COURT OF APPEAL FOR ONTARIO

CITATION: Sharpe (Re), 2019 ONCA 203
DATE: 20190314
DOCKET: C65520

Juriansz, Pepall and Lauwers JJ.A.

IN THE MATTER OF: Elaine Sharpe

AN APPEAL UNDER PART XX.1 OF THE *CODE*

Mercedes Perez, for the appellant

Catherine Weiler, for the respondent Attorney General of Ontario

Kathryn Hunt, for the Person in Charge of the Centre for Addiction and Mental Health

Heard: March 6, 2019

On appeal against the disposition of the Ontario Review Board dated, May 8, 2018.

REASONS FOR DECISION

[1] This is an appeal from the Board's disposition arising from the initial Board hearing under s. 672.47(1) of the *Criminal Code*.

[2] The appellant had been detained on the secure Forensic and Assessment Triage Unit of the Centre for Addiction and Mental Health ("CAMH") under a warrant of committal since February 14, 2018. The Board held its first hearing on

May 8, 2018. Given that this was the first hearing and the assessment was incomplete, the Board necessarily had to rely on somewhat general information. In its May 8, 2018 disposition, the Board determined that the appellant constituted a significant risk to public safety and imposed a detention order on a general (minimum) secure unit. The Board refused the appellant's request for a community living privilege and, among other things, imposed an alcohol prohibition.

[3] The appellant does not contest the Board's determination that she posed a significant threat to public safety. Rather, she submits that the Board imposed conditions that resulted in a detention order that was not the least onerous and least restrictive. She submits that the evidence establishes that she could be ready to live in the community before the next Board hearing due in May 2019, and that there was no evidentiary support for the prohibition of alcohol condition.

[4] The standard of review is reasonableness and the Board's view of how to best manage the risk posed by the appellant should not be interfered with so long as the conditions of detention lie within a range of reasonable judgment: *Pinet v. St. Thomas Psychiatric Hospital*, 2004 SCC 21, at para. 22.

[5] Here the Board reasonably accepted the evidence of Dr. Eid that the appellant was not yet ready for community living. Her major mental illness of schizophrenia was only partially treated and the appellant had only partial insight into her illness and need for medication. She had a long-standing history of

psychosis consistent with her diagnosis as well as an additional diagnosis of cannabis use disorder. Her index offences were extremely dangerous. She would be at high risk of reoffending if living in the community. The Board's decision not to include a community living privilege in its disposition was reasonable. We note that Dr. Eid indicated that if the appellant's progression towards community living substantially changes, an early Board hearing could be held.

[6] As for the alcohol prohibition condition, Dr. Eid stated that the use of any intoxicants, including alcohol, could serve to destabilize the appellant's illness or result in medication non-compliance and increase the risk to public safety. The hospital report also stated that a schizophrenic illness like the appellant's can be adversely affected by alcohol use. At the hearing counsel for the appellant indicated he was not opposed to the prohibition of alcohol but thought it unnecessary.

[7] Dr. Eid agreed that there was no evidence that alcohol was involved with the index offences. However, the Board had before it a medical report prepared for the appellant's NCR proceedings which indicated the appellant stated she does not drink alcohol, but that since 2012, when her troubles began, bottles of alcohol began appearing in her residence and her children started asking her why she had such bottles of alcohol. The appellant had no explanation for these bizarre events. There was also dated evidence of the appellant having engaged in heavy alcohol use.

[8] The alcohol condition was supported by the evidence and was reasonable for the Board to impose. Its decision is entitled to deference.

[9] For these reasons, the appeal is dismissed.

"R.G. Juriansz J.A."
"S.E. Pepall J.A."
"P. Lauwers J.A."