**IN THE EASTERN CARIBBEAN SUPREME COURT**

**IN THE HIGH COURT OF JUSTICE**

**ON MONTSERRAT**

**CASE MNIHCR 1996/0026**

**REX**

**V**

**RAY RYAN**

**APPEARANCES**

Mr Jean Kelsick for the defendant.

The DPP Mr Oris Sullivan and Crown Counsel Mr Andrew Horton for the Crown.

The Attorney General Ms Sheree Jemmotte-Rodney for the Governor.

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**2022: SEPTEMBER 20**

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**RULING**

**Considering today sentence in 1996 for murder, being detention at the Court's pleasure**

1 **Morley J**: Ray Ryan (dob 18.01.75), now 47, when 21 on 02.04.96 killed his brother Taig, two years older, by repeatedly stabbing him with a kitchen knife and broken bottle, and beating his head with a rock. He then drank his blood. Arrested on 03.04.96, he was diagnosed a paranoid schizophrenic, kept in hospital a month, remanded on 02.05.96 following murder charge, and tried from 04.11.96 following not guilty plea. The record shows on 08.11.96 the jury found Ryan[1] 'guilty but insane', meaning, as the law was then, responsible for the actus reus but owing to insanity lacking mens rea[2], and that day the Court

[1] The defendant Ryan and various others will be referred to often by their first or surnames, or in other short form, for ease of reading and no disrespect is intended by not always writing out full titles and legalese.
[2] As per then **s156 Criminal Procedure Code**, Act 21 of 1982.

ordered him 'detained at Her Majesty's pleasure', meaning his release if ever was to be determined by the Governor. On 10.11.17, this was corrected by the Court of Appeal to being 'detained at the Court's pleasure', meaning his release if ever is for this Court to decide, no longer the Governor.

2 He has been in prison ever since 02.05.96, now more than 26 years, and the purpose of this Ruling is to review his sentence to see what continues to be the Court's pleasure, and whether to release him, thus to ensure his circumstance is considered fully, rather than he languishes evermore without further hearing, which is what has been happening for more than 20 years concerning the Court and, as will be seen below, for almost 10 years concerning parole.

**The facts**

3 To capture the facts more fully, there follows excerpts from the helpful case summary prepared on 18.01.22 by Crown Counsel Horton, gleaned as best possible from an old file.

1. Ray Ryan murdered his brother Taig in a frenzied attack with weapons, whilst under some kind of delusion that his brother was the devil or an evil spirit.

2. He was living with Taig at the time of the murder in Long Ground, Montserrat. A relative reported a personality change in him in the months before, showing a marked interest in religion, specifically in the struggle of spirits for good and evil.

3. The murder occurred on 02.04.96 at some point after dark. Neighbour Charmaine West stated that she was roused from her bed by a loud crying so she ran outside. She saw Ray Ryan walking down the road with Taig, walking behind. She went back to bed but again returned outside after hearing further crying. She saw Ray crying on the ground with Taig standing over him. Taig told her that he was in bed when Ray called him out and "*starting running him with a knife and cut him on his lip*". Ray had a knife with him on the ground; he put it down but took it up again. Ms West feared attack so went home and spoke with her mother, Rose West, before returning where she now saw the defendant on top of Taig "*firing stabs*". The two men wrestled and she saw the defendant take up a bottle and beat Taig with it until it broke, then he used the broken bottle to "*fire stabs*". Ray made a "*growling*" noise, his eyes were "*white and wild*" and he was saying words like *"Demon", "Satan"* and *"Curse".* Ray then used a stone to strike Taig on the head and neck, and was noted to be biting Taig where he had hit him with the stone and his mouth was "*covered in blood*".

4. Witnesses Rose West and Joseph Molyneux also saw some of the attack and heard Taig saying "*Help me*" while Ray was sat on him beating him with the stone, and they also saw blood on Ray's mouth. Mr Molyneux realised that Taig was dead at some point and went for the police.

5. Witness Stedroy Francis saw the end of the attack and tried unsuccessfully to get Ray to stop. Ray said "*who next? I want blood*". Mr Francis ran away.

6. Police were notified at 11.40pm the same day and attended where they found Taig Ryan, deceased. Nearby they found a kitchen knife, a broken bottle and two stones with blood upon them. They found Ray Ryan apparently sleeping, not far away, at 6am on 3rd April 1996. He was noted to have blood on his clothing, to be frothing at the mouth, shivering and a piece of his lower lip was missing. He was arrested and cautioned but gave no reply. The police took him to hospital first. He was questioned by a Doctor, with police present, and stated that his brother was dead and that he had stabbed him and hit him with a stone.

7. It appears that the defendant was in hospital from 03.04-02.05.96. He was picked up again by police on 02.05.22 at 8.30am as he was being released from hospital. He was taken to the police station, questioned and charged with murder. He gave a caution statement referring to "*spiritual warfare*", with the devil putting things in his head, but stated his memory was fragmented after blacking out at times. He was taken before the Magistrates Court and remanded.

8. The post-mortem findings of a Dr Kothari noted multiple injuries to Taig Ryan. There were bruises to the legs, abdomen, arms and back, plus haemorrhages to the surface of the cerebrum and sub-cutaneous tissues at varied locations. There were several wounds to the right hand described as "*ragged*" and "*bone deep*". The cause of death was *"Multiple injuries all over the body…[with] cerebral haemorrhage and haemorrhage in the vertebral canal in the front of and behind the mid-brain".*

**The prison record**

4 Before turning to the history of recent proceedings, and the psychiatric history, below is his prison history, helpfully prepared on 06.07.21 by paperwork offered from Prison Superintendent Bennett Kirwan.

a. Ryan has no family on Montserrat, has no visitors, and is only irregularly seen or called by his mother living in the UK.
b. In 1996, Ryan attempted to mutilate himself with a knife stolen from the prison kitchen.
c. On 18.08.97, with others Ryan made an attempt at escape but was recaptured.
d. On 24.08.97, he was moved to Turks & Caicos owing to volcanic activity.
e. On 18.09.97, Ryan was diagnosed by Dr Beverly Anderson suffering an acute psychiatric episode, with depression and suicidal attempt.
f. On 06.10.97, Ryan assaulted officer Morris.
g. On 14.01.98, Ryan with others assaulted officers Harris and Kelly.
h. On 26.08.02, Ryan was found in a psychotic state.
i. On 16.01.03, Ryan was described by Prison Advisor Chris Gibbard as *'a star prisoner, no.1 on the farm, musician, and poet, being a garden orderly at Government house'*.

