

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Lamontagne*, 2021 NSSC 44

Date: 20210210

Docket: *Halifax*, No. 496907

Registry: Halifax

Between:

Her Majesty the Queen

v.

Ryan Richard Lamontagne

Trial Decision: Not Criminally Responsible by Reason of a Mental Disorder

Judge: The Honourable Justice Joshua Arnold

Heard: January 27, 29, and February 1, 2021, in Halifax, Nova Scotia

Counsel: Mark Heerema and Shauna MacDonald, for the Crown
Brad Sarson, for Ryan Lamontagne

Overview

- [1] Ryan Lamontagne's mother, Linda Lamontagne, was his best friend and strongest supporter. During the course of a disorganized, psychotic episode resulting from previously undiagnosed schizophrenia, Ryan killed and mutilated Linda. He was stopped by the police the next morning attempting to bury her naked body in his backyard during daylight hours.
- [2] Following his arrest at the scene, Mr. Lamontagne gave the police a 16 hour video-recorded statement. During that statement he admitted killing and mutilating Linda. He also made numerous bizarre and delusional statements. At times he had difficulty discerning reality from fantasy and his thoughts were disorganized. At other times he appeared lucid. He was held in the Nova Scotia Forensic Facility, given anti-psychotic medication, and after six-weeks of continued disorganized behaviour, he became lucid.
- [3] Mr. Lamontagne re-elected with the Crown's consent to be tried by a judge sitting alone. Both the Crown and defence expert forensic psychiatrists unequivocally state that Mr. Lamontagne is not criminally responsible by reason of a mental disorder for murdering Linda Lamontagne and interfering with her remains in accordance with s.16 of the *Criminal Code*. For the reasons that follow, I agree.

Facts

- [4] Ryan Lamontagne is charged:

that on October 22, 2019, at or near Halifax, Nova Scotia, did

did unlawfully cause the death of Linda Lamontagne, and did thereby commit second degree murder, contrary to Section 235 of the *Criminal Code*; and

AND FURTHERMORE, at the same place and aforesaid date, did improperly or indecently interfere with the human remains of Linda Lamontagne by attempting to bury Linda Lamontagne, contrary to Section 182(b) of the *Criminal Code*.

- [5] A comprehensive nine-page Agreed Statement of Facts was filed on this hearing. It is attached to this decision as Appendix "A". Crown witness Dr. Joel Watts and defence witness Dr. P. Scott Theriault each were qualified:

As an expert witness in the area of forensic psychiatry and qualified to give expert evidence on the assessment and diagnosis of mental disorders and their impact on

criminal responsibility and functioning, as well as the impact of medications on prognosis and management of mental disorders.

[6] Both experts testified and both submitted reports that were exhibited at this trial. Neither were cross-examined in any significant way as both experts were in agreement about Mr. Lamontagne's NCR status.

[7] I will review some of the more significant facts below.

[8] Ryan Lamontagne is now twenty-seven years-old. The offences were committed when he was twenty-six. Growing up, it was just him and his mother. They lived together. His father was not in the picture. Mr. Lamontagne's education through high school in the French immersion program was unremarkable, although the various schools reported a high number of absences. His grades were decent. He graduated fluently bilingual. Following high school he earned a trade as an electrician but was unable to find employment in that field. He worked the night shift in housekeeping doing laundry at a large hotel until he was arrested on this charge. He was a quiet person with no history of violence. Mr. Lamontagne had a couple of short-term romantic relationships. He had some friendships through school but had no significant relationships or friendships aside from his mother at the time of the offence.

[9] There was no history of conflict or violence between Mr. Lamontagne and his mother. His free time was spent at home watching movies with his mother, smoking cannabis on his own and with her and using hallucinogens. Ryan and Linda were described by a collateral source as "a team". Mr. Lamontagne described his mother as his best friend.

[10] He started using cannabis at age seventeen, as well as hallucinogens such as LSD, MDMA, mushrooms and DMT. He became a heavy user of cannabis and a frequent user of hallucinogens.

[11] On February 5, 2019, Mr. Lamontagne was arrested breaking into a tattoo shop owned by the sister of an old friend. He was having a psychotic episode and was admitted to hospital where he stayed for three weeks. In Dr. Theriault's Report he describes the circumstances as follows:

Mr. Lamontagne developed psychotic symptoms early in 2019, which ultimately led to an admission to hospital in February of that year. In Dr. MacMillan's conversation with Mr. David, Mr. David indicated that he and Mr. Lamontagne

had reconnected via text messages early in 2019 with Mr. David recalling that he received a phone call from Mr. Lamontagne at 2:00 a.m. saying that he needed help and sending Mr. David odd text messages such as “are they real?” “the Glitches?”

Shortly after this, Mr. Lamontagne broke into Mr. David’s sister’s tattoo shop. Notes from the police interview reviewing this with Mr. David indicate “Ryan became angry, hitting the wall, causing a mirror to break”. In my conversations with Mr. Lamontagne, he indicated to me that he recalls thinking at that time that he might be the character Neo from the movie series The Matrix.

Following this event, Mr. Lamontagne showed up at Mr. David’s residence. Dr. MacMullin, in his progress note, reports “RCMP showed up. Isaac asked RCMP to let Isaac handle patient for the night to see if he would come out of whatever state he was in. The next morning, he was no different. The patient did not feel present, looked spaced out. Isaac asked another friend to come over to see if he thought the patient looked like he was on drugs. When talking to the patient, Isaac asked him how he ever got to Isaac’s house, and he pointed to the other friend of Isaac, who had never met patient and said “he drove me”. The patient also went on about his wife and kids, but Isaac knows patient does not have either.”

Mr. David brought Mr. Lamontagne to the Nova Scotia Hospital, where he was hospitalized on February 8, 2019. The discharge summary from that admission notes that at the time of admission, “Ryan endorsed thought broadcasting, insertion and withdrawal. He also described religiosity, stating he had contact with God and hearing his voice. He also described auditory hallucinations as he hears the voice of 2 friends when they are not with him”.

During that hospitalization, Mr. Lamontagne was started on antipsychotic medications in the form of olanzapine. As noted by Dr. Sadek, his attending psychiatrist, “This is his first admission with a significant component of clear psychotic symptoms that could be secondary to substance use. However, the symptoms persisted after substance use was stopped, so it is not clear if the presentation is primary or secondary. Long-term follow-up will clarify.”

Following discharge from the hospital, Mr. Lamontagne was referred to the early psychosis program. He was assessed by the early psychosis program on March 6, 2019. Dr. Tibbo wrote, “We did not feel that this is a primary psychotic process. His history and presentation points to more in the direction of a mood disorder with a manic episode with mood-congruent psychotic symptoms that led to the admission. The substance use may also have been a precipitating factor. He is not accepted to NSEPP; however, we will see him one more time.”

Mr. Lamontagne was in fact seen for several further appointments, but the case was closed on July 3 following his last contact with the Early Psychosis Program. By that point, Mr. Lamontagne had been weaned off of all of his antipsychotic medications.

[12] Mr. Lamontagne was prescribed anti-psychotic medication during the February 2019 hospital admission, which he continued taking for six months. He attended a few follow-up sessions during that time period, eventually became free of any psychotic symptoms, and discontinued his medication. He was told to follow up with the health-care professionals if he felt any symptoms returning. There was no further follow-up.

[13] During the time leading up to the killing on October 21-22, 2019, Mr. Lamontagne started to experience psychotic symptoms. According to Dr. Watts' report:

Mr. Lamontagne told Dr. Watts that about a week before the alleged offences he was convinced that he could read other people's thoughts. He recalled, "Being on the boardwalk stomping around trying to scare people, I thought the people with sunglasses had something to hide and that I owned the place". When asked, he could not recall if he was hearing voices at the time. When asked, he said that the relationship with his mother was "fine" during this period. They had been living together for the past ten years and did not have disagreements. Mr. Lamontagne recalled that he was "really into a few books, about a guy who lived in Atlantis". He was often on his phone reading books. He worked a night shift five days per week in the laundry department of the Westin hotel and usually had Monday or Tuesday off. When asked more details about the week prior to the alleged offences, Mr. Lamontagne told me that he could not recall very much, that it was "a blur". He could recall being sent home from work because of crying, two days before the alleged offences.

Mr. Lamontagne reported that the day prior his mother's death (October 21, 2019), the two of them went out to breakfast at the Athens restaurant. He did not know if she was aware that he had called in sick to work. He recalled that he was also reading a book about the Buddha. They had a nice time at breakfast and walked home together. They began watching movies together. He explained that his mother tended to go to the library and borrow several movies at a time that they would then watch together. They tended to watch them in his bedroom while lying on his bed because his mother did not have a TV in her room.

[14] Dr. Theriault also states:

Mr. Lamontagne went on to indicate that starting perhaps 1-2 months prior to the death of his mother, he once again began to develop a number of delusional beliefs such as the belief that he was some sort of "demigod" or "Goliath", that he might be the sun god Ra and that he had developed some sort of a "sixth sense" which, on questioning, would suggest thought insertion (i.e., psychotic symptoms in which an individual feels that he or she has thoughts inserted into their mind from some other person/source).

[15] According to Dr. Watts' Report, Mr. Lamontagne's former manager at the hotel said that during the week leading up to the incident, he was:

...“letting himself go”. He did not appear to be showering, shaving or keeping his hair tidy and told Mr. Medrano that he “can't shut my brain off” when asked if he was sleeping.

...

When asked what was going on, Mr. Lamontagne began to cry and said, “My hands are dirty”. Mr. Medrano sent Mr. Lamontagne home, and the latter called in sick for his following evening shift on October 21, 2019.

[16] In Dr. Theriault's Report, he also discusses Mr. Lamontagne's behaviour at work prior to the incident:

We had the opportunity to interview by phone Carlos Medrano, Mr. Lamontagne's immediate supervisor. Dr. MacMullin, who conducted the interview, was advised by Mr. Medrano that Mr. Lamontagne was a good worker, friendly but quiet. Mr. Medrano, in his conversation with Dr. MacMillan, noted that that began to change a few months prior to the events of October 22. Dr. MacMullin notes “Ryan appeared more distant. He was harder to engage in conversation with everything seeming more superficial. Ryan was also letting himself go. He was no longer put together, did not look to be showering, shaving or keeping his hair tidy...when Carlos asked if he was sleeping, Ryan said, “No, I can't shut my brain off”. Dr. MacMullin goes on to indicate that there was a significant deterioration in Mr. Lamontagne's work in the days leading up to October 22 and that instead of working at specific work sites, “Ryan was just wandering all over the laundry area”. When queried about this by his supervisor, according to the note, “Ryan looked at him totally blank with no emotion. Carlos gave him a hug and Ryan started crying. Carlos started to get Ryan to talk about what was going on, but he just said “I can't be crying at work”. Earlier that day, Carlos saw Ryan staring at his hands, turning them back and forth for an extended period. When asked what was wrong, Ryan reportedly said “my hands are dirty.” Ryan was consequently sent home from work. As noted above, Mr. Lamontagne called in sick on October 21 in the period of time immediately preceding his mother's death.

[17] During the evening of October 21, 2019, Mr. Lamontagne and Linda were both consuming cannabis while watching movies together. Sometime during the evening, leading into the next morning, Mr. Lamontagne killed Linda. Her injuries are described in the Agreed Statement of Facts as follows:

39. A postmortem examination of Ms. Linda LAMONTANGE was conducted on October 22, 2019 by Dr. Matthew Bowes of the Nova Scotia Medical Examiners Service. The cause of death was determined to be the result of multiple injuries.

