

Absolute discharge in Greyhound bus case not 'out of the blue'



By [Jacob Stilman](#)

An innocent young man is killed on a Greyhound bus, in about the most gruesome fashion imaginable. There is no doubt as to who the perpetrator is, as dozens of bystanders witness the attack and its horrifying aftermath. Police arrive at the scene to find Tim McLean beheaded, his body defiled by his attacker, and Vincent Li still on board the bus, knife in hand and continuing to commit ghastly acts that would seem straight out of a tacky Hollywood B movie — except that they are real.

And now, nine years after an event that shocked the country, made headlines around the world for its sheer goriness, and devastated the lives of Mr. McLean's family, not to mention those who were witness to this horror, Mr. Li is a completely free man.

Not surprisingly, the decision by the Criminal Code Review Board in Manitoba has caused many people in this country to question its sanity, as well as those who have had a role in this case including the doctors, lawyers and even the judge. How is it that a person who commits this heinous an act can be walking the streets only nine years later? Shouldn't he be locked up, made to pay for his crime, and quarantined from the public so that the rest of us can be assured of our own safety?

Such calls — vengeful, paranoid, and uninformed — have dominated the discourse, issuing from politicians, pundits and the public alike, both through conventional channels and, of course, social media.

These calls for Mr. Li to be “treated like the criminal he is” do a profound disservice to the dedicated participants in the criminal justice system — the aforementioned lawyers, judges and doctors — who understand that when severe mental illness takes hold of a person, such that they cannot discern reality from delusion, and are driven by their psychosis to commit a ghastly act, our laws recognize this and may find them not criminally responsible (NCR).

That Mr. Li satisfied the legal definition of NCR was never seriously in dispute. His trial was brief, held before a judge sitting alone, and the opinion of the psychiatrist was unchallenged by the Crown. Mr. Li was committed to a secure psychiatric facility, where he began to receive treatment for his severe schizophrenia, which had gone untreated in the months leading up to the attack. This caused the downward spiral of psychosis that led to this tragedy.

With time and proper treatment Mr. Li responded, and he was gradually granted increased freedoms as his threat level was determined by the treating psychiatrists and sanctioned by the Criminal Code Review Board, to be diminished. For the past year, he has been residing in the community, monitored by the Review Board, and fully compliant with the medical requirements of his illness.

The Review Board's decision to grant Mr. Li the absolute discharge, meaning that he is no longer under their jurisdiction and is now truly free of any legal/medical control, was the only legal course available. The Supreme Court of Canada, in a decision rendered in 1999, [Winko v. British Columbia \(Forensic Psychiatric Institute\), \[1999\] 2 S.C.R. 625](#), established that under the mental illness provisions of the Criminal Code the Review Board “must direct that the accused be discharged absolutely if it is of the opinion that 'the accused is not a significant threat to the safety of the public.'”

This means that once the subject is no longer a threat — a determination made by doctors and specialists who have been in continual professional contact with him — the board is legally obligated to relinquish its jurisdiction over the person. This is not to say that such a decision is made lightly or flippantly. The review process is the product of constant contact, monitoring and treatment of a seriously ill person.

The decision to discharge Mr. Li did not come out of the blue, but was the final step in a process that commenced effectively from the day that the NCR ruling was issued. During this time the strict security measures were gradually reduced, as Mr. Li began to demonstrate responsiveness to treatment for his schizophrenia, compliance with the treatment, and an understanding and awareness of his own

mental illness and the devastating consