major depressive episode, similar to that which he experienced in 2001 and 2011. However, in the present case, there were other factors at play in the onset and severity of this depressive episode. Mr. Sigsworth was taking Prednisone for a skin condition. Dr. Robertson stated that Prednisone, while taken or during withdrawal from its use, can cause a number of psychiatric symptoms

including: depression, psychosis, and anxiety. He further stated it is likely that Mr. Sigsworth's use of Prednisone, or during his withdrawal from it, contributed to and worsened his psychiatric difficulties in the time leading up to the index offence.

[43] It was noted Mr. Sigsworth was physically compromised in the time leading up to the index offence, including suffering from a significant weight loss of approximately 50 pounds and minor electrolyte abnormalities, discovered during testing following his arrest.

[44] Dr. Robertson notes that there may also have been a component of delirium occurring around the time of the offence.

[45] Dr. Robertson also noted that Mr. Sigsworth, in the time leading up to the offence, was again experiencing episodes of psychosis which were likely worsened as a result of taking or withdrawing from Prednisone. Dr. Robertson explained that while this medication is effective for treating skin conditions, one of the side effects is that it is known to trigger psychiatric issues in a small number of people.

[46] At p. 30 of his report, Dr. Robertson noted:

iv. Therefore, in the time leading up to the index offence, Mr. Sigsworth was experiencing what would probably be best described as major depressive disorder with psychosis. This was likely influenced in a negative way by the Prednisone [which] he had been taking for months and may or may not have been taking leading up to the index offence.

v. In addition to this, apparently playing a lesser role in terms of the index offence, Mr. Sigsworth also had a long-standing history of generalized anxiety disorder and obsessive-compulsive disorder, as well as some obsessive-compulsive personality disorder.

[47] Dr. Robertson also considered and rejected the notion that Mr. Sigsworth was exhibiting signs of dementia. He also stated there was no history of sleepwalking disorder or a REM sleep behaviour or related disorder. While the doctor noted that Mr. Sigsworth's father had developed Parkinson's disease, he further advised that there had been no such history or symptoms noted or identified in regard to Mr. Sigsworth.

[48] Dr. Robertson summarized at p. 32 of his report at paras. 1-3:

1. Mr. Sigsworth had a background history of recurrent episodes of depression with at least two episodes that would have met criteria for major depressive disorder in 2001 and 2011. He has had background history of long-standing generalized anxiety disorder, obsessive-compulsive personality disorder, and obsessive-compulsive disorder. In the time leading up to the index offences, Mr. Sigsworth was being treated with Prednisone, a steroid, for a skin condition that he had. This likely had a role in the onset and severity of the major depressive disorder that developed late in 2018 [and] early in 2019, and was present in the months leading up to the index offence. Mr. Sigsworth had a past episode of mild psychosis associated with the Major Depressive disorder in 2011 and in the months leading up to the index offences, he developed a psychosis with the belief that his wife was poisoning or

adulterating his food with a substance that caused him to be weak and physically compromised, and he believed that she was doing this in order to control him.

2. There is no evidence of a significant non-psychotic motivation for Mr. Sigsworth's actions. He did not have a history of significant violence or criminal charges, and the index offence is quite out of character for him. Mr. Sigsworth did not have evidence of a dementia or a neurological condition that would explain the index offence.
3. Overall, the best explanation appears to be that Mr. Sigsworth committed the index offence as a result of his psychotic belief that his wife was tampering with his food in order to control him.

[49] I accept the evidence of Dr. Robertson as to his diagnosis of Mr. Sigsworth's mental status and condition at the time of the offence; and on this basis, I am satisfied on a balance of probabilities that Mr. Sigsworth had a mental disorder at the time this tragic event occurred, when he unlawfully killed his wife.

[50] As a result of this finding, I now move to consider the second issue, whether it has been established, on a balance of probabilities, that the mental disorder made Mr. Sigsworth: (1) incapable of appreciating the nature and quality of his conduct; or (2) knowing that his conduct was wrong. Did the mental disorder render Mr. Sigsworth incapable of appreciating the nature and quality of his conduct?

[51] In this context, "appreciate" means more than "know". "To know" means to be aware of something. "To appreciate" requires both knowledge and understanding. The nature and quality of an act refers to the physical character and consequences of the act or acts.

[52] A person is incapable of appreciating the nature and quality of an act when he does not have the capacity to understand the character and consequences of what he has done. Just because a person does not have the appropriate feelings of remorse or guilt for having done something that causes harm to another is not sufficient.