j. On 16.04.04, Ryan assaulted officer Frazer.

k. On 03.03.05, Ryan damaged prison property.

l. On 22.09.05, Ryan was convicted of four counts of breaching prison discipline.

m. On 10.10.05, Ryan fell into a 'demonic rage' over replacing his radio.

n. On 27.11.06, Ryan pleaded guilty to five charges of breaching prison discipline owing to various destructive and threatening behaviours.

o. On 09.09.07, Ryan threatened officers.

p. On 06.10.07, Ryan was again destructive and threatening.

q. On 09.10.07, Ryan smeared his prison walls with his excrement, in a context of refusing for three months to take his medication.

r. On 11.05.08, Ryan destroyed a gift of an MP3 player.

s. On 05.11.08, Ryan was destructive and disruptive over lunch.

t. On 11.03.09, Ryan was refused parole as unreformed and, supported by a psychiatric report of 28.11.08 from Dr Griffin Benjamin, as not being mentally competent for release.

u. On 25.01.11, Ryan was refused parole as withdrawn into himself, while facilities on island were said too limited to cope with his mental health needs if released.

v. On 02.11.11, Ryan was refused parole as continuing to suffer a serious psychiatric condition and showing no remorse.

w. On 28.02.13, Ryan was refused parole for non-attendance at hearing and, supported by a psychiatric report of 22.11.12 from Dr Griffin Benjamin, for continuing mental health reasons making him a danger to himself and others.

x. There have been periods since then Ryan has been very disruptive, making noise into the night, with poor hygiene, though he was much improved from 2017 when he began receiving olanzapine.

y. Ryan's behaviour has notably improved since taking fluphenazine was forced from 2019, now taken voluntarily.

5 A picture emerges from Ryan's prison record he has been refused parole four times - in 2009, early 2011, late 2011, and 2013 – with it seems no further consideration since; and he can behave well, or very badly, which appears related to whether he is taking his medication.

**Sheltered accommodation**

6 By a report from Teresina Fergus, Director of Social Services, dated 02.09.21, accommodation was considered as to where best Ryan might live if ever released. It is suggested he might live at Oriole Villas, which is sheltered accommodation, described in her report as follows:

> Oriole Villas is a residential facility for persons with chronic mental health disorders in Montserrat. The facility is a residential facility operated by the government of Montserrat through the Ministry of Health and Social Services. All services are provided at no cost to residents. Oriole Villas is made up of twelve (12) concrete single-occupancy units along with common areas for catering, laundry and recreation. There is also an administrative unit and residence for the Senior Warden who supervises the residents. The facility provides and coordinates personal and health care services, almost 24-hour supervision, and some recreation and rehabilitation services.
>
> The wardens assist with providing prescribed medication to the residents, booking appointments with doctors, grooming, money management for those who require this service, personal hygiene care, eg manicure and pedicure, and assistance with grocery shopping. The residents are encouraged by the wardens to maintain proper hygiene and to also keep their living areas clean.
>
> Although there is a level of monitoring and supervision of clients, the facility is situated in a manner in which friends and family members can visit the residents whenever they can and also residents are allowed to leave the compound. The psychiatric nurses visit the compound weekly to administer medication and to provide regular check-ups to the residents. Prior to the pandemic, Dr. Patterson, the Psychiatrist visits once every two months to provide further assessment and care to the residents….
>
> Vulnerable clients can assess a number of social protection assistances. In Mr Ryan's case, the following safety nets can be accessed. These will be considered in line with the Care plan that was developed from Community Care Assessment.
>
> - Financial and rental assistance;
> - Meals on Wheels Services – provides 7 days cooked meals for residents;
> - Referral can be done on his behalf for mental health housing accommodation to the residential warden supported facility for the mentally challenged at Oriole Villas or in the community;
> - Referral can be made also on his behalf to the mental health team for further care.
> - Follow ups can be done with the Mr Ryan to ensure that his social and mental health needs are being addressed accordingly.

7 Further, Director Fergus reported the views of the Senior Warden:

> An interview was done with Mr. Theodore Woodley, Jr., Senior Warden at Oriole Villas (previous Superintendent of Prison) by an Officer within Social Services about the different functions of the Oriole Villas housing facilities. He expressed that there is currently no available room at the moment; however, he would gladly shift someone who is ready for

> transfer into society. He also explained that he would make it a priority to aid Mr. Ray Ryan in his reintegration process. He further explained that he has known Mr. Ryan for over 25 years prior to him being imprisoned and during most of his tenure and is of the belief that he needs to be released.

8 In principle therefore, taking into account his mental health issues, it appears Director Fergus believes there is facility which can be developed to assist Ryan if released, which the Senior Warden encourages.

**The issues**

9 There follow three issues to contemplate:

a. What would be the sentence if of sound mind;

b. What is the status of Ryan's mental health; and

c. What is the law governing contemplation of his release.

**If of sound mind**

10 In theory, it is possible to calculate Ryan's sentence as if in 1996 of sound mind. However, it must be noted this exercise has an artificial feature, as it seems to this Court the offence would likely not have occurred at all if Ryan had no mental health issues, so that the offending is in fact a product of his illness and inextricable from his profound psychosis when he attacked his brother.

11 Nevertheless, assuming he was not insane, if assessing sentence for this murder it might proceed as follows. There are ECSC[3] sentencing guidelines for murder issued in November 2021. This was a frenzied murder with a knife, and bottle, and a rock being used as a weapon, both repeatedly, all over the body of a man calling out for help, whose death arose from the blows to his head, leading to cerebral haemorrhage, with on-looking witnesses, suggesting the killing took time and therefore determination. In my judgement, being a single killing, there being no firearm, and lacking cold premeditation, it falls within para 8 of the guidelines, as a murder with a bladed item, with thus a starting point of 30 years, and range up to 40 years. I consider the length of attack and its frenzy increases the sentence to the

[3] Eastern Caribbean Supreme Court.

maximum of 40 years, and assuming good character would reduce it by one year, to 39 years. There being no plea, the sentence would not reduce further.