NOTE: The Report of Postmortem Examination will be exhibited by the parties at the hearing.

40. During the examination of the deceased, both at the scene and at the Medical Examiner's Service office, several notable observations were made by Dr. Bowes:

- a) Both arms of the deceased were broken.
- b) The deceased had her scalp removed from her skull from the back to front of her head and the scalp was located a short distance from the body at the scene.
- c) The accused experienced blunt force head trauma.
- d) The deceased's right eye had been damaged and removed from the eye socket.
- e) The deceased had a fractured larynx and bruising around the neck area indicative of strangulation and or suffocation.
- f) Following X-ray and dissection, a cross necklace pendant was located in the throat of the deceased.

[18] Mr. Lamontagne gave a sixteen-hour video recorded police statement admitting to the killing and mutilation. According to the Agreed Statement of Facts:

14. During the course of his interview, Mr. LAMONTAGNE made numerous strange, bizarre and delusional statements and appeared to struggle to discern reality. At times Mr. LAMONTANGE seemed unsure as to whether what happened really occurred, and stated he felt that it may be a dream and that past, present and future were all merging. Conversely, at different points during the interview the gravity of what occurred seemed clearer and Mr. LAMONTAGNE would express self-loathing and a desire to be killed.

15. Mr. LAMONTAGNE stated a belief that either he or his mother were not really who they were; illustrative of this was his belief that his mother had been transformed into a snake, a prophet, a zombie, and/or a gingerbread man. Mr. LAMONTANGE spoke about going to Dartmouth, going in a car with a big burly guy, maybe a Norse God, and talking about "gay stuff".

16. Mr. LAMONTAGNE recalled running back home from Dartmouth wondering if what he did to his mother was a dream.

[19] Some specific examples of what he said during the 16-hour police interview include:

MR. LAMONTAGNE: Yeah. I'm the false prophet.

D/CST. BLENCOWE: You're the false prophet, are you?

MR. LAMONTAGNE: Yeah, I'm just a sick fuck.

...

MR. LAMONTAGNE: I got this sick idea in my head that I could -- I could make her the Tree of Yggdras -- Yggdrasil.

D/CST. BLENCOWE: I don't know what that means.

MR. LAMONTAGNE: Yeah.

D/CST. BLENCOWE: What -- do you know what that means?

MR. LAMONTAGNE: It's just a story from Amer -- this, ah, American Gods. That's what I -- how I fucked up the whole thing. I'm always -- I'm a lazy bastard that wants to watch movies all day instead of work.

...

MR. LAMONTAGNE: Totally snapped. I started looking at a light and it's, like, the most evil fucking thing that -- that I am.

D/CST. BLENCOWE: And what happened then?

MR. LAMONTAGNE: I thought I could -- like, too many stories and...

D/CST. BLENCOWE: Ryan, what did you do to your mom next, after you choked her?

MR. LAMONTAGNE: Took my chain and I put it down her throat, because I'm fucked.

D/CST. BLENCOWE: You put a chain down her throat?

MR. LAMONTAGNE: I got some twisted idea in my head.

...

MR. LAMONTAGNE: I started to try and look for answers in religion and trying to analyze everything.

D/CST. BLENCOWE: Okay.

MR. LAMONTAGNE: And...

D/CST. BLENCOWE: So you...

MR. LAMONTAGNE: I just confused myself.

D/CST. BLENCOWE: You put a gold chain down her throat. Now, does she cough? Is she still breathing when you do this?

MR. LAMONTAGNE: At that point I'm, like, blacking out, I'm pretty sure. No. Wow. God, I'm sick.

...

MR. LAMONTAGNE: I, like, almost tried to make her in a shape of a fucking ginger man -- gingerbread man. Like, I'm fucked.

D/CST. BLENCOWE: How would you do that?

MR. LAMONTAGNE: I was gone at that point.

D/CST. BLENCOWE: Okay. But how did you do that, how would you make her look like a gingerbread man?

MR. LAMONTAGNE: Like, put -- what the fuck? I don't know. Like, God, wow.

D/CST. BLENCOWE: Explain that to me.

MR. LAMONTAGNE: Wow. I need to be put down immediately.

...

MR. LAMONTAGNE: I started -- I thought I -- I thought I was this fucking God send.

D/CST. BLENCOWE: Um-hmm.

MR. LAMONTAGNE: I don't know why -- beginning to believe that.

D/CST. BLENCOWE: Let me ask you this. I want to go back -- you said you tried to make her like a gingerbread man.

MR. LAMONTAGNE: What?

D/CST. BLENCOWE: You said to me a moment ago...

MR. LAMONTAGNE: No. I tried to make her in the form of a gingerbread man.

...

MR. LAMONTAGNE: I need to say this. I think -- wow, God. How did it become this? I tried to, like, move -- I broke all of her arms, like.

D/CST. BLENCOWE: What were you breaking her arms with?

MR. LAMONTAGNE: Oh, my God, wow. Oh, God, that's why I have such a deep loathing for myself. Maybe it came from the beginning. Then I started hating her.

D/CST. BLENCOWE: It came from what, sorry, it came from where, from within? Is that what you said?

MR. LAMONTAGNE: Maybe if I -- I don't know. But at the beginning she always told me that I was sharing with all my friends at Erica's daycare. And at some point I lost that and I started focussing all about money.

...

MR. LAMONTAGNE: We were watching this movie and I was, like, trying to point fingers and make the movie what I wanted it to be. And I think I lost it right there.

D/CST. BLENCOWE: Okay. And what was the movie, again?

MR. LAMONTAGNE: The -- like, The Journey to, ah -- The Lost World of Z or something like that.

...

MR. LAMONTAGNE: Oh man. She'll never forgive me, and that's okay. Oh God.

D/CST. BLENCOWE: Take your time.

MR. LAMONTAGNE: I wasn't even there anymore, like. It's like I turned into a monster.

...

MR. LAMONTAGNE: Okay. Wow. I fucking -- oh my God. What is wrong with me? I took her eyes out. What the fuck, who does that?

...

MR. LAMONTAGNE: At the -- like I said, at that point I -- I don't think I was even home.

D/CST. BLENCOWE: The body was there but you had checked out?

MR. LAMONTAGNE: Yeah. And, like, I -- I walked -- I walked all the way across the bridge.

...

D/CST. BLENCOWE: ...how do you take her eyes, how do you do that?

MR. LAMONTAGNE: Oh man, I took them out.

D/CST. BLENCOWE: With what?

MR. LAMONTAGNE: My fingers.

D/CST. BLENCOWE: Your fingers?

MR. LAMONTAGNE: I turned into, like, a vampire or something.

...

D/CST. BLENCOWE: ...what happened next, what did you do next?

MR. LAMONTAGNE: God, there's something wrong with me. Um, I became a complete insane, savage maniac and I ripped her hair off.

D/CST. BLENCOWE: How did you do that?

MR. LAMONTAGNE: It's like I -- it's like I turned into -- like, tried to turn into a dinosaur that's -- like, all -- I couldn't believe I did it.

...

D/CST. BLENCOWE: How did you remove her hair from her? Are you -- do you mean, like, you pulled her hair out or did you pull her hair off?

MR. LAMONTAGNE: Wow. Ah, I re -- God, I'm sick. I reached down and I just ripped it off. I don't know. How could I do the worst thing I've ever done to the person that I love the most?

...

MR. LAMONTAGNE: There's something deeply wrong with me.

...

MR. LAMONTAGNE: I'm, like, gone. I think I'm some, ah, some woman goddess or some shit and, like...

...

D/CST. BLENCOWE: So what were you doing in the apartment, like, what did you do -- when you went back to the apartment what -- what did you start to do?

MR. LAMONTAGNE: I wanted to build her, like, an -- an idol. Like, I don't know what happened there.

...

MR. LAMONTAGNE: But, like, in my head I was trying to keep, like, a space for her, like, after -- that doesn't even make sense either, after doing that to someone.

D/CST. BLENCOWE: Um-hmm. No, but...

MR. LAMONTAGNE: I don't make any sense.

D/CST. BLENCOWE: So let's just talk about what you did do and then we'll try to figure that out.

MR. LAMONTAGNE: I started, like, blocking off all the entrances. Like, and, like, I was gone at that point, literally gone.

D/CST. BLENCOWE: Okay. So when you were up there did you do anything? Like, did you -- did you call anybody or did you send a text to anybody or anything like that?

MR. LAMONTAGNE: Ah, wow, man. Wow. I built the idol on the second set of stairs. And I think it went up.

D/CST. BLENCOWE: So what did you build the idol out of, what was the idol made of?

MR. LAMONTAGNE: A picture. There was all the stuff that I had in that moment.

D/CST. BLENCOWE: Okay. So what kind of -- you said a picture. What was the picture of?

MR. LAMONTAGNE: Ah, it was a -- an evil picture, probably, because it was, like, ah, all these flowers and then this black mask in the background.

...

MR. LAMONTAGNE: No. I was -- got some idiot idea that I can master the elements.

...

MR. LAMONTAGNE: I got this twisted idea that I could, ah, win a girl back by - - what the fuck, man? What is wrong with me? Like, I heard this song, I think. And I, like, started building idols or something. I don't know if they were dedicated to my mom or if they were dedicated to someone else.

...

MR. LAMONTAGNE: I thought -- whoa. For some reason, watching so many movies gave me this idea that -- for some reason I thought that I could become a titan or something.

D/CST. BLENCOWE: Okay.

MR. LAMONTAGNE: Maybe it's because my mom instilled that. No. I was reading all this, ah, like, gods and Olympians and all this stuff, and it...

D/CST. BLENCOWE: Um-hmm.

MR. LAMONTAGNE: ...like, made me want to be one. I don't know. Because that's my problem.

...

MR. LAMONTAGNE: God, I'm terrible. Um, Dartmouth, ah, um -- trying to look for my dad. Maybe that's why he was never around, because there is something wrong with me, and he probably knew it. Yeah. That's what that old movie, The Shining, was probably about. What? The Shining, yeah, that's...

D/CST. BLENCOWE: So you walk to Dartmouth. Whereabouts in Dartmouth do you walk to?

MR. LAMONTAGNE: I wandered for a second and then I was -- I was glaring at cars.

D/CST. BLENCOWE: Um-hmm.

MR. LAMONTAGNE: Because, ah, I got some twisted idea in my head that I'm better than everyone else.

D/CST. BLENCOWE: Um-hmm. So where were you when this happened?

MR. LAMONTAGNE: Ah, I was walk -- going up the hill, I think, and, ah, all the lights were flashing. I was, like -- for some reason I thought that, like, ah, that I could fix something that couldn't be fixed.

...

MR. LAMONTAGNE: And I thought -- whoa. Oh, goodness. Oh God, I stink. Um, ah, I started -- where did I go? I was walking down, like -- whoa. Yeah. I was, ah, looking for a grey car, because I thought that I could bring balance. God.

...

MR. LAMONTAGNE: Knowing that I -- I didn't know if I did it or not.

D/CST. BLENCOWE: Um-hmm.

MR. LAMONTAGNE: I think I did, deep down. Trying to -- whoa -- fix something that can't be fixed. Yeah, that's why I go home.