[53] Dr. Robertson opined in his report at p. 31 (at paras. i to vii):

- i. In looking at the index offence, Mr. Sigsworth had evidence of being physically and mentally compromised in the days and weeks: leading up to the offence. He does report fair recollection of the event in the weeks leading up to the index offence, but not great recollection of this.
- ii. In contrast, Mr. Sigsworth's recollection of the minutes and hours leading up to the index offence is not very good. This limits the assessment to a degree as it is better to have a full accounting of someone's recollection of the events leading to the index offence. However, this inability to recollect such incidents is common in people with severe depression and/or psychosis. As well, it is notable that he had woken up just prior to the index offence.

iii. In looking at the index offence itself, Mr. Sigsworth's actions involved several steps, including going downstairs, getting the hatchet, going upstairs, doing the index offence, and then recognizing that his wife might be suffering, and then getting the knife to relieve her suffering. On the surface, it would appear that Mr. Sigsworth was able to appreciate the nature and quality of his actions. However, his mental state at the time was significantly compromised by the above factors.

iv. It is important to note here that Mr. Sigsworth did not think that his wife was possessed, a different person, a different entity, or a non-human. He also seemed to recognize that he was holding an axe and then a knife.

v. It is also important to note that Mr. Sigsworth indicated that in the minutes before the index offence, he felt that he was in a daze and not fully aware, and that this changed after the index offence happened.

vi. Additionally, Mr. Sigsworth called 911 right shortly after the index offence occurred and gave the factual description of what happened indicating that very soon after the index offence, he could appreciate the nature and quality of his actions.

vii. Overall, it appears that Mr. Sigsworth's ability to appreciate the nature and consequences of his actions was compromised at the time of the index offence, but he was not entirely prevented by a mental disorder from appreciating the nature and quality of his actions.

[54] Dr. Robertson amplified his views contained in his report at the trial. In regard to the first branch of the test, it is clear that there is some impairment to Mr. Sigsworth's cognitive ability which impacts his level of appreciation of the quality and the nature of his actions. This would be expected by one who is suffering or experiencing a mental disorder or a disease of the mind. However, the actions leading up to the index offence, in the minutes before the event and immediately thereafter, show a degree of goal-directed activity and a recognition or appreciation of what he had done.

[55] In reviewing the relevant evidence, I observe that Mr. Sigsworth retrieved the hatchet from the basement where it was kept, located the knife in the drawer, and called 9-1-1 shortly after the event, at which time he indicated what had occurred. He then engaged with police officers when they arrived on the scene. In reviewing this body of evidence surrounding the event, together with the opinion of Dr. Robertson's report, supplemented by his testimony today, I am not satisfied that Mr. Sigsworth was incapable of appreciating the nature and quality of his conduct or actions. While he clearly suffered some impairment which affected his appreciation, it does not rise to the level where it is more probable than not that he was incapable of doing so.

[56] In light of the foregoing finding, it is necessary to go on and consider whether a disorder rendered Mr. Sigsworth incapable of knowing that his conduct was wrong. A person may also be found not criminally responsible on account of a mental disorder if, because of the disorder, he was incapable of knowing that the conduct was wrong. "To know" means to be aware of something. "Wrong" means morally not legally wrong; that is, something a person should not do, according to acceptable standards of society.

[57] Dr. Robertson opined in his report at pp. 31-32 (paras. i to iv):

- i. Again, the assessment of this is somewhat limited by Mr. Sigsworth's inability to fully recall his thoughts and the events in the time immediately leading up to the index offence. Similarly to as I described a few paragraphs above, Mr. Sigsworth's mental and physical state was significantly compromised leading up to and at the time of the index offence. His general ability to know wrongfulness of his actions was impaired.
- ii. In looking at Mr. Sigsworth's motivation for the index offence, it appears that he had a very good relationship with his wife. This is described by Mr. Sigsworth and his daughter, and I do not have evidence of significant animosity between them in the time leading up to the index offence. There is no evidence of significant abuse in the relationship prior to the index offence and there does not seem to be much of anything in the way of a non-psychotic motivation for his actions at the time.
- iii. Given that Mr. Sigsworth has not been able to tell me about his motivations for the index offence, it is somewhat speculative to say that his moral justification for the index offence was that he believed that his wife was tampering with his food in order to control him as part of his psychosis. However, at this point, that seems to be the explanation that fits the facts of the case.
- iv. Therefore, it appears that Mr. Sigsworth's psychosis, which occurred in the context of a Major Depressive Episode and the use of and/or withdrawing from Prednisone, prevented him from knowing the moral wrongfulness of his actions.

[58] In terms of legal wrongfulness, I again note that his general awareness of things and his ability to rationally apply this awareness to his actions was limited in the time leading up to the index offence. This would have impacted his ability to know the legal wrongfulness of his actions at the time they occurred.

[59] At the hearing, Dr. Robertson took the opportunity to explain and expand on his report. He addressed what I interpreted to be a possible limitation contained in the written report. He initially commented that Mr. Sigsworth was not able to tell him about the motivations for the offence, except when he was first interviewed. At that time, he talked about his belief that his wife was tampering with his food in order to control him.