12 Of 39 years, as a determinate sentence, Ryan could expect to serve two-thirds before being eligible for automatic remission if of good behaviour, meaning 26 years, which he has already served, though recognising his poor behaviour in prison on numerous occasions may mean some remission time being docked, so that more time may yet be required to be served. However, the point arising is the sentence if of sound mind would today be on the cusp of being over.

13 In theory, therefore it could be the Court's pleasure now to pass a determinate sentence, as described. However, at this point in reviewing Ryan, the stark issue is his continuing mental health, for he remains a paranoid schizophrenic, showing symptoms as will be seen below, and whether therefore if released into the community he would be a serious danger to himself or in particular to others.

14 The short point is, following a verdict of 'guilty but insane', the reality is he should not be released unless it is safe irrespective of a sentence calculation if of sound mind.

**Recent proceedings**

15 Before turning to the psychiatric materials, the history of recent proceedings has been as follows.

a. At the end of each assize, there is a report from the prison inter alia on its small population of inmates, during which meant, when the instant judge first sat in Montserrat in November 2016, my attention was drawn to the circumstance of Ray Ryan in December 2016 and then when later visiting the prison to inspect its standards, visiting his cell where I observed he was shouting incoherently. It was pressed upon me he was mentally ill, had been incarcerated since 1996, with no lawyer, no family, no Court hearings, and no clarity on what will happen to him.

b. Thereafter I have ensured there is regular update to the Court as to his condition, twice annually, including through covid, which led to psychiatric reports in 2017, 2019, and 2021.

c. With the generous assistance of the Attorney General, on 05.07.17 an advocate was assigned at public expense to represent Ryan, namely Counsel Kelsick, who as a former Chair of the Montserrat Bar Association commendably felt it his duty to assist. His first task was successfully to get the Court of Appeal to adjust the sentence on 10.11.17 to detention at the 'Court's' pleasure, instead of 'Her Majesty's pleasure, consistent with recent Constitutional authority which has established sentencing should not be an executive function and therefore not for the Governor. This welcome decision therefore places Ryan's conditions of detention, and future, as squarely the responsibility of this Court.

d. Deciding on 20.07.17 there should be a formal review of Ryan's circumstance, propio motu I have had his case called into Court on 29 dates as follow, for oversight and to gather case materials and further reports: 31.03.17, 07.04.17, 28.06.17, 05.07.17, 20.07.17, 22.11.17, 06.11.18, 13.11.18, 04.03.19, 19.03.19, 18.09.19, 18.09.20, 02.11.20, 14.12.20, 08.01.21, 01.03.21, 03.03.21, 05.03.21, 18.06.21, 24.06.21, 08.07.21, 22.07.21, 16.09.21, 01.10.21, 10.12.21, 25.01.22, 11.03.22, 19.07.22, with today 20.09.22 for Ruling.

e. It was during reviews of Ryan's circumstance, who was being visited regularly by the resident psychiatric nurse, it became apparent he needed to be forced to take his medication, being a problem of many years, but which presented logistical difficulty, as there was no one in the prison with training to restrain him. However, with the support of the prison leadership, this difficulty was overcome in 2019, which meant Ryan was made to take his medication, which then hugely stabilised him, and ever after he has been cooperative in the prison, including taking his medication voluntarily. This has meant his circumstance has shifted from being plainly at most times a danger to himself and others to being perhaps not so if taking his medication, therefore giving rise to the instant formal review of what next should happen to Ryan.

f. Though invited and at liberty to attend, owing to his condition Ryan has not appeared at any time in Court, with agreement by Counsel Kelsick, including today.

**The psychiatric evidence**

16 On Montserrat, though there is a resident psychiatric nurse, who is currently Nurse Thompson and for a time was Nurse Lane, there has not been a resident psychiatrist, who instead visits from other islands, recalling Dr Griffin Benjamin was resident on Dominica and Dr Amrie Morris-Patterson on St Vincent.

17 If a person is to be detained for mental health reasons, there is no psychiatric hospital on Montserrat, so that the prison has long been designated where such persons must be kept[4].

18 The psychiatric evidence is as follows.

a. On 07.11.96, Dr Beverley Anderson reported seeing Ryan on the following dates in 1996: 27.07.96, 06.08.96, 10.08.96, 27.08.96, 28.08.96, 17.09.96, 24.09.96, variously in October, then 06.11.96, and 07.11.96. She diagnosed he was a paranoid schizophrenic and at the time of the killing owing to psychotic delusion was suffering temporary insanity, believing he had to kill his brother as an evil spirit, such that he thought he was doing good not wrong. In custody, under supervision, she did not consider him any longer a danger to himself or others.

b. On 28.11.08, Dr Griffin Benjamin reported *Ryan 'presents with auditory and visual hallucination, intense paranoid delusions and disorganisation of speech and disorganised behaviour. He is not able to give a clear account of the incident related to his imprisonment. He shows no sense of remorse. It is our opinion he is not competent to face the parole board. We believe he may be a serious danger to himself and others if released into the community.'*

c. On 21.11.12, Dr Benjamin reported Ryan remains unfit for parole as he *'continues to be mentally incompetent. We firmly believe he may pose a serious danger to himself and others if released into the community.'*

[4] See SRO 47/1999 as appended to the **Mental Treatment Act** cap 14.03, as at 2013.

d. In 2013, though a copy of the report is not available to the Court, a 'Dr J. Parrott' described Ryan as having a clear history of schizophrenia with paranoid and grandiose delusions, auditory hallucinations with disorganization of thought, and made recommendations as to his medication.

e. On 16.06.16, it seems Dr Benjamin made a further report, though not available to the Court.

f. On 27.10.17, though there is no paperwork Ryan applied, Dr Benjamin again reported Ryan unfit for parole as he had no remorse for the death of his brother, and his symptoms of schizophrenia persisting meant he posed a risk to himself and others.