...

MR. LAMONTAGNE: I was -- fix her. What do you mean, "fix her"?

D/CST. BLENCOWE: I didn't say "fix her". I said why you got so mad at your mom last night.

...

MR. LAMONTAGNE: I'm hallucinating because you guys made me eat shit, because I should have. I -- there is worse punishments, so I'm grateful tonight for you guys.

CST. SHUPE: How do you mean?

MR. LAMONTAGNE: Because I deserve to be, like, burned at the stake.

...

MR. LAMONTAGNE: Yeah. It's sickening. That's what I am, a sickness. That's what I realized. Maybe...

...

MR. LAMONTAGNE: I don't know. We -- me and my mother, who hates my guts now, as she should, um, we got along, I thought, but we would fight a lot. But ah, yeah, I'm just the worst son there is.

...

MR. LAMONTAGNE: I never deserved her and that's probably what happened here. Like, there's something wrong, like, upstairs in my head.

CST. SHUPE: So with yesterday, you woke up. Was your mother home during the day?

MR. LAMONTAGNE: For the past week I've been losing touch with, ah, the past and the future. Like, I thought that if I stopped paying attention to time that I could, I don't know, get more done and...

...

CST. SHUPE: Okay.

MR. LAMONTAGNE: Like, I have been losing touch with reality for a while probably. Because I stopped -- like I said, stopped looking at the past, present -- past and future and started focussing on the present.

...

CST. SHUPE: No, you're not making me sick. I burped. I apologize. Um, and ah, but like I said, you're, ah -- you were living with your mother for 26 years, so I don't think she hated you that badly.

MR. LAMONTAGNE: She does now.

...

MR. LAMONTAGNE: I was walking across the bridge in, like, some alter ego.

CST. SHUPE: Um-hmm.

MR. LAMONTAGNE: Yeah. Trying to run away. Because I'm a coward. But then I realized -- fuck. I thought I could fix it. Like, man, there is something deeply wrong with me.

...

CST. SHUPE: Are you able to tell me what you're seeing or what you're thinking?

MR. LAMONTAGNE: Yeah. Um, I tried to, like, rip her apart. Like, I don't know what the fuck happened.

CST. SHUPE: How do you mean, you tried to rip her apart? Like, what did you do? Like, what are you -- what are you seeing, like, when you're thinking, what are you -- are you able to talk about it and tell me what you're -- what you're seeing?

MR. LAMONTAGNE: Fighting her and -- oh my God. I thought she was a snake for some reason.

...

MR. LAMONTAGNE: I don't...

CST. SHUPE: And you kick...

MR. LAMONTAGNE: ...remember kicking her, I don't -- what the fuck? I didn't even think it was me.

...

CST. SHUPE: Right? You're acting, you're not thinking.

MR. LAMONTAGNE: For some reason, though, like, I'm trying to replace her and...

CST. SHUPE: You're try...

MR. LAMONTAGNE: Oh my God, the things I did, holy fuck.

...

CST. SHUPE: Are you crying?

MR. LAMONTAGNE: No. I was going insane. No.

CST. SHUPE: So she tells you to stop and you don't stop. When do you stop?

MR. LAMONTAGNE: When do I stop? I tried to rip her apart. Like, I don't know what the fuck I was doing.

...

CST. SHUPE: What are you seeing?

MR. LAMONTAGNE: I wasn't seeing -- I was seeing a lot and -- I don't know. I had this idea that I needed to hunt something. I don't know what the fuck happened. But ah...

...

CST. SHUPE: So what happens next, Ryan? I know you said you had tried to grab her tongue and you were choking her and head butting her. And this was after you fell down -- she fell down the stairs after you kicked her down the stairs. And what happens -- what happens then?

MR. LAMONTAGNE: Oh my God. Ripped her eyes out.

CST. SHUPE: You ripped her eyes out. And how did you do that?

MR. LAMONTAGNE: My fingers. I went insane.

...

CST. SHUPE: Okay. So you pulled her eyes out. Then what happens after that?

MR. LAMONTAGNE: Oh my God. I, like -- I ripped her hair off.

CST. SHUPE: You ripped her hair off?

MR. LAMONTAGNE: Yeah.

CST. SHUPE: How -- like, how did you do that? You just pulled, like, a clump of hair out of her?

MR. LAMONTAGNE: No, I tore her scalp off. What the fuck?

CST. SHUPE: And you -- how did you do that?

MR. LAMONTAGNE: Oh my God.

CST. SHUPE: How did you tear a piece of her scalp off, Ryan?

MR. LAMONTAGNE: With my hand. I went insane. Like, I just started, like -- it's like she was -- what the fuck?

CST. SHUPE: And was your mom still alive at this point?

MR. LAMONTAGNE: Yes.

CST. SHUPE: Did she say anything to you?

MR. LAMONTAGNE: Yeah.

CST. SHUPE: What was she saying to you?

MR. LAMONTAGNE: "Stop." And I think I wasn't -- I don't know why I thought she -- she was my mortal enemy. For some reason I flipped, like.

CST. SHUPE: Okay. After this happens, what happens next?

MR. LAMONTAGNE: I ran away, across the bridge.

CST. SHUPE: Where did you go?

MR. LAMONTAGNE: Dartmouth.

...

CST. SHUPE: Yeah. And where did you go in Dartmouth?

MR. LAMONTAGNE: Grabbed a ride with, ah, my mom.

CST. SHUPE: You what?

MR. LAMONTAGNE: I thought it was my father, though.

CST. SHUPE: That what, that took you to Dartmouth?

MR. LAMONTAGNE: No. I drove around.

CST. SHUPE: You drove around?

MR. LAMONTAGNE: Yeah.

CST. SHUPE: With who?

MR. LAMONTAGNE: I thought it was -- I thought it was my mom. It was. Wow.

CST. SHUPE: Is this something that happened earlier, that she drove you to Dartmouth and then you came home?

MR. LAMONTAGNE: Yeah. Wow.

...

CST. SHUPE: So your mom drove you over there?

MR. LAMONTAGNE: It didn't look like my mom, though.

...

MR. LAMONTAGNE: Whoa. I know -- no, it was, like -- I thought that it was my dad and I was say -- saying to him, "You made me kill my mom," and -- and I was fucking with him. No, I wasn't fucking with him. He was fucking with me. But, like -- no. Every time I looked in -- was it me or was it -- probably, yeah. Um, that's why I'm so insecure.

...

CST. SHUPE: And did he ask you what -- what you were trying to get away from or...

MR. LAMONTAGNE: Yeah. I thought that he was -- I thought that he was an alien or something.

...

CST. SHUPE: Okay. And what did he -- what did he tell you?

MR. LAMONTAGNE: To, ah -- I thought that -- for some reason that the night was going to stay. I don't know what -- what happened there. And ah, yeah, I was, like, ah, being curious.

CST. SHUPE: Yeah. Like, sexually curious?

MR. LAMONTAGNE: Yeah.

CST. SHUPE: Yeah. Okay. So what happened?

MR. LAMONTAGNE: Sitting there, ah, talking about, ah -- and we were talking about, ah -- I don't know. I was so messed up I thought he was a -- what the fuck? I thought he was someone from work or something.

CST. SHUPE: He was a work, ah -- a colleague from work that you knew?

MR. LAMONTAGNE: Um, no. But I thought it was -- I didn't know who it was at first. I thought it was Mozart and Tesla, and then I thought it was -- it was all over the place.

...

CST. SHUPE: Who is Tessa?

MR. LAMONTAGNE: That's how arrogant and cocky I am.

CST. SHUPE: Yeah.

MR. LAMONTAGNE: I thought that I was Tesla for some reason.

...

MR. LAMONTAGNE: No. I thought that -- for some reason I thought he was, like, Odin or something like that.

CST. SHUPE: Odin was the name?

MR. LAMONTAGNE: I think.

...

MR. LAMONTAGNE: Yeah. I thought that it was all in my head. So I -- it was, like, that didn't even happen.

...

MR. LAMONTAGNE: All that occult shit that I put up.

CST. SHUPE: The cult shit? What did you put up?

MR. LAMONTAGNE: All these, ah, idols.

CST. SHUPE: Yeah. What do they look like?

MR. LAMONTAGNE: Um -- wow. Like, stuff that's in the, ah, hallway.

CST. SHUPE: Okay. So this is cult stuff you...

MR. LAMONTAGNE: Not really. It was, like, ah -- I don't know. It was really dumb. I was trying to win someone else back, and I don't know what the fuck I had in my head.

CST. SHUPE: Okay. So you come in the door, and -- and -- and what do you see and what do you do?

MR. LAMONTAGNE: Oh. Wow. I tried to replace my mom.

CST. SHUPE: So how did you try -- how do you -- what do you mean? How did you try to replace your mom? Is your mom there?

MR. LAMONTAGNE: Um, no. No.

CST. SHUPE: Where does your mom go?

MR. LAMONTAGNE: Whoa. Like, holy shit, I sent her to hell.

CST. SHUPE: How did you send her to hell?

MR. LAMONTAGNE: I thought -- see, I have -- I've been -- got all twisted, thinking that -- thinking that, ah -- thinking that, ah, that I didn't actually do what I did. Like, I don't know.

CST. SHUPE: So when you came back across the bridge, you were hoping that it wasn't real or...

MR. LAMONTAGNE: I thought that I had, like, ah -- I thought I had, like, ah, been to another dimension or something like that. I was all messed up there.

...

CST. SHUPE: Okay. What did you cover her up with?

MR. LAMONTAGNE: The stupidest thing I possibly could have, ah, something that belonged -- something that I thought was nice, my favourite sweater. But I don't know what was going through my head. I didn't even think it was -- she was -- that was her. I thought that...

CST. SHUPE: Now, I remember you talking to Tony about her arms.

MR. LAMONTAGNE: Ah, yeah.

CST. SHUPE: What happened -- what happened to her arms?

MR. LAMONTAGNE: This is so sickening. I didn't -- it's like I didn't think she was a real object. I don't know. Because...

CST. SHUPE: After she was already dead?

MR. LAMONTAGNE: Oh, wow. Yeah.

CST. SHUPE: Okay. So how did -- how did she...

MR. LAMONTAGNE: I totally lost my mind.

CST. SHUPE: You lost it again? So what did you do?

MR. LAMONTAGNE: What did I do? Um, I tried to fucking bury my mom. Wow. And I was so delusional, thinking that I could, like, ah, dig a heart in the ground and that would make it better. Like...

CST. SHUPE: By -- by taking her heart out?

MR. LAMONTAGNE: No. Trying to build her, like, a -- I don't know. Trying to, ah, build her, like, a spot. I don't know why I thought that...

CST. SHUPE: Do you remember how your mom got her injuries to her arm?

MR. LAMONTAGNE: Ah, me.

CST. SHUPE: And how? What -- what did you do?

MR. LAMONTAGNE: I tried to make her into a gingerbread man. I don't know what the fuck was going on. Like, I don't think -- I wasn't in reality, because it was, like, I didn't think it was real.

CST. SHUPE: Okay. So what -- how does that explain what happened to her arms? What did you...

MR. LAMONTAGNE: I thought, like, ah, I thought she was, ah -- I thought that she, ah -- what the fuck? I can't even focus anymore. I thought that -- it's like I didn't even think she was real. I thought that -- it was almost like it was, like, a dream. But -- because that's why I ran back, I was, like, that didn't actually happen. I was still, like...