- [60] During his testimony, Dr. Robertson made reference to additional evidence related to Mr. Sigsworth's motivation. He referred to portions of the 9-1-1 call where Mr. Sigsworth expressed the concern that his wife had been giving him some kind of drug at lunch and supper, that this had been occurring for a long time and that he could not stand it anymore. In addition, he referenced Mr. Sigsworth's similar concern expressed during the time he had been hospitalized in 2011.
- [61] Having reviewed the information, Dr. Robertson provided an opinion which was expressed in terms considerably stronger than set out in the July 4, 2019 written report. In my view, his testimony at trial removed any concern that his conclusion may have contained an element of speculation noted in the written report at para. 57.
- [62] In summary, Mr. Sigsworth was suffering from a major depressive episode for a number of months leading up to the event. He was experiencing psychosis leading up to and at the time the event occurred, including or comprising in part delusional beliefs that his wife was tampering with his food in an effort or an attempt to control him. The condition was exacerbated by his reaction to the use and/or withdrawal of the prescribed medication.
- [63] These factors and conditions formed together to render Mr. Sigsworth incapable of being aware of the moral wrongfulness of his actions. I am satisfied that at the time when Mr. Sigsworth struck Mrs. Sigsworth, as previously described, he had a mental disorder that rendered him incapable of knowing what he did was something he ought not have done and that it was morally wrong, according to the moral standards of society.

CONCLUSION

- [64] Accordingly, pursuant to s. 672.34 of the Criminal Code, I find that Mr. Sigsworth committed the act on May 2, 2019, as set out in the indictment. I find that he was suffering from a mental disorder and incapable of knowing that his conduct was wrong at the time the offence occurred. As a result, I find Mr. Sigsworth not criminally responsible for the offence before the court, in accordance with the provisions of s. 16 of the Criminal Code.
- [65] Based on the earlier submissions of counsel and pursuant to s. 672.46(1), I will refer the issue of disposition to the Review Board. Pending that disposition, Mr. Sigsworth will be held at the Forensic Psychiatric Hospital, where he is currently being held.
- [66] I understood that to be the submission made on the last date, but I will just pause here.
- [67] MR. MAYES: Yes, My Lord, just on that last subsection, I would believe that 672.46(1) is the -
- [68] THE COURT: Very well, thank you.
- [69] MR. MAYES: - section. Sub (2) deals with variations.
- [70] THE COURT: Thank you.
- [71] MR. MAYES: So no variation is necessary.

- [72] THE COURT: No issue with that?
- [73] MR. GRAY: And that remains the same, My Lord.
- [74] THE COURT: The Crown applies for a DNA order pursuant to s. 487.051(3) on the basis that the offence before the court is a primary designated offence; and on the basis that it is in the interests of the administration of justice to do so, in these circumstances.
- [75] The application is not opposed by defence. The section provides that where a person is found not criminally responsible on account of mental disorder, to consider making such an order; and in doing so, the court shall consider the person's criminal record, whether they were previously found not criminally responsible on account of a mental disorder for a designated offence, the nature of the offence, the circumstances surrounding the offence, the impact such an order would have on the person's privacy and security of the person.
- [76] Mr. Sigsworth has no criminal record, and has not previously been found not criminally responsible. The nature of the offence is serious, as are the circumstances surrounding his commission of the act that occurred on May 2, 2019. The impact of granting the order on Mr. Sigsworth's privacy, in my view, is minimal, taking into account the actual obtaining of the sample and the safeguards in place to protect the privacy of the person whose sample is to be taken and registered in the DNA National Data Bank.
- [77] In all the circumstances, I find that it is appropriate to make a DNA order in Form 5.03 authorizing a suitable sample be taken within 14 days, if possible, by a person authorized to obtain such a sample at the location where Mr. Sigsworth is currently being held.
- [78] Before I inquire if there is anything further required or anything further from counsel, I wish to thank counsel for their conduct in this matter in ensuring that the court had the necessary information before it to make the appropriate determinations.
- [79] And to the Sigsworth family, thank you for your patience, and I trust that you have been and will continue to be supported and comforted by all of the memories shared prior to this tragic set of events that occurred last year.
- [80] MR. MAYES: I have no further submissions, My Lord.
- [81] THE COURT: Thank you.
- [82] MR. GRAY: Nor do I, thank you.
- [83] THE COURT: All right, thank you both. Mr. Sigsworth, you have heard what I have said. You will be referred or taken back to the hospital, and then the process through the appropriate channels will take place. Good luck, sir.
- [84] THE ACCUSED: Thank you very much, My Lord. Thank you. And I understand a sample will be taken, yes.
- [85] THE COURT: And it is of minimal intrusion.

[86] THE ACCUSED: Yes.

[87] THE COURT: It involves the taking of a sample from the interior of your mouth, so it will not present any difficulties whatsoever. Thank you, sir. Thank you, both.

"T.J. Crabtree J."

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