g. On 02.05.19, Dr Amrie Morris-Patterson reported Ryan wished to be released to be an evangelist, it appears he said he had killed Taig as he believed he had raped his (Taig's) wife and Taig thought him (Ray Ryan), a woman, he was unable to give a logical and coherent account of the circumstances of his incarceration, or of personal and family history, adding his father is Michael Jackson the popstar. She wrote: *'It is my opinion Ryan has schizophrenia with continuous symptoms. The symptoms, namely severe disorganisation of thought and persecutory and grandiose delusions fulfil the diagnostic symptom criteria of the disorder and have been present for the majority of the course of the illness. Schizophrenia is a chronic enduring mental illness. Ryan sems to fall within that subset of patients for whom anti-psychotic medications are helpful in controlling disruptive and disorganised behaviour; however there is minimal remission of other symptoms. He continues to need institutional care and is not likely to have the skills needed for independent living.'*

h. On 03.03.21, Dr Patterson reported: Ryan *'was noted to have formal thought disorder, notably tangential thought (a digression from the subject, introducing thoughts that seem unrelated, oblique, and irrelevant). There were brief periods of coherence where he rehashed previously told stories of his relocation to Grand Turk prison following the volcanic eruption of 1997. He was not as forthcoming with delusions as he was on previous interviews….It is my opinion that Mr Ryan has schizophrenia with continuous symptoms. The symptom of severe psychotic delusions seems to be receding; however, he continues to have marked disorder of his thought process that hinders his ability to*

*communicate effectively. Schizophrenia is a chronic enduring mental illness with periods of relapses and remissions and Mr Ryan will continue to need and benefit from assisted living support and supervision.'*

i. On 17.06.21, Dr Patterson considered release into the community, making the following three requirements: *'1. Strict adherence to psychotropic medications will have to be maintained to help reduce psychotic symptoms like hallucinations, delusions and disordered thinking. 2. Mr. Ryan will benefit from an assessment of his functional capacity. This is an assessment that gives a picture not only of what he can and cannot do, but also 'how" and "why". This is usually within the purview of social workers/clinical psychologists. There will likely be a need to pair this evaluation with occupational therapy, as Mr. Ryan has not achieved the typical milestones of adulthood. In addition, it is useful to note that a remission of acute psychotic symptoms does not necessarily translate to improvement in functional capacity. 3. Any placement to an assisted living facility should be done slowly and incrementally. Reintegration to life outside of prison can be especially overwhelming and challenging for a mentally ill offender who has likely become accustomed to the restrictions that institutional life imposes.'*

j. On 22.07.21, Dr Sharra Greenaway-Duberry, the Montserrat Chief Medical Officer, assessed how Ryan's needs might be met if released, reporting:
    i. Ryan is on injected fluphenazine 50mg every four weeks, which is an anti-psychotic, and olanzapine 10mg daily, which is a mood-stabiliser.
    ii. Ryan could be placed in Oriole Villas.
    iii. Ryan would be required to visit the psychiatric clinic for close monitoring that he takes his medication, and if needed home visits by the psychiatric nurse.
    iv. Ryan would need a social worker assigned to him to encourage he takes his medication and to alert the authorities if there is deterioration, while there is also needed an individualised care plan to be created by a dedicated technical team within the Ministry of Health.
    v. There needs also to be a rigid assessment schedule for 3-6 months.
    vi. Finally, she notes: *'In general, Mr. Ryan is described as cooperative and communicates well with the medical staff. It is difficult to determine if there will be issues with drug administration if he is released from prison especially since transitioning from institutionalized living into assisted or supervised living can be*

*a significant stressor for a person with his condition. Issues such as non-compliance with medication will require the support from key stakeholders like the police and social services.'*

k. On 09.12.21, in a comprehensive review of Ryan's history, Dr Patterson reported his behaviour has much improved while on the fluphenazine and olanzapine. She further reported as follows.

i. As to her interaction with Ryan by zoom on 06.12.21, with Nurse Thompson present with Ryan, it will be helpful to recount much of her record:

> Mr. Ryan was calm and cooperative and seemed willing to engage with the interviewer. In response to the enquiry regarding his wellbeing, he stated that "spiritually he is led by a force of nature." He also conveyed seasons' greetings. The purpose of the interview was explained, and he consented to same.
>
> Mr. Ryan was then asked to give an account of the circumstances that led to his incarceration. He reported that it was a long story and proceeded to rap the following lyrics in the hip-hop genre "Somewhere along I was fine, I never had thought of doing crime, my friends in the hood got me packing guns and knives, they have control over me…."
>
> He further stated that during that time he was in a spiritual warfare in his mind. He said that he was writing a book called the Bible and he saw a movie about the crucifixion on TV. He wondered why they were doing this to a white person who we would normally hold in high esteem and was looking in the community to find out who killed Jesus. He also made an effort to see the movie at a cinema to clarify if the same treatment will be meted out to a white man. He then related an incident when he was five years old, and his mother brought home his baby sister Nissan. He reported that his mother left the room to fetch something, and he recalls thinking the baby was a chicken wrapped in foil paper. He reported thinking to himself that his mother had brought him a sweet /candy and then he attempted to pick up the sweet but realized that he was gouging out the baby's eyes. Mr. Ryan was unable to tell whether his baby sister suffered any damage to her eyes even though they grew up together in the same home.
>
> Mr. Ryan spoke extensively of having spiritual warfare in his mind prior to the incident and of hearing from spirits and demons and having evil thoughts of Lucifer coming to his mind. He reported that around the time of the offence, God told him not to go to work but he disobeyed God and went to work. He reported that the devil was tempting him that he had blasphemed against the Holy Spirit and when he heard that his heart was beating fast as there is no forgiveness for blasphemy. He stated that he went home, and his spirit was troubled and he heard a voice telling him to kill somebody. He then stated that his mother had said he is her king-child, and you have to win the calypso competition to be crowned king.

During the interview, Mr. Ryan was noted to be very thought disordered. He had marked circumstantiality thinking (an inability to differentiate the essential from the unessential. The patient gets lost in insignificant details without losing track of the question). He was tangential (talking past or around the point; thoughts diverge from the topic) with loosening of association. The patient seems to understand most questions, but does not answer directly, bringing up another topic or something context-wise entirely different.

Repeated attempts were made to redirect Mr. Ryan to give an account of the index offence, however, he stated that the Bible says that we are to forget those things which are behind. When asked how he feels about the incident he said that he cannot explain the feeling because when the Son set you free you are free indeed. He also stated that if the deceased, Taig, was his blood brother, he would say he misses sharing with him. He further reported that his brother could not survive because he chanced upon him having sex with their paternal sister and it was the first time he (the patient) was seeing those things.