CST. SHUPE: So when did you know your mom was dead?

MR. LAMONTAGNE: Ah, I thought -- I think maybe I thought that -- I got this thing in -- what the fuck? Watch so many movies that I con -- like, confuse reality with, ah, fiction sometimes.

CST. SHUPE: Um-hmm.

MR. LAMONTAGNE: I think that's maybe why I got -- when I ran back there I was, like, that didn't actually happen. And ah, when I saw her I was, like, that's not my mom, I'm thinking.

CST. SHUPE: Were you there when she took her last breaths?

MR. LAMONTAGNE: Yeah.

CST. SHUPE: And do you remember it?

MR. LAMONTAGNE: Yeah. It was fucked. But I thought I was killing a zombie.

CST. SHUPE: Okay.

MR. LAMONTAGNE: But, like, I don't even -- I wasn't -- I don't feel like I was actually there. Like, because even after I didn't believe that it happened. I went over to Dartmouth and I was, like, that didn't happen. So I ran back, thinking that she would still be in the house, all right. And then she was there, and it was, like, that's not my mom. Like, and I -- I don't -- she went from the person that I admire the most to an inanimate object, but, like, I never -- never really, ah, never really thought that it was real. Still, like, I was, like, digging a grave, like, this isn't real, but that it's, like, a -- a movie or something. I got all fucked up.

CST. SHUPE: So when you're out digging the grave, um, where -- where is your mom?

MR. LAMONTAGNE: Laying there.

CST. SHUPE: Outside, you took her outside?

MR. LAMONTAGNE: I know -- I know I switched like that. Because even though -- I was, like, that's not my mom. I still couldn't accept it. And I thought, like, I'll just dig her a grave. Like, I don't know where my head was at. I lost touch with reality completely.

CST. SHUPE: So police -- police arrived while you were doing that, the patrol members?

MR. LAMONTAGNE: Yeah, when I was trying to dig her grave.

CST. SHUPE: Okay. So if you could have buried your mom, what was -- what was the plan, like, what were you going to do after that? Did you have a plan?

MR. LAMONTAGNE: I thought -- my thinking was so twisted that I thought that she was a tree or something. I, like...

CST. SHUPE: What, like, to bring her back to life?

MR. LAMONTAGNE: Almost.

CST. SHUPE: Yeah. Okay. So you...

MR. LAMONTAGNE: Like, not really. Like, it just -- I thought that there was this war going on between aliens and all this shit, and that I was supposed to go out and fight zombies or something crazy-ass shit, and I -- I never thought that

was my mom after. Because I was, like – what the fuck? That’s why I never -- I am a psychopath. But it still wasn’t real to me, like. And that’s when the cops showed up. But I was, like, oh, this isn’t real still. That’s why it just seemed – it seemed like it wasn’t reality. I lost touch with reality. I thought that -- that there was all these gods fighting amongst each other and...

CST. SHUPE: So Ryan, if the police -- the police hadn’t arrived, where -- where - - what were you going to do?

MR. LAMONTAGNE: Try and build her a really nice grave.

CST. SHUPE: Okay. And after that, after you – you build her this grave, your memory, what -- what are you going to do then?

MR. LAMONTAGNE: I told, ah, the police officer that I wanted to make her -- like, I got some twisted idea that she was -- I could -- that that wasn’t my mom and that I could make her into a tree. But, like, I told, ah, the police officer that I wanted to -- I wanted to, ah – I don’t know why. Because, like, even -- in that show there is this idea that you pee on the tree, but I would never have done that to my mother. I know that sounds so – it doesn’t even make sense. But I was not going to do that. I just wanted to make her a grave, but lost total touch with reality. I didn’t even know she was there. I was, like, that’s not my mom. And...

CST. SHUPE: But you do remember some stuff. Like I said, you remember talking to the police officers and telling them...

...

MR. LAMONTAGNE: Um, I had this crazy idea that, like, it wasn’t real and that I could make a sanctuary for her and, like -- see, I’m insane, like. And I don’t know how that happened, why I split like that and -- I’m absolutely a maniac. Because I don’t remember ever doing that before, like.

...

MR. LAMONTAGNE: Yeah. But -- I must have. Even though I came back, I didn’t understand what happened and I was, like -- like I said, I thought I killed a zombie, for some reason.

CST. SHUPE: Right. So after you -- you had killed your mother and she -- she had taken her last breath, what did you do?

MR. LAMONTAGNE: Went to, ah, bring her upstairs, because, like, I still didn’t think it was real, like.

...

MR. LAMONTAGNE: Like, even though I did – went ballistic on her, I didn’t think it was real. That’s why I ran back. I was, like, that didn’t happen, and that -- I thought I imagined it, almost, like. I lost touch with reality completely, like. I hurt my mom and I didn’t think it was real. And the last time I think we fought was years and years ago.

...

MR. LAMONTAGNE: Like, I thought -- I know it doesn't make any sense whatsoever. And like I said, I thought that I was fighting some war and that, like, that, ah, she was a zombie or some, like -- like, a snake at a -- I don't even know, like, how that happened. We were fine for so long, and then -- it doesn't make any sense for me to think that, even though I think I did it I -- I felt like I didn't. That's why I was, like, I need to get back across that bridge. I thought I lost touch with reality. I felt that maybe she'd still -- like, she was still there and I imagined it all and -- it's insane.

...

CST. SHUPE: Did you -- did you tell anybody after this happened what happened? Did you...

MR. LAMONTAGNE: No. Because I thought -- like I said, I didn't even think it was real.

CST. SHUPE: Okay.

MR. LAMONTAGNE: I thought that -- like, when I was upstairs trying to build something for her, I thought that she was actually still there. I totally...

CST. SHUPE: Can I ask you something? Why did you tell Tony and I what you've told us?

MR. LAMONTAGNE: Um, because deep down I knew I was doing something wrong and I couldn't control myself. Because I'm fucked up, I -- and that's why they put me in -- not put me in the hos -- the mental hospital, to help me. Like, I was losing grips with reality and I was just seeing things that weren't there, pretty much. Like, I thought I could make it snow when I wanted it to, and...

...

MR. LAMONTAGNE: I don't think they could help me at this point, because I lost it at some point and became -- I like, after that night. I don't think I was ever a psychopath before then, but I lost grips with reality and became a psychopath.

CST. SHUPE: Okay.

MR. LAMONTAGNE: I'm not making any sense, because the stuff I -- hallucinating. But I'm not.

CST. SHUPE: Well, like I said, you made -- like I said, you told me a lot of...

MR. LAMONTAGNE: I know if...

CST. SHUPE: ...stuff that happened, and it's painful for you, right?

MR. LAMONTAGNE: I don't know what happened. I thought it wasn't real, but it was. And, like, I don't know, I got it in my head that I had enemies everywhere. And that's the last person that was my enemy, like, she did everything for me. And I did the most heinous, disgusting, vile display of -- I

don't know what that was. Because I've never done it before. Like, actually I got arrested a couple of times. But...

...

MR. LAMONTAGNE: Yeah. But I still didn't think it was my mom. It's, like, I thought it was someone else. I thought she was a zombie or something or speaking in tongues. See, I lost all grips with reality, went insane. I know you're disappointed because...

...

CST. SHUPE: No. And I understand that. But you indicated that you -- you -- you remember doing the act. Right? So I'm wondering how...

MR. LAMONTAGNE: It still didn't seem real to me and that's what -- that's what -- I know you guys are so angry.

...

MR. LAMONTAGNE: No, what's unfortunate is that, like, she's -- she's my mother, feeding me, and, like, I was -- it's like I had a flesh-eating disease inside me. Like, I couldn't eat or -- eat food, and I started to, like, appreciate her less. And I've totally lost grips with reality at this point, like.

CST. SHUPE: Okay.

MR. LAMONTAGNE: It started with the whole past, present and future thing and...

...

MR. LAMONTAGNE: No, I don't. I don't even know why I did that. Like, she was my favourite person in the world. I lived with her for 26 years and...

...

CST. SHUPE: So you had indicated a couple things that we just want to touch on, okay? They're -- the one thing was about the pulling of the hair, and pulling part of her -- her scalp off. And we're just wondering how you physically -- that you could have done that.

MR. LAMONTAGNE: I can't answer that because I don't even know how I did that.

...

MR. LAMONTAGNE: I can't -- it's so vile, like, I...

CST. SHUPE: But you're going to have to tell me so I understand, right? Do you understand it?

MR. LAMONTAGNE: How can I understand it when I don't even understand how I could do that to her? Like...

...

CST. SHUPE: We're curious of how that physically happened. And you're saying that you do remember what happened. So are you able -- are you able to tell me?

MR. LAMONTAGNE: I don't -- see, like, I don't understand myself so how can I explain to you how I did something, when I've lost grips with...

...

MR. LAMONTAGNE: I fucking butchered my mother. Like, I don't know how to explain that. Because...

CST. SHUPE: When you pulled -- pulled the back of her scalp off? And how -- how did you do that, how did you butcher her?

MR. LAMONTAGNE: I don't -- words don't work with...

...

CST. SHUPE: Okay. And how, physically, did you do that?

MR. LAMONTAGNE: It's like trying to ask -- it's -- it's like asking me to recite a story that I can't even comprehend anymore. I don't understand how I could have done that.

...

MR. LAMONTAGNE: It's impossible to understand. I don't even understand it. That's what, like -- I don't understand how I could do that to my mother. And I can't say anymore, like, because it doesn't make sense at all.

CST. SHUPE: Okay.

...

MR. LAMONTAGNE: I don't have words to describe what I did, like. No matter how -- how hard -- how hard I try to explain it, it doesn't make sense to me.

CST. SHUPE: Okay.

...

MR. LAMONTAGNE: This thing, like -- I don't know how I could hurt her like that. Like, does it make sense that I ran away and ran back? It's because I literally thought that she would still be there. I didn't, like -- it makes no sense.

...

MR. LAMONTAGNE: I don't -- like, it's, like, there is pieces missing. Like, I...

...

MR. LAMONTAGNE: Like, there's no way to describe something that's indescribable. It's, like, I don't understand it. I don't know why I did it. I don't know why I flipped. Because I'm insane and I know that. Like, there's something wrong with hurting people. And it had...

...

MR. LAMONTAGNE: Sorry, well -- but, like, my mind doesn't work anymore. It's fucking gone, like. And I don't even have to tell you that. You guys figured that out for the past day, that I have been completely gone, like.

CST. SHUPE: Well, like I...

MR. LAMONTAGNE: Out of touch with reality.

...

MR. LAMONTAGNE: It's -- my mind is gone, like.

CST. SHUPE: And how does that make you feel?

MR. LAMONTAGNE: See, like, maybe if it's never described it'll never happen again. That's -- that makes no sense either.

[20] According to the Agreed Statement of Facts, when the police entered the residence where the killing occurred they found the following:

32. At the top of the second-floor landing, a shrine type display was found consisting of a mounted painting with wooden "tiki" torches on either side, a wooden decorative stick in the center, brick with papers on the top which sat on a small aluminum ladder with grey carpet covering.

33. Past the second-floor landing, a further small flight of stairs leads directly into the third- floor apartment. The apartment consists of a bathroom, kitchen, dining room/living area and two bedrooms.

34. In one bedroom a TV was found on a stand with the TV turned around to face directly against the wall. On the TV stand was a further shrine type display where over 100 DVDs were found stacked on top of dumbbells. On top of the DVDs bottles of cologne were balanced. On top of the cologne bottles was a deodorant stick. Precariously set on top of the deodorant stick, and very close to the ceiling, was a candle which caused smoke discoloration to the ceiling and wall.

...

37. In the dining room/living area on the table was a bowl with a vase on top of it. On top of the vase was a Mother's Day card addressed to Linda from "R.L."

Burden of proof

[21] Section 16 of the *Criminal Code* states:

Defence of mental disorder

(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.

Presumption

(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.

Burden of proof

(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.

[22] Section 2 of the *Criminal Code* defines a “mental disorder” as follows:

mental disorder means a disease of the mind;

[23] The theoretical foundation for an NCR finding was explained in *R. v. Bouchard-Lebrun*, [2011] 3 SCR 575, where Lebel J. said, for the court:

[45] According to a traditional fundamental principle of the common law, criminal responsibility can result only from the commission of a voluntary act. This important principle is based on a recognition that it would be unfair in a democratic society to impose the consequences and stigma of criminal responsibility on an accused who did not voluntarily commit an act that constitutes a criminal offence.

[46] For an act to be considered voluntary in the criminal law, it must be the product of the accused person’s free will. As Taschereau J. stated in *R. v. King*, [1962] S.C.R. 746, “there can be no *actus reus* unless it is the result of a willing mind at liberty to make a definite choice or decision, or in other words, there must be a willpower to do an act whether the accused knew or not that it was prohibited by law” (p. 749). This means that no one can be found criminally responsible for an involuntary act (see Dickson J.’s dissenting reasons in *Rabey v. The Queen*, [1980] 2 S.C.R. 513, which were endorsed on this point in *R. v. Parks*, [1992] 2 S.C.R. 871).

[47] An individual’s will is expressed through conscious control exerted by the individual over his or her body (*Perka v. The Queen*, [1984] 2 S.C.R. 232, at p. 249). The control may be physical, in which case voluntariness relates to the muscle movements of a person exerting physical control over his or her body. The exercise of a person’s will may also involve moral control over actions the person wants to take, in which case a voluntary act is a carefully thought out act that is performed freely by an individual with at least a minimum level of intelligence (see H. Parent, *Responsabilité pénale et troubles mentaux: Histoire*

de la folie en droit pénal français, anglais et canadien (1999), at pp. 266-71). Will is also a product of reason.

[48] The moral dimension of the voluntary act, which this Court recognized in *Perka*, thus reflects the idea that the criminal law views individuals as autonomous and rational beings. Indeed, this idea can be seen as the cornerstone of the principles governing the attribution of criminal responsibility (L. Alexander and K. K. Ferzan with contributions by S. J. Morse, *Crime and Culpability: A Theory of Criminal Law* (2009), at p. 155). When considered from this perspective, human behaviour will trigger criminal responsibility only if it results from a “true choice” or from the person’s “free will”. This principle signals the importance of autonomy and reason in the system of criminal responsibility. As the Court noted in *R. v. Ruzic*, 2001 SCC 24, [2001] 1 S.C.R. 687:

The treatment of criminal offenders as rational, autonomous and choosing agents is a fundamental organizing principle of our criminal law. Its importance is reflected not only in the requirement that an act must be voluntary, but also in the condition that a wrongful act must be intentional to ground a conviction. . . . Like voluntariness, the requirement of a guilty mind is rooted in respect for individual autonomy and free will and acknowledges the importance of those values to a free and democratic society Criminal liability also depends on the capacity to choose — the ability to reason right from wrong. [Emphasis added; citation omitted; para. 45.]

[49] This essential basis for attributing criminal responsibility thus gives rise to a presumption that each individual can distinguish right from wrong. The criminal law relies on a presumption that every person is an autonomous and rational being whose acts and omissions can attract liability. This presumption is not absolute, however: it can be rebutted by proving that the accused did not at the material time have the level of autonomy or rationality required to attract criminal liability. Thus, criminal responsibility will not be imposed if the accused gives an excuse for his or her act that is accepted in our society, in which there is “a fundamental conviction that criminal responsibility is appropriate only where the actor is a discerning moral agent, capable of making choices between right and wrong” (*R. v. Chaulk*, [1990] 3 S.C.R. 1303, at p. 1397). In *Ruzic*, the Court recognized the existence of a principle of fundamental justice that “only voluntary conduct — behaviour that is the product of a free will and controlled body, unhindered by external constraints — should attract the penalty and stigma of criminal liability” (para. 47).

[50] Insanity is an exception to the general criminal law principle that an accused is deemed to be autonomous and rational. A person suffering from a mental disorder within the meaning of s. 16 *Cr. C.* is not considered to be capable of appreciating the nature of his or her acts or understanding that they are inherently wrong. This is why Lamer C.J. stated in *Chaulk* that the insanity

provisions of the *Criminal Code* “operate, at the most fundamental level, as an exemption from criminal liability which is predicated on an incapacity for criminal intent” (p. 1321 (emphasis deleted)).

[51] The logic of *Ruzic* is that it can also be said that an insane person is incapable of morally voluntary conduct. The person’s actions are not actually the product of his or her free will. It is therefore consistent with the principles of fundamental justice for a person whose mental condition at the relevant time is covered by s. 16 *Cr. C.* not to be criminally responsible under Canadian law. Convicting a person who acted involuntarily would undermine the foundations of the criminal law and the integrity of the judicial system.

[24] In accordance with s. 16(2) of the *Criminal Code*, all accused are presumed not to suffer from a mental disorder. The s. 16(3) *Criminal Code* burden is on the moving party to prove on a balance of probabilities that the presumption of sanity has been rebutted. In the instant case, both Crown and defence are in agreement that it is more likely than not that s.16 applies to Mr. Lamontagne.

Analysis

[25] In *Bouchard-Lebrun*, the court explained that it is up to the trial judge to determine whether or not a particular mental condition constitutes a disease of the mind:

[61] For the purposes of the *Criminal Code*, “disease of the mind” is a legal concept with a medical dimension. Although medical expertise plays an essential part in the legal characterization exercise, it has long been established in positive law that whether a particular mental condition can be characterized as a “mental disorder” is a question of law to be decided by the trial judge. In a jury trial, the judge decides this question, not the jury. As Martin J.A. stated in an oft-quoted passage from *Simpson*, “[i]t is the function of the psychiatrist to describe the accused’s mental condition and how it is considered from the medical point of view. It is for the Judge to decide whether the condition described is comprehended by the term ‘disease of the mind’” (p. 350). If the judge finds as a matter of law that the mental condition of the accused is a “mental disorder”, it will ultimately be up to the jury to decide whether, on the facts, the accused was suffering from such a mental disorder at the time of the offence.

[62] Thus, the trial judge is not bound by the medical evidence, since medical experts generally take no account of the policy component of the analysis required by s. 16 *Cr. C.* (*Parks*, at pp. 899-900). Moreover, an expert’s opinion on the legal issue of whether the mental condition of the accused constitutes a “mental disorder” within the meaning of the *Criminal Code* has “little or no evidentiary value” (*R. v. Luedecke*, 2008 ONCA 716, 269 O.A.C. 1, at para. 113).

[26] Mr. Lamontagne's conduct leading up to the offence date was becoming disorganized and bizarre.

[27] His conduct at the time of the offence was disorganized and bizarre.

[28] His conduct immediately following the offence as captured during the video-recorded police interview was disorganized and bizarre.

[29] His conduct for the weeks following the offence as observed by forensic psychiatrists was bizarre and his thinking disorganized, delusional and hallucinatory for weeks until the medication prescribed by Dr. Theriault eventually took effect.

[30] None of the evidence supports a finding that Mr. Lamontagne was either faking his symptoms or that his mental state was self-induced due to the ingestion of drugs. As Dr. Watts notes in his report:

We considered carefully whether Mr. Lamontagne's psychotic symptoms at the material time could be related to a substance-induced psychosis (specifically with cannabis and/or hallucinogens). We believe that substance use did not contribute to Mr. Lamontagne's mental state at the material time for several reasons:

- Mr. Lamontagne's psychotic symptoms took weeks to remit after he no longer had access to any substances on both the February and October, 2019 admissions to hospital. The latter admission required much longer, about six weeks of treatment, and a significant increase in the dose of antipsychotic medication before improvement was noted.
- Mr. Lamontagne's cannabis use was unchanged for several years prior to the incident, and he reported decreasing it for several months after his February 2019 hospitalization. He also decreased the frequency with which he used hallucinogens over the four months preceding the alleged offences.
- There is clear evidence that Mr. Lamontagne's psychotic symptoms developed slowly over at least several weeks before the alleged offences, beginning after he stopped taking his antipsychotic medication in the summer of 2019. The slow, progressive increase in symptoms and decline in self-care he exhibited is a typical pattern seen in a relapse of Schizophrenia. A substance-induced psychotic episode typically has a more rapid onset and resolution (most commonly days rather than weeks).

- Mr. Lamontagne does not appear intoxicated or exhibit any symptoms of withdrawal from substances over the course of nearly sixteen hours captured on videotape during his police interview. His mental status at the end of the interview is identical to the beginning and is consistent with florid psychosis seen in an acute episode of a primary psychotic illness like Schizophrenia.

Negative symptoms of Schizophrenia, such as low motivation, apathy and social withdrawal, are difficult to distinguish from symptoms of depression and are potentially confounding when assessing Mr. Lamontagne's diagnosis. If Mr. Lamontagne suffered from negative symptoms related to his psychotic illness it would further support the diagnosis of Schizophrenia, because negative symptoms are not observed in a substance-induced psychosis. At this time, we attribute these potentially overlapping symptoms after his arrest and in early 2020 primarily to depression because they improved significantly, though not completely, when he began treatment with an antidepressant.

[31] The evidence clearly supports a finding that he not only had a mental disorder at the time of the offences, schizophrenia, but also that his schizophrenia caused him to enter a psychotic state at the time he killed and mutilated his mother. Dr. Watts states in his report:

We make this diagnosis due to Mr. Lamontagne experiencing delusions, hallucinations and disorganized speech and behaviour of variable severity, extending over nearly a full year. These symptoms were all present around the time of the alleged offences and after a longer period of observation and treatment, they appear to have occurred relatively early in the development of psychosis. The intervening period has helped to clarify this diagnosis. Mr. Lamontagne likely demonstrated some prodromal psychotic symptoms over the previous several years as demonstrated by his relatively poor functioning and increasing social withdrawal.

After his first psychotic episode in February 2019, Mr. Lamontagne responded to a low to moderate dose of an antipsychotic medication over the course of two weeks in hospital. The treating psychiatrist suspected that he continued to harbour some delusional beliefs at the time of discharge. In follow-up with the Early Psychosis Program in the spring and early summer, Mr. Lamontagne asked to stop his antipsychotic because of side effects (low energy). Within one to two months of its discontinuation in July 2019, he began developing delusional beliefs of a religious and referential nature once again. His manager at work noted a deterioration in his hygiene and work performance for several weeks before the incident on October 22, 2019 that resulted in his mother's death. This pattern of gradual re-emergence of psychotic symptoms following cessation of medications is typical of a developing Schizophrenia illness. Once admitted to the ECFH, Mr. Lamontagne required higher doses of antipsychotics over a longer period of time

before his psychotic symptoms remitted, a dose-tolerance effect commonly seen in relapsed or decompensated Schizophrenia.