Mr. Ryan was further urged by Nurse Thompson who was on the mental team at the time of the index offence about giving an answer to the question regarding the index offence. He then said, “Lucifer told me to kill me brother and me kill him.” He then became very animated in relating how on the night of the incident he saw a cat and a frog pass and he sensed that the presence of evil was there. He said when he looked in the distance, he saw a light coming towards him and the spirit told him to resist the devil. He stated that when the light hit him, he shouted ‘Lucifer’ and held his hands up in a position of surrender and his hands became stiff. The spirit of Lucifer told him if he did not kill his brother before 12 o’clock that night he will die.

He reported that his brother was sleeping, and he called him and told him that the volcano is erupting as this was during the period when the volcano was active. Mr. Ryan was full of jocularity as he demonstrated how he held up the knife to stab his brother. He recalled that his brother was still heavy-eyed. He stated it was a dark night and the brother ran from the home. He then pursued him and pinned him to the ground and stabbed him to death. He then said this story could be sad or joyful, but nothing has to come to an end. He further likened the situation to brothers Cain and Abel as found in the Bible. He then laughed and said “let me be Cain” as his brother was older and already had more life experience so he can take the hardest part and be the one to die.

Mr. Ryan then said that the spirit led him to the neighbor’s dog and commanded him to kill that dog or it will kill you. Mr. Ryan then dramatized how he held up his hand and said “Lucifer, Son of the morning”, and then he kissed the dog. He reported that he then held and bit out the dog tongue. Mr. Ryan then roared with laughter as he related putting the dog on the back of a donkey and going to put it in the yard where a Rasta man lived. He said the spirit told him to bite the dog nose and drink the blood. He reminisced on the blood tasting sweet.

> Mr. Ryan was asked about whether he is still having the experiences of hearing the voices as he did at the time of the index offence. He stated that sometimes he still hears them but "God is defined as guard and the Bible says God is a spirit and if you spell d-o-g it will be G-o-d and greater is He that is in me".
>
> In response to a direct question of if he was sorry about what happened to his brother, he asked the interviewer to define sorry. He then said that will mean that he is dwelling on the past, he said he won't remember these things because he is able to forgive and forget. He stated that the brother did something to his wife (Mr Ryan seemed to interchange references of his paternal sister and his wife) and he punished him for it.
>
> Mr Ryan was questioned regarding his thoughts if a similar situation arises to which he responded, "if separation comes, would it happen a second time, how would we know……?"

ii. As to her opinion, she said: *'Mr. Ryan remains unwell, shows no remorse and has no insight into the gravity of what he did in 1996. He is likely to pose a risk to others if removed from a structured environment where there is strict supervision of his care. Mr. Ryan does not have the social band cognitive skills needed for independent living. He may however, benefit from an occupational skills training program and continued psychotherapeutic engagement.'*

19 Opinion was sought on Ryan's prognosis from an expert in the UK, Dr Suraj Shenoy, a greatly experienced Consultant Forensic Psychiatrist based at Newton Lodge, in the Yorkshire Centre for Forensic Psychiatry, being an NHS medium secure psychiatric unit in Wakefield. He provided a most helpful and thorough report dated 18.01.22, having reviewed all available materials and assessing Ryan by zoom on 14.12.21, with Nurse Thompson present, and then he and Nurse Thompson gave extensive evidence to the Court via zoom on 19.07.22.

20 The question for both has been whether Ryan is safe to let back into the community, and if so how to do it.

21 Concerning Dr Shenoy's 15-page report, of significance are the following excerpts, which I will set out fully.

> 2.8. I asked him about his depot antipsychotic medication. He said "I take an injection once a month. It is for my health." On specific questioning he said "If I don't take tablets, I think I will get aggressive"…

2.10. Mr. Ryan said he was not sure of his psychiatric diagnosis. I asked him what would happen if he left prison and he said "I will need a phone and I will probably have a place to stay. I have to refresh my mind regarding the phone".

2.11. It was clear by this stage that Mr. Ryan's ability to provide specific information was poor and a structured full assessment would be difficult to undertake. I chose to focus on current matters as his history has been well documented in various reports available.

2.12. I therefore asked him how he kept himself occupied within custody. He said, "I read books, I sing songs, I listen to music, I watch television". I asked him about the programmes he watched on television, but Mr. Ryan was unable to recall the names of any specific programmes…

2.17. I asked him if he would be willing to engage with psychiatric supervision if he were deemed suitable to leave custody. He said "I am happy to see a nurse. It's a balance, it's in between. Sometimes I will say yes and sometimes I will say no"…

3.5. His insight is partial. It is clear that he does not fully understand the nature of his illness or the importance of regular compliance with medication despite suffering wish schizophrenia for twenty-five years and having treated with various medications prescribed in custody, having seen a number of psychiatrists and having engaged with a range of nursing staff, including Ms. Thompson over a number of years now. However, he does have some understanding that discontinuing his medication might lead to him becoming aggressive.

3.6. I asked him if he had any questions for me. He said "What is your role? Will you contribute to my freedom?". I explained my role to him again although I had explained it at the outset. I asked him what freedom was for him. He said, "it is to go and come when I can"…

at different times including more recently with both depot and oral antipsychotics.

5.3. It is clear from perusing his medical records that his behaviour has fluctuated from being polite, calm and cooperative to being aggressive, threatening and violent at times without any trigger in the past. However, it is my understanding that this is less so in the recent year and a half.

5.4. Perusing the medical records also confirms that his aggressive behaviour has been a result of his psychotic processes namely delusional thinking, disorganised behaviour and possibly auditory hallucinations. The medical records also indicate that his cognitive functioning has gradually deteriorated over the years. This is the natural course of paranoid schizophrenia.

5.5. Mr. Ryan's medication regime was optimised as suggested by Dr. Parrott following her assessment. The combination of oral tablets namely Olanzapine and the depot formulation namely Fluphenazine, on a four weekly basis has led to a period of relative stability. His behaviour was noted to be disruptive until 2019 until the above medication regime was put in place. His behaviour has remained stable for over 20 months now which is the longest such period in his 26 years of incarceration…

6.6. Ms. Thomson agreed with me that any release from custody should be gradual and careful. She added "it is important that he is ready for his release too"...