[32] Under the first branch of s.16, an accused must have been incapable of appreciating the nature and consequences of the acts that comprise the crime at the time of the commission of the offence. Under the second branch of s.16, an accused must be incapable of knowing that the act they did was wrong. In *R. v. Palma*, [2001] O.J. No. 3283 (Sup. Ct. J.), Watt J. (as he then was) discussed the two branches and stated:

63 In *R. v. Barnier* (1980), 51 C.C.C. (2d) 193 (S.C.C.), Estey J. defined "appreciate" in these terms at p. 202:

"'Appreciate' is defined in the Shorter Oxford Dictionary, 1959, as: '1. trans to form an estimate of worth, quality, or amount ... 2. ... to be sensitive to, or sensible of, any delicate impression or distinction ...'. The definition assigned to 'appreciate' in the Random House Dictionary of the English Language, 1973, is as follows: '2. to be fully conscious of; be aware of; detect: to appreciate the dangers of a situation ...'."

He added at pp. 202-3:

"In the ordinary usage of these words in the language, therefore, it would appear that to appreciate embraces the act of knowing but the converse is not necessarily true. This lies behind the comment in Black's Legal [page 203] Dictionary, 4th ed., 51 at p. 130: 'Appreciate' may be synonymous with know or understand. The verb 'know' has a positive connotation requiring a bare awareness, the act of receiving information without more. The act of appreciating, on the other hand, is a second stage in a mental process requiring the analysis of knowledge or experience in one manner or another. It is therefore clear on the plain meaning of the section that Parliament intended that for a person to be insane within the statutory definition, he must be incapable first of appreciating in the analytical sense the nature and quality of the act or of knowing in the positive sense that his act was wrong."

68 The second branch or arm of s. 16(1), an alternative basis upon which incapacity may be established, is concerned with cognitive capabilities, in a word, knowledge. It has nothing to do with appreciation of consequences.

69 In *R. v. Barnier*, supra, Estey J. discussed the meaning of "to know" at p. 202:

"On the other hand, the verb 'to know' is defined in the Shorter Oxford Dictionary, 1959, as: '1. ... To recognize; to identify; to distinguish ... II. To be acquainted with (a thing, place, person); to be familiar with; ... to have personal experience of (something) as affecting oneself ... III. 1. To be aware or apprised of ... to become cognizant of, ascertain ... 3. To

apprehend or comprehend as fact or truth ...' and in *Random House*, the verb 'to know' is given these definitions: '1. to perceive or understand as fact or truth; to apprehend clearly and with certainty: ... 2. to have established or fixed in the mind or memory; ... 3. to be cognizant or aware of; be acquainted with (a thing, place, person, etc.), as by sight, experience, or report: ... 5. to be able to distinguish, as one from another: ...'.

"The French version of s. 16(2) employs 'savoir' where 'knowing' is found in the English version. *Harrap's* gives the meanings: 'to know; to be aware of.'

"*Larousse* gives, inter alia, the following meaning: 'avoir conscience de quelque chose.'"

In other words, "know" requires a bare awareness, the act of receiving information and nothing more.

70 The meaning of "wrong" was explained in *R. v. Chaulk*, supra, where Lamer C.J. described it in these terms at p. 230:

"To paraphrase the words of the House of Lords in *M'Naghten's Case*, the courts must determine in any particular case whether an accused was rendered incapable, by the fact of his mental disorder, of knowing that the act committed was one that he ought not have done."

"Viewed from this perspective, it is plain to me that the term 'wrong' as used in s. 16(2) must mean more than simply legally wrong. In considering the capacity of a person to know whether an act is one that he ought or ought not to do, the inquiry cannot terminate with the discovery that the accused knew that the act was contrary to the formal law. A person may well be aware that an act is contrary to law but, by reason of 'natural imbecility' or disease of the mind, is at the same time incapable of knowing that the act is morally wrong in the circumstances according to the moral standards of society."

He added the following at p. 231:

"In applying s. 16(2) to a particular set of facts, it may be established that the accused who attempts to invoke the insanity defence is capable of knowing that he ought not do the act because he knows, first, that the act is contrary to the formal law or, secondly, that the act breaches the standard of moral conduct that society expects of its members. In this regard, subject to the qualification discussed below, I approve of the interpretation of s. 16(2) put forward by Professor Alan Mewett in 'Section 16 and "Wrong"', 18 C.L.Q. 413 (1976), at pp. 415-6:

"The question that ought to be asked, it is submitted, is whether the accused, because of a disease of the mind (first hurdle) was rendered incapable (second hurdle) of knowing that this act was

something that he ought not to do (third hurdle). If he was capable of knowing that the act was contrary to law and that he ought not to do an act contrary to law, then the defence should not apply. If he was incapable of knowing that it was contrary to law, but capable of knowing that it was an act condemned by people generally, then again the defence should not apply. But if he was incapable of knowing that the act was contrary to law and incapable of knowing that it was an act condemned by people generally, then the defence should apply. This only leaves a situation where he was capable of knowing that the act was contrary to law but incapable both of knowing that to act contrary to law was condemned by people generally and of knowing that this particular act was condemned by people generally. I would have thought that such an accused (who must be the rarest of all individuals) is precisely one who ought to be found not guilty by reason of insanity."

"The qualification that I would make of Professor Mewett's comments is that the insanity defence should not be made unavailable simply on the basis that an accused knows that a particular act is contrary to law and that he knows, generally, that he should not commit an act that is a crime. It is possible that a person may be aware that it is ordinarily wrong to commit a crime but, by reason of a disease of the mind, believes that it would be 'right' according to the ordinary morals of his society to commit the crime in a particular context. In this situation, the accused would be entitled to be acquitted by reason on insanity."

[33] If an accused is suffering from a mental disorder at the time of the commission of the offence, he or she must also meet either the first or the second branch of the s. 16 analysis, but they do not have to meet both branches. Dr. Watts testified that Mr. Lamontagne met both branches of the s. 16 test. In relation to the first branch, he said that:

Mental state on October 21 and 22, 2019

It is our opinion with reasonable medical certainty that on October 21 and 22, 2019, Mr. Lamontagne was suffering from an active episode of psychosis due to a decompensation of his Schizophrenia. It is our opinion, on a balance of probabilities, that his cannabis and previous hallucinogen use did **not** induce his psychotic symptoms at the material time, rather his substance use simply contributed to already worsening psychosis resulting from lack of antipsychotic treatment of his underlying primary psychotic illness. At the material time, Mr. Lamontagne was overwhelmed with floridly psychotic beliefs including mystical, grandiose and persecutory delusions, including the belief that his mother was a

witch and a snake. His thoughts and his behaviours were disorganized as evidenced by his interviews with police immediately following his arrest. See the *Diagnostic Impression* section above for more details regarding his diagnoses.

Ability to appreciate nature and quality

It is our opinion with reasonable medical certainty that although Mr. Lamontagne was in an agitated state of disorganized psychosis on October 21 and 22, 2019, **he was unable to appreciate the nature and quality** of murdering his mother and causing indignity to her body.

The disjointed manner in which Mr. Lamontagne carried out the murder, made shrines in the apartment, caused injuries to her body then left her body out in the open in the back yard to suddenly walk to Dartmouth, only to then come back hours later and start burying her, is consistent with severe psychotic disorganization of thinking and behaviour. His beliefs at the time of the incident and statements shared shortly afterwards suggest that in this state of mind, he was unable to appreciate the material consequences of his actions towards his mother and her body. Given the very close and caring relationship he had with his mother, the manner of injuries he caused and means he used (his bare hands) suggests he did not appreciate he was killing the person he loved the most or that his actions towards her body would be seen to cause indignity towards it. The following further elaborates this opinion:

1. Mr. Lamontagne made several comments in his interview with the police that suggested that he was unsure if his mother was dead. He continued to express uncertainty about whether she was in fact dead for the first several weeks that he was at the ECFH.
2. He made comments indicating he believed one point that burying her would bring her back to life, or that she was a zombie.
3. Mr. Lamontagne wondered if he had been dreaming when he walked to Dartmouth and rushed home to check whether he had really assaulted and killed his mother.
4. He told the police shortly after his arrest that he did not think she was a “real object” and that he broke her bones to make her “like a gingerbread man”.

[34] I agree that on a balance of probabilities, due to his agitated state of disorganized psychosis, Mr. Lamontagne did not appreciate the nature and quality of killing his mother and causing an indignity to her body and therefore meets the first branch under s.16.

[35] As noted, under the second branch of s.16, the accused person must be incapable of knowing that the act they did was wrong. In *R. v. Oommen*, [1994] 2 SCR 507, the court said:

21 A review of the history of our insanity provision and the cases indicates that the inquiry focuses not on general capacity to know right from wrong, but rather on the ability to know that a particular act was wrong in the circumstances. The accused must possess the intellectual ability to know right from wrong in an abstract sense. But he or she must also possess the ability to apply that knowledge in a rational way to the alleged criminal act.

26 The crux of the inquiry is whether the accused lacks the capacity to rationally decide whether the act is right or wrong and hence to make a rational choice about whether to do it or not. The inability to make a rational choice may result from a variety of mental disfunctions; as the following passages indicate these include at a minimum the states to which the psychiatrists testified in this case -- delusions which make the accused perceive an act which is wrong as right or justifiable, and a disordered condition of the mind which deprives the accused of the ability to rationally evaluate what he is doing.

34 The evidence was capable of supporting an affirmative answer to the question of whether the accused was deprived of the capacity to know his act was wrong. First, there was evidence that the accused honestly felt that he was under imminent danger of being killed by Ms. Beaton if he did not kill her first, and that for this reason, believed that the act of killing her was justified. This delusion would have deprived the accused of the ability to know that his act was wrong; in his eyes, it was right. Second (and this may be to say the same thing), there was evidence capable of supporting the conclusion that the accused's mental state was so disordered that he was unable to rationally consider whether his act was right or wrong in the way a normal person would.

[36] In considering the decision in *Oommen*, Doherty J.A. said in *R. v. Dobson*, 2018 ONCA 589:

[24] In my view, *Oommen*, as interpreted in the judgments of this court, holds that an accused who has the capacity to know that society regards his actions as morally wrong and proceeds to commit those acts cannot be said to lack the capacity to know right from wrong. As a result, he is not NCR, even if he believed that he had no choice but to act, or that his acts were justified. However, an accused who, through the distorted lens of his mental illness, sees his conduct as justified, not only according to his own view, but also according to the norms of society, lacks the capacity to know that his act is wrong. That accused has an NCR defence. Similarly, an accused who, on account of mental disorder, lacks the capacity to assess the wrongness of his conduct against societal norms lacks the capacity to know his act is wrong and is entitled to an NCR defence.

[37] Both Dr. Theriault and Dr. Watts agree that Mr. Lamontagne meets the criteria under the second branch of s.16, that is, he did not know the wrongfulness of killing his mother and he did not know the wrongfulness of

interfering with her remains because of his acute psychotic state caused by his schizophrenia. Dr. Watts says:

Knowledge of wrongfulness

It is our opinion with reasonable medical certainty that due to his acute psychotic state on October 21 and 22, 2019, Mr. Lamontagne **did not know the wrongfulness** of murdering his mother and causing indignity to her body. Mr. Lamontagne's actions leading up to and following his mother's death have no rational explanation. The only motives for killing her and then mutilating her body were irrational and due to his loss of touch with reality. Mr. Lamontagne was in a state of florid psychosis, consumed by complex intertwined persecutory, mystical, referential and grandiose delusions including the belief that his mother was his mortal enemy, was "brainwashing" him, was a "witch or a snake" and that he was able to subsist only on sunlight. At the material time, he had come to believe that he had some special purpose or mission that could only be fulfilled by her death, since she was trying to thwart him. His thoughts and explanations of his disjointed and delusional beliefs at the material time were equally disorganized and he appeared perplexed and confused in the hours and days after his arrest. His contact with reality was so severely impaired in the hours, days and weeks afterwards that he shared with police and staff at the ECFH that he was not sure whether his mother was really dead. It was not until Mr. Lamontagne had received antipsychotic medications for several weeks that he came to understand that his mother was dead through his actions, at which point he became depressed because of guilt and remorse.

Mr. Lamontagne's treatment of his mother's body after her death was driven by delusional beliefs including that she was not a "real object" and that he could make her into a "gingerbread man", that she would be resurrected if he buried her or that she was a zombie. We considered whether Mr. Lamontagne had any rational motive for killing his mother and mutilating her body. The numerous and bizarre injuries inflicted on her body, inflicted with his bare hands, is consistent with very disorganized psychotic behaviour and thinking, even though Mr. Lamontagne has been unable to recall any reasons or provide any explanations for many of them. We are unaware of any compelling evidence that he had any rational motive for causing her death and injuries to her body.

[38] Dr. Theriault says:

Mr. Lamontagne's self-report, corroborated by other sources, is that he began to develop a recurrence of psychotic symptoms sometime in the late summer or early fall of 2019. As discussed above, this involved various delusional beliefs derived from various religious traditions or, for that matter, popular movies. The delusions seem to be quite diverse, but generally could be characterized as both grandiose and persecutory in nature and focused on Mr. Lamontagne having some sort of special "destiny". Mr. Lamontagne's inattention to the real world became

apparent in his work performance, which fell off and which led to his being sent home by his employer 2 days before the death of his mother.

I have considered alternative possibilities, such that Mr. Lamontagne was feigning all or part of a psychotic illness or that his symptoms were purely the product of substance use. With respect to the first issue, there is in my opinion, credible information that Mr. Lamontagne has experienced not one, but now two psychotic episodes and that with respect to the second, there is information supporting a deterioration in his mental state preceding the death of his mother by several weeks. His interview with police is manifestly bizarre at times; it is unlikely in my opinion, that such a complex array of delusional beliefs would be feigned (such individuals usually employing rather naive manifestations of illness). With respect to the latter issues, as discussed above the prolonged nature of Mr. Lamontagne's symptoms (during both admissions) suggest a independent mental illness, not a substance induced psychosis.

In turning to the criteria under section 16(1) of the Criminal Code of Canada for exemption from criminal responsibility, I have no hesitation in concluding that Mr. Lamontagne had a mental disorder, now diagnosed as schizophrenia, in the period of time leading up to the death of his mother, which had become recurrent.

I have discussed above, both in terms of Mr. Lamontagne's interview with police and in his interviews with me, the variety of the delusional beliefs that were present at the time of the death of his mother. Unlike some psychotic disorders in which there is a clear-cut and relatively linear delusional theme, Mr.

Lamontagne's delusions appear to have been a mishmash derived from various sources including religion, mythology, and memes found in popular culture. In my opinion, at the material time, Mr. Lamontagne had delusional beliefs in which he believed that he had a special destiny (indeed, that he may be a god), that his mother was a "mortal enemy" sent to thwart him and that he was "god sent". Therefore, in my opinion, although Mr. Lamontagne was aware, at least to some degree, of his actions with respect to the death of his mother, he was unaware of the wrongfulness of those actions and indeed at times appeared to be unaware of whether his actions were real or indeed just fantasy. Given the complexity of his delusional ideas and their ever shifting nature at the time of his mother's death it is unlikely, in my opinion, that one could meaningfully separate out elements of his actions as having more or less rationality, for example, even in attempting to bury his mother (and the sad, poignant thing he said to police when first confronted) it is not clear from his interview, that he was even fully aware that she was dead.

As a result, Mr. Lamontagne, in my clinical opinion, at the time of the death of his mother on October 22, 2019, was suffering from a mental disorder that made him unable to appreciate the wrongfulness of his actions and therefore falls under the purview of section 16(1) of the Criminal Code of Canada as an individual who, in my opinion, meets the criteria to be found Not Criminally Responsible by Reason of Mental Disorder.

[39] In *R. v. Molodowic*, [2000] 1 SCR 420, Arbour J. explained the impact of a unanimous expert opinion in these circumstances:

10 A proper understanding and weighing of expert opinion often plays a central role in the determination of whether or not an accused should be found not guilty by reason of mental disorder. The absence of a Crown rebuttal expert to contradict an accused's psychiatric evidence is not in itself sufficient to conclude that a verdict of guilty was unreasonable if that conclusion remained reasonably open to the jury on the totality of the evidence. However, it may be unreasonable for a jury to disregard the expert evidence put before it, particularly where all the experts called were in agreement with each other, when their evidence was "uncontradicted and not seriously challenged" (*R. v. Kelly* (1971), 6 C.C.C. (2d) 186 (Ont. C.A.), at p. 186), and when there was nothing in the "conduct of the commission of the crime which would raise any serious question as to the validity of the psychiatrists' conclusion" (*Kelly*, at p. 186). Furthermore, appellate review of the reasonableness of the jury's findings must be undertaken in light of the standard articulated in *Biniaris*, *supra*.

...

23 In my respectful view, judicial experience with the effects of mental disorder on criminal responsibility, with the type of evidence that is available to demonstrate it, and with the unjustified skepticism that may be directed at an accused relying on the defence of mental disorder, should have given the Court of Appeal cause for concern that the verdict reached by the jury in the present case was unreasonable and not supported by the evidence. Careful and thorough scrutiny of the record confirms that concern was warranted. It is not necessarily easy for a jury to accept that, in lay person's terms, an accused who knows what he is doing and knows that it is a crime, could still genuinely believe that he would not be morally condemned by reasonable members of society for his conduct. In my view, the defence proved this to be the case and, on the evidence tendered at this trial, it was unreasonable to conclude otherwise.

[40] I have no difficulty finding on a balance of probabilities that Mr. Lamontagne did not know that what he was doing to Linda was wrong at the time he did those things. He meets the second branch under s.16.

[41] His mental health was declining during the days leading up to October 21. This is confirmed not only through self-reporting, but through the evidence of his employer. He was psychotic during the commission of the offences. He remained in that state for weeks following the incident while in hospital until the anti-psychotic medication took effect. Based on all the evidence, I am satisfied that he meets the criteria of s. 16 of the *Criminal Code* under both the

first and second branch and is not criminally responsible by reason of a mental disorder for either crime he faces.

Disposition

[42] Following a finding of not criminally responsible by reason of a mental disorder, an accused is subject to a disposition hearing. As noted by the Crown:

46. Following a finding of not criminally responsible, an accused will be subject to a disposition hearing. The initial disposition hearing may be heard by the Court, or by the Review Board (See section 672.45). Following the hearing the accused will be subject to one of three outcomes: (1) discharged absolutely, (2) conditionally discharged, or (3) detained in custody in a hospital (See section 672.45-672.54). Pursuant to section 672.54(a), an absolute discharge is only available where the accused is found not to be a “significant threat to the safety of the public.”

47. Where an accused is not discharged absolutely, periodic reviews of the disposition order must occur (See section 672.81).

[43] Both Crown and defence jointly recommend that the initial disposition hearing be held by the Review Board. I agree that the Review Board is the most appropriate body for determining Mr. Lamontagne’s disposition in all of the circumstances.

Conclusion

[44] Ryan Lamontagne had undiagnosed schizophrenia. This led to his being in a delusional, hallucinatory, disorganized, psychotic state during the critical times on October 21 and 22, 2019. He meets both branches under s.16. Ryan Lamontagne is therefore not criminally responsible by reason of a mental disorder for the murder of Linda Lamontagne, nor is he criminally responsible for interfering with her remains.

[45] His initial disposition hearing will be heard by the Review Board.

Arnold, J.

CANADA

C.R. No. 496907

PROVINCE OF NOVA SCOTIA

IN THE SUPREME COURT OF NOVA SCOTIA

In the matter of:

HER MAJESTY THE QUEEN

-and-

RYAN RICHARD LAMONTAGNE

AGREED STATEMENT OF FACTS

Pursuant to section 655 of the *Criminal Code* of Canada, the Crown alleges, and the accused, Mr. Ryan Richard Lamontagne, admits, for the purposes of dispensing with proof thereof, the following facts:

Narrative

1. Following receipt of a 911 call on October 22, 2019 at 7:35am, members of the Halifax Regional Police (“HRP”) were dispatched to 6312 Willow Street, Halifax, NS. 6312 Willow Street is a residence owned by a housing cooperative and features 3 separate units, one on the first floor, one on the second floor and one on the third floor. Ryan Lamontagne (d.o.b. August 19, 1993) and his mother, Linda Lamontagne (d.o.b. October 24, 1953), lived alone in the third-floor unit.
2. The 911-caller was a tenant who lived in the first-floor unit and reported that the son of the third-floor tenant was in the common backyard trying to bury a body.
3. Constables Avery and Lawless of the HRP responded to the call and attended the residence. Upon walking up the driveway they noticed the accused dressed in dark pants and a grey

hooded sweater with the hood up, holding a long-handled shovel in his hands and digging a hole in the backyard. The hole was about approximately 2-3' long and 1 1/2' deep. Beside the hole was a body that appeared to be female. The body was clearly deceased due to substantial observable injuries.

4. Cst. Lawless drew his service pistol and Cst. Avery announced, "*Halifax Police.*"
5. The accused looked up and stopped digging. Cst. Lawless ordered the accused to drop the shovel and step away. The accused complied immediately, then said "*Can I finish burying my mom?*" Cst. Lawless told the accused that he was under arrest for murder and to turn around and put his hands behind his back. The accused complied. Cst. Lawless holstered his firearm and placed the accused in handcuffs.
6. Cst. Lawless walked the accused back to the front of the house and to his police vehicle. Cst. Lawless asked the accused his name and date of birth. The accused said Ryan LAMONTAGNE and provided his date of birth. Mr. LAMONTAGNE confirmed that he lived at the residence, 6312 Willow St.
7. Mr. LAMONTAGNE's right hand was heavily swollen and red, with speckled blood on the back of his hand. He had a large red bruise in the center of his forehead along the hairline.
8. Cst. Lawless read Mr. LAMONTAGNE his rights pursuant to the *Canadian Charter of Rights and Freedoms* and provided him with a police caution. Mr. LAMONTAGNE said he understood both.
9. When asked if he wanted to speak to a lawyer, Mr. LAMONTAGNE said "*I don't deserve one.*" Cst. Lawless asked him again if he wanted one and Mr. LAMONTAGNE said "*No*".
10. Cst. Lawless transported Mr. LAMONTANGE back to HRP headquarters and placed him in an interview room where he again declined the opportunity to speak with legal counsel.
11. At the commencement of being interviewed, Mr. LAMONTAGNE was asked again by Cst. Shupe if he wanted a lawyer. This time he said "*Yes*". Nova Scotia Legal Aid was contacted, and counsel attended the police station and met with Mr. LAMONTANGE.