6.8. Ms. Thomson noted that there were a number of members in the community who continue to be scared of Mr. Ryan currently given the extreme nature of his index offence. She said a number of local people remembered the offence quite well and this includes members of the nursing staff who will be expected to work with him and live close to him if he were to be released to the proposed community placement.

6.9. We agreed that any release plan would only be successful if it was undertaken in a gradual and carefully planned manner. The views of the proposed placement and Mr. Ryan himself about the rate of progress would also have to be considered. She reported that some

psychological input before any release plan commenced would be of immense benefit to Mr. Ryan to ensure that he is aware of what is expected from him and what is not expected of him.

7. OPINION AND RECOMMENDATIONS

7.1. Having considered all the information available to me, including the information from previous psychiatric reports, from perusing Mr. Ryan's medical records, from discussing his presentation with Ms. Thomson who knows him well and from my interview with Mr. Ryan on 14.12.2021, I am of the opinion that Mr. Ryan's presentation is consistent with his well-established diagnosis of Paranoid Schizophrenia, a recognised mental disorder as included within the International Classification of Diseases – version 10 (ICD-10).

7.2. When Mr. Ryan is grossly psychotic, he presents with command auditory hallucinations, thought disorder, delusional beliefs and incongruent affect. There is a direct link between his psychotic symptoms and his disturbed behaviour. There is no doubt that his psychotic symptoms led to him killing his brother in 1996 and subsequently receiving a life sentence.

7.3. Mr. Ryan has been treated with a number of different antipsychotic medications. These medications have led to some improvement in his symptoms and his functioning/behaviour. In my view, he continues to be susceptible to anxiety and stress and this can lead to him suffering with breakthrough symptoms despite being compliant with prescribed medication.

7.4. When he does become anxious or stressed, he can present with a number of symptoms of Paranoid Schizophrenia including disjointed thought processes, incongruent affect and auditory hallucinations along with blunted affect, amotivation and psychomotor retardation as he did during Dr. Morris-Patterson's assessment.

7.5. There appears to have been a significant improvement in Mr. Ryan's behaviour/ functioning since 2019 when his medication regime was changed to include both a depot injection which is administered once every four weeks and oral antipsychotic tablets which are administered every day. I would respectfully recommend that this medication regime be continued. It is this relatively settled behaviour which has led to the current process of a release into supported accommodation/parole being considered.

7.6. In my view, the most concerning aspect of Mr. Ryan's current presentation is his lack of full insight. Having considered all the information currently available, I am not convinced that Mr. Ryan fully understands the nature of his illness, namely that it is a relapsing and remitting disorder and that any poor/non-compliance with medication will lead to his symptoms re-emerging.

7.7. Although he has some understanding of his current medication regime improving his behaviour, this has not translated into him readily accepting that he will comply with medication consistently in the future. This would therefore mean that there is a potential risk of Mr. Ryan becoming non-compliant with either oral medication or depot injections or both. This would without doubt lead to a rapid deterioration of his mental state and re-emergence of psychotic symptoms which would then lead to his behaviour becoming aggressive, threatening and violent.

7.8. In my view, the relative stability in Mr. Ryan's mental state and behaviour is due to a combination of two factors. Firstly, his compliance with his current medication as prescribed which is no doubt prompted by the staff within the prison and secondly, by his placement in the prison which provides him with a structure and routine that he has got accustomed to having spent more than two decades in custody.

7.9. It is imperative that these two factors are replicated in the community if any release plan/parole is to be successful. It is vital. I agree in principle that any release from prison should be gradual and carefully proceeded with. My clinical view is that the more gradual and careful the plan is, the safer it is. Mr. Ryan should be able to reassure all the staff around him that he

will comply with medication and all the supervision arrangements as directed by the Learned Judge before any plan can commence.

7.10. In my view, any release plan should start with insight promotion/psychology input regarding the relapsing and remitting nature of Paranoid Schizophrenia and the high risk of relapse if he were to become non-compliant with treatment or supervision. This should, when completed and successful, serve to reduce his risk of violence and reoffending to a stage where his release can be carefully proceeded with.

7.11. It is important that Mr. Ryan be exposed to the proposed placement/assisted living facility namely Oriole Villas in a graded fashion, for example for a few hours a day, maybe once a week, to start with. After a few weeks of this, the visits can be increased to a few hours twice a week. Once this is successful, it could be extended further so that Mr. Ryan is eventually spending some time every day in the placement.

7.12. The next step after the above could be overnight stays with Mr. Ryan having an opportunity to meet all the staff members and acclimatise himself further with the service, the staff and the other residents at the placement.

7.13. Any non-compliance with the agreed plan, treatment or supervision should lead to immediate recall and the plan being reviewed after a few months, once it is ascertained what led to the non-compliance/non-engagement.

7.14. I propose that regular professionals' multidisciplinary meetings be held between Mr. Ryan, the prison staff, Ms. Thomson, the psychologist and staff at the proposed placement as it would serve as a platform to share information and concerns. It can also help modify the plan as necessary depending on Mr. Ryan's ability to cope with the process. Ms. Thomson agreed that this would be of benefit.

7.15. I would agree with Ms. Thomson that it is important that all clinicians involved in this process have regular supervision from an experienced clinician they can speak to in confidence so that they have an opportunity/outlet to voice their concerns or reflect on their own emotions/anxieties. This would be a therapeutic way of dealing with any concerns they have about the process and to also ensure that any emotional harm to themselves is minimised.

22 To distil the report, if there is to be release, he must remain on his medication, otherwise he may be violent, and he would have to be introduced back into society slowly, at intervals.

23 Dr Shenoy gave evidence on 19.07.22, inter alia saying, from my note:

> If Ryan stops taking his medication he would be a threat to the safety of the community. It is more likely than not he will refuse medication. He is not symptom free. In the UK he would not be in prison but under a hospital order under the **Mental Health Act 1983**, where medication could have been forced early. Ryan has not had the best application of medication until recently [meaning 2019]. Dr Shenoy did not recommend immediate release, it needed to be incremental to test it out. It may be wise to keep Ryan where he is a further three years to stabilise his medication, and he will be three years older, meaning likely less aggressive. The zoom assessment was adequate, though would have been better face-to-face. Supporting that Ryan remain safe would be 70% medication, 10% activities routine, 10% support by nurses and staff, and 10% daily home routine. 'Staged Reintegration' (SR) is essential. While Dr Shenoy is experienced with some cases on Montserrat, he has not seen a case where there was inadequate medication for so long, being here at least 16 years. He

has discharged 50-100 patients back into society but this has required careful SR, under escort, and there has been a rate of relapse of 10-35%. He would not be a risk all the time, just sometimes. Some patients do better in the structured environment of a hospital or prison rather than being in the community. Currently Dr Shenoy has three patients with auditory hallucinations benefitting from SR under escort. SR would involve first seeing the hospital boundary, then seeing an area, then visiting the area, then walking around it, then going into a café, then going into a shop, then escorted on public transport, then alone on public transport, repeating as needed, the process taking at least a year, with at least six months unescorted before a patient might be ready to live away from the ward.