12. Two paramedics from Emergency Health Services were requested to attend the police station by the police to assess Mr. LAMONTAGNE's injuries. They determined that he would have to go to the Hospital so that his injuries could be fully assessed. Mr. LAMONTANGE was transported by officers to the QEII hospital in Halifax where X-Rays were taken. Mr. LAMONTAGNE was cleared medically and returned to the police station where he was interviewed.

Interview of Mr. LAMTOTAGNE on October 22, 2019

NOTE: A DVD containing a full recording of the interview as well as a transcript of the interview will be exhibited by the parties at the hearing.

13. Mr. LAMONTANGE cooperated and was forthcoming with the officers who interviewed him. He admitted to being solely responsible for the death of his mother and recalled various aspects of how he attacked and killed his mother.
14. During the course of his interview, Mr. LAMONTAGNE made numerous strange, bizarre and delusional statements and appeared to struggle to discern reality. At times Mr. LAMONTANGE seemed unsure as to whether what happened really occurred, and stated he felt that it may be a dream and that past, present and future were all merging. Conversely, at different points during the interview the gravity of what occurred seemed clearer and Mr. LAMONTAGNE would express self-loathing and a desire to be killed.
15. Mr. LAMONTAGNE stated a belief that either he or his mother were not really who they were; illustrative of this was his belief that his mother had been transformed into a snake, a prophet, a zombie, and/or a gingerbread man. Mr. LAMONTANGE spoke about going to Dartmouth, going in a car with a big burly guy, maybe a Norse God, and talking about "gay stuff".
16. Mr. LAMONTAGNE recalled running back home from Dartmouth wondering if what he did to his mother was a dream.

Information Obtained from the Tenants of the Willow Street Residence

17. Police spoke with and interviewed the tenants of the Willow Street residence.
18. T.L., the 911-caller, lived on the first floor with two roommates, R.C. and M.M.
19. T.L. stated that she woke up at 7:30 am on October 22, 2019 and let her dog out as she always does. She noticed her dog was barking differently. She could see the neighbor's head over top of her porch and recognized it to be Mr. LAMONTAGNE, someone who was normally okay with her dog. She came off the porch to say sorry about the barking and to get her dog. At this point she noticed that he was holding a shovel and was digging a small hole. She saw what looked like a body on the ground. She didn't recognize the body and thought it was a Halloween prank and laughed in shock, Ryan said to her "*No, it's not funny. I did something really bad*". She asked him if he needed help, he either said "No" or didn't reply. She quickly picked up her dog and went back into the house, noticing that he started digging again. Once back inside, she locked the door and went into her roommate's room, R.C., and told her that they have to call 911.
20. M.M., is a roommate of T.L. and R.C.
21. M.M. indicated that she resided in the rear bedroom and her room was located underneath a set of stairs leading to the upper units in the residence. On October 21, 2019, she returned to the residence around 9:30 pm and was watching the results of the Federal election. She believes she went to bed around 1:30 am (October 22, 2019), and woke up a short time later and could hear yelling from above her. She could hear a male voice yelling, saying something along the lines of "*This is it, this is enough, can't take it anymore*". She was not sure whose male voice it was or the time it was when she heard this. At the time she believed it may be people arguing about the election results. She went back to sleep and awoke before her alarm which was set for 8:00 am as she could hear her roommates whispering and heard mention of calling the Police. At this point her roommate T.L., told her that she saw a body in the backyard and someone digging a hole.

22. R.C. was a roommate of T.L. and M.M.
23. R.C. indicated that she went to sleep on October 21, 2019 at approximately 10:00pm. She did not wake throughout the night and awoke to her roommate, T.L., entering her room and telling her what she had seen in the backyard and that they needed to call 911.
24. S.T. was a tenant who resided on the middle floor along with her partner D.S.
25. S.T. advised that she returned to her unit at approximately 9:15pm on October 21, 2019. She woke up at about 1:51 am (October 22, 2019) and heard "heard crazy ass noises" and it sounded like someone falling down the stairs. She heard noises in the back, could see a light on in the back hallway, and then all seemed fine. She heard words but was not sure what they were. It sounded like someone was super drunk and someone was stumbling around. She heard no words or sounds of distress. The noises in total lasted 20-30 seconds. After she heard the noises she looked out on the roof in the front (facing Willow St) but all seemed normal.
26. D.S. shared the middle-floor unit along with S.T.
27. D.S. stated that he went to bed around midnight the evening before and was awake between 1:30am – 2:00am (October 22, 2019) hours due to loud banging and what sounded like slamming cupboards. He heard no voices at this time, but then heard a man's loud voice but could not make out the words. D.S. said the man sounded like a drunk person. He only heard one guy being "nuts" and never heard a woman's voice and assumed it was only a man present. He was not sure where the loud noises were coming from as he was startled awake and remained in a dozy state. He stated he originally thought the noises were from outside but then stated it sounded towards the back half where stairway was and upstairs. D.S. said the loud sounds lasted 10 minutes. D.S. did not get out of bed and awoke to his alarm at 8:00am.

Scene Examination by Police

28. Members of the HRP searched the interior and exterior of the Willow Street Residence along with the surrounding neighbourhood.

The Exterior of 6312 Willow Street

29. From the driveway, a paved pathway leads to the right and into the backyard. From this pathway, Ms. LAMONTANGE was noted lying face up in the backyard with a camouflaged hoodie covering her naked body. There was a mound of dirt beside a hole dug into the ground with a metal spade shovel lying next to the hole with the handle facing east. The shovel was noted to have blood on it. The body was facing south with her feet facing north. The only clothing items being worn by the deceased appeared to be blue socks. There was a camouflage hoodie that was placed on the torso and a neatly folded pair of grey sweatpants under her feet. Significant trauma was evident: both arms of the deceased appeared to be broken, there was severe facial injuries, the right eyeball appeared deflated and extruded onto her upper cheek area, and the deceased's scalp had been cut away from her body. The scalp was found on the grass surface approximately two feet above the location of her head. Her entire skull bone surface was exposed from a point just above her left eye, due to the missing hair and scalp. Other injuries were noted to her extremities.

30. Across from the end of Ms. LAMONTAGNE's feet (where the paved pathway ended), was a set of wooden stairs that led to a white exterior entry door of the third-floor residence. On the left of the stair landing was a black Under Armour kit-bag, a French Dictionary book (later found to have pages cut out as if to hide items within), a set of hearing protectors, and a bottle of cream lotion. Located just beside the kit bag was a pair of black male underwear, and beside those were a black pair of Air Jordan sweatpants face down many large blood-stained areas noted on the rear surface. On the railing of the stairs, there was a set of keys with a pink rope style lanyard, and a cold gel pack (cold to the touch). On the wooden stairs were various areas of blood staining.

The Interior of the third-floor unit of 6312 Willow Street

31. The third-floor unit is accessed through the white exterior door located at the rear of the residence. Upon entering through the exterior door, a flight of stairs leads directly to a second-floor landing. Both the exterior door and internal stairwell leading to the second-floor landing contained various areas of blood staining.
32. At the top of the second-floor landing, a shrine type display was found consisting of a mounted painting with wooden "tiki" torches on either side, a wooden decorative stick in the center, brick with papers on the top which sat on a small aluminum ladder with grey carpet covering.
33. Past the second-floor landing, a further small flight of stairs leads directly into the third-floor apartment. The apartment consists of a bathroom, kitchen, dining room/living area and two bedrooms.
34. In one bedroom a TV was found on a stand with the TV turned around to face directly against the wall. On the TV stand was a further shrine type display where over 100 DVDs were found stacked on top of dumbbells. On top of the DVDs bottles of cologne were balanced. On top of the cologne bottles was a deodorant stick. Precariously set on top of the deodorant stick, and very close to the ceiling, was a candle which caused smoke discoloration to the ceiling and wall.
35. In the same bedroom, various items appeared to be carefully laid out on the bed, including: some identification cards, condoms, an ashtray and drug paraphernalia. A pill bottle was located containing blotted paper confirmed to contain Lysergic acid diethylamide (LSD).
36. In the same bedroom a broken pair of glasses was located, with one arm being found on the floor and the other arm being found on a side table.
37. In the dining room/living area on the table was a bowl with a vase on top of it. On top of the vase was a Mother's Day card addressed to Linda from "R.L."

38. The apartment was generally tidy with little signs of struggle. There was no visible blood staining in the apartment. A chemical agent was applied which revealed some small areas where blood may have once been deposited and washed or wiped away.

Postmortem Examination

39. A postmortem examination of Ms. Linda LAMONTANGE was conducted on October 22, 2019 by Dr. Matthew Bowes of the Nova Scotia Medical Examiners Service. The cause of death was determined to be the result of multiple injuries.

NOTE: The Report of Postmortem Examination will be exhibited by the parties at the hearing.

40. During the examination of the deceased, both at the scene and at the Medical Examiner's Service office, several notable observations were made by Dr. Bowes:

- a. Both arms of the deceased were broken.
- b. The deceased had her scalp removed from her skull from the back to front of her head and the scalp was located a short distance from the body at the scene.
- c. The ~~accused~~ ^{deceased} experienced blunt force head trauma. *HK MM GH R.L.*
- d. The deceased's right eye had been damaged and removed from the eye socket.
- e. The deceased had a fractured larynx and bruising around the neck area indicative of strangulation and or suffocation.
- f. Following X-ray and dissection, a cross necklace pendant was located in the throat of the deceased.

Timeline of Mr. LAMONTAGNE's activities on October 21, 2019 and October 22, 2019

41. In addition to what is recounted above, the following is known about the movement of the Mr. LAMONTAGNE on October 21, 2019 and October 22, 2019.

42. On October 21, 2019 Ryan Lamontagne called in sick for work at the Westin Hotel in Halifax. The previous day, Mr. LAMONTAGNE had been sent home from work on October 20, ~~2021~~ ²⁰¹⁹ by his manager for "acting strange."

43. On October 22, 2019: *mk m/gw PL*

- a. At 2:58am, Mr. LAMONTAGNE was seen on video walking east on Willow St. from the area of his residence;
- b. At approximately 3:00am, Mr. LAMONTANGE was seen on video walking north on Windsor St. turning east onto North St.;
- c. At 7:03am, Mr. LAMONTAGNE was seen on video walking west on North St. turning south onto Windsor St.; and
- d. At 7:09am, Mr. LAMONTAGNE was seen on video walking west on Willow St. towards his residence, and then starts jogging/running toward residence.

ALL OF WHICH IS ADMITTED this 22nd day of January, 2021 at the Halifax Regional Municipality, Nova Scotia.

Ryan Lamontagne

Ryan Richard Lamontagne

Brad Sarson

Brad Sarson
Counsel for Ryan Richard Lamontagne

ALL OF WHICH IS ADMITTED this 22nd day of January, 2021 at the Halifax Regional Municipality, Nova Scotia.

Mark Heerema

Mark Heerema
Senior Crown Counsel

Shauna MacDonald

Shauna MacDonald
Senior Crown Counsel