24 Nurse Thompson also gave evidence on 19.07.22, inter alia saying, from my note:

> Ryan will need adequate resources including social and family support, but there is a striking paucity of this for him on Montserrat. Release will be complex. The support needs to be consistent. Folk fear Ryan still, they have not forgotten. There will need to be a social worker, and a strategic plan for release over six months. There will also need to be monitoring at night, not currently available at Oriole Villas. Nurse Thompson was doubtful, given poor resources on Montserrat, Ryan can be released.

**The overview**

25 To summarise the factual scenario, in light of all the materials gathered:

a. Ryan remains a paranoid schizophrenic, exhibiting obvious and worrying symptoms;
b. He behaves well under medication;
c. There are strong doubts if released he will voluntarily continue to take his medication, meaning he must be the subject of stringent monitoring;
d. He will be a serious risk to the public and himself if off his medication;
e. He has likely already served the arguable sentence passable if he had not been found insane by the jury on 08.11.96;
f. Ryan has no family or friends support on Montserrat to fall back on;
g. Dr Greenaway and Director Fergus both contemplate creating an intense and strict regime for coping with Ryan;
h. However, Montserrat currently lacks the resources for staged reintegration over a 12-month period as contemplated by Dr Shenoy;
i. In sum, at this stage, he remains in custody, arguably not for punishment under sentence, but for fear he will be a danger to himself and others, which he will be if he comes off his medication, which is likely unless there is staged reintegration, which is not for now planned and in place.

**The legal framework**

26 The question now arises what are the Court's powers on Montserrat for dealing with Ryan's case.

27 There have been helpful submissions from Counsel Horton on 01.09.21, from the Attorney General on 13.09.21, and from Counsel Kelsick on 13.09.21.

28 To summarise their learning:

a. There is inherent power to declare what is the Court's pleasure, which may include at this stage passing a formal sentence, or declaring his detention at an end akin to a sentence of 'time served', or that his detention shall continue subject to further later review.
b. There is no statutory power for the Court to release Ryan on licence, for him to be recalled to prison if he fails to adhere to its terms, though Counsel Kelsick believes there may be an inherent power to do so.
c. If released by the Court, and Ryan does not cooperate with the authorities, and so becomes a danger to himself or others, in theory he can be detained as new proceedings by the Magistrate, and then the Governor, under **ss5-14 Mental Treatment Act** cap 14.03 as at 2013.
d. If by the Court he remains detained or under formal sentence, it seems there is power under the **Parole of Prisoners Act** to release him on license subject to recall if in breach.

29 Concerning the importance of declaring what is the Court's pleasure:

a. In **Browne v. The Queen (St Christopher and Nevis) [1999]** UKPC 21, there is authority the sentencing Court has *'a discretion as to the length of the detention…it enables the position to be reviewed from time to time'*, and that *'the Court may consider the stage has been reached in the appellant's rehabilitation and maturity where an order pursuant to that sentence can be made by the Court which will limit the length of his further detention'*, noting at para 14:

> 14. The sentencing Court has a discretion as to the length of the detention. The sense and purpose of the concept "during pleasure" is that it is not a once and for all assessment that is made at the time that the defendant is first before the Court after his conviction. Its purpose, as was pointed out in *ex parte Venables* particularly by Lord Browne-Wilkinson at pp.499-500, is that it enables the position to be reviewed

> from time to time…However, in view of the passage of time between his conviction and the time that he will, pursuant to this judgment, return to be re-sentenced, it is to be recognised that, after having passed the sentence of detention during the Court's pleasure, the Court may consider that the stage has been reached in the appellant's rehabilitation and maturity where an order pursuant to that sentence can be made by the Court which will limit the length of his further detention.

b. It seems clear detention at the Court's pleasure must be reviewed, regularly, ultimately to be resolved and declared, which here is overdue after 26 years.

c. Therefore, through this Ruling let the word go out across the island nations of the ECSC, and further, prisoners with mental health challenges being held in such an indeterminate circumstance must not be forgotten: every Court has an active duty to keep a watchful eye on their interests, and as judges we must not allow the administration of justice to let slip their memory where they are defenceless.

d. Simply, Courts must recollect every prisoner, for each is a captive soul at the Court's command, all to be remembered.

30 Concerning inherent power to issue licence, in my judgment this Court must hesitate to create such licences to exit prison and then be recalled if in breach, without statute and input from the legislature. Sentencing is very much a matter of public policy. Across the Commonwealth, it is frequently the subject of parliamentary debate and Acts. Pithily, if this Court is to have the power to pass sentences which order release on licence it should be a power authorised by the elected.

31 It follows the power of this Court is limited to passing a determinant sentence as calculated above, to 39 years imprisonment, or a sentence of 'time served', which would result in imminent unsupported release of a man of mental ill health, or for now continuing detention at its pleasure.

32 Moreover, if released unsupported, the danger arises predictably he will lapse, then to be the subject of fresh proceedings under the **Mental Treatment Act**, which would subject him to new incarceration under different procedures. This would be unfair to inflict as he would have been released set up to fail.

33 However, concerning parole, not being a decision of this Court, but of the Parole Board, a review of parole provisions shows if the Governor orders it, in theory there can be consideration for release on licence if, as here, Ryan has served more than 10 years at the Court's pleasure.

a. Note that **rule 9 Parole of Prisoners Rules** (as amended by SRO 14.2012) reads:

> (1) The Board may conduct a review of the continued detention of a person serving a sentence at the Court's pleasure if asked to do so by the Governor, in which event:
>
> (a) the Board must be presented with a psychiatric report and the Chief Medical Officer must review and comment on its contents before it can form part of any application; and
>
> (b) the Board must determine if an application from a prisoner who is sentenced to detention at the Court's pleasure has merit, and may request report regarding the prisoner from the Prison Medical Officer.
>
> (2) The Community Services Department may be required by the Board to provide a case officer or to appoint a Parole Officer to manage the prisoner's aftercare.

b. Further, under **s6(1)(c) Parole of Prisoners Act** (as amended by Act 18 of 2011) reads:

> (1) The following provisions shall have effect with respect to the proceedings of the Board on any case referred to it – …
>
> (c) where a Prisoner who has a sentence of ten years or more who was sentenced at the Court's pleasure applies for parole, the Attorney General may make a written submission to the Board supporting or objecting to the prisoner's application for parole.

c. These provisions clearly contemplate in amending legislation in 2011 and 2012 the Parole Board can review Ryan's case, as indeed occurred in early 2011, late 2011, and 2013.

d. Some confusion appears to arise owing to **s8(1) supra**, which says:

> (1) The Governor, if recommended by the Board, may order the release on licence of a prisoner other than… a prisoner ordered to be detained at the Court's pleasure, who is:
>
> (a) above 18 years and serving a sentence of at least three years…
>
> after that prisoner has served not less than one-third of his sentence or 12 months, whichever is the longer.

e. However, in my judgement this section does not contradict releasing on licence one serving at the Court's pleasure; it simply says if at the Court's pleasure, parole and licence cannot automatically arise for consideration 'after serving one-third', as common-sensibly parole and licence cannot so arise as the period of the sentence has not been determined.

f. What cements this interpretation is **rule 3 supra** (as amended by SRO 12/2012), which defines the role of the Board:

> (1) It shall be the function of the Board to conduct hearings and…
> (c) conduct the review of the continued detention of a person serving at the Court's pleasure and make recommendations as to whether:
> (i) A prisoner may be considered for early release;
> (ii) It is no longer necessary for the protection of the public that a particular prisoner should be confined;
> (iii) The prisoner's rehabilitation can be continued within the community;
> (iv) The conditional release of the prisoner would endanger the security of the public unduly; and
> (v) The prisoner is capable of adhering to the conditions of his release.

g. It is plain **Rule 3 supra** contemplates parole may be available for one such as Ryan.

h. Overall, for Ryan to be considered for parole, the Act and Rules contemplate Ryan must apply, the Governor must then decide whether to ask the Board to consider the application, who if so will need submissions from the Attorney General, and a psychiatric report, with assessment from the Chief Medical Officer, with a view to weighing whether Ryan would endanger the public, or is capable of adhering to release conditions and rehabilitation within the community.

34 A conundrum concerning Ryan is, as Dr Shenoy observed, he is not in hospital, but in jail, whereas in England he would likely be under a hospital order with restriction, under **ss37/41 Mental Health Act** (UK), not to be released without the confidence of two doctors and the home secretary he posed no serious danger to the public. There, his detention would be a matter primarily for doctors, not a judge or parole board.

**Disposition**

35 Having laid out the materials and legal framework, I consider now what to do.

36 On the one hand, it is clear to me Ryan cannot be released unsupported into the community. Folk remain fearful of him. His crime is much remembered. In my judgment, without structured intense support, his reintegration will go wrong, as he will likely come off his medication, and he will end up back in jail, being the mental hospital, under the **Mental**

**Treatment Act.** This would be unfair, to set him up to fail. Further, this Court does not have power to release him on licence, later to be recalled. It cannot be right to pass a determinate sentence which would catapult a socially ill-equipped man, with no family, unsupported, still showing signs of paranoid schizophrenia, into a small community like Montserrat much frightened by him.

37 On the other hand, he seeks release, he has asked four times for parole by his own hand, he talked about release with Drs Patterson and Shenoy, if he takes his medication he behaves well, and a determinate sentence of 39 years would be likely served by now, so that, at its heart, his continued detention may be because there is not a system in place to support his release.

38 His release, if ever, needs to be slow, in incremental steps, as Dr Shenoy has described. Montserrat's mental health regime needs here to step forward and improve, which this Court knows it can and will.

39 Ryan has been so long in jail it is a routine he knows. The Court is struck by the thought of Dr Shenoy it may be appropriate for the Court formally to continue to detain him at its pleasure, perhaps a further three years, by which time he will be 50, and possibly less aggressive if his medication lapses. However, any release, whenever it may be, if ever, will always require much determined preparation.

40 Further time detained will allow for such preparation, which might then go hand in hand with an interim parole application.

41 Weighing matters, in all the circumstances, I have decided it will continue to be the Court's pleasure that Ryan remains detained, for a further at least three years.

a. However, it is expected preparations will be made in this time in theory for his staged reintegration, and once in place, within this timeframe it may be he will be able to make an intelligent application for parole supported by his counsel Jean Kelsick.
b. Under a Parole Board decision, if any, which has power of licence, staged reintegration would likely take the form during a year of escorted visits to the Oriole Villas, to shops, around the island, onto buses, to the clinic, to the bank, to the offices of a dedicated social worker or parole officer, with gradually more and more freedom, with intense monitoring of his attitude to continuing on his medication, and voluntary efforts he makes

to ensure he does. The precise program would be for Nurse Thompson, Dr Greenaway and Director Fergus with a dedicated team at the DSS to create, I suggest also with input from Drs Patterson and Shenoy, to be reviewed and approved, if at all, by the Parole Board, and ultimately the Governor.

42 In this way, fully considering Ryan's situation, and continuing to do so, whether or not if ever released, Montserrat may lead among the ECSC nations in showing none are left behind.

43 If there is no effort made to prepare for his possible release, nor parole, his case will be revisited in a thorough review such as this in three years, namely by around 20.09.25, with a view again to whether the Court shall release him. During this time, I direct there shall be a psychiatric report each September for the Court for update as to Ryan's progress and mental health.

44 Nothing in this Ruling should be taken to mean the Court or Parole Board must or will in due course order Ryan's release, which remains a matter of considerable caution.

45 I should like to thank all involved in this complex review, in particular the doctors, nurses, counsel, and administrators, for much work has been done by many.

**The Hon. Mr Justice Iain Morley KC**

**High Court Judge**

**20 September 2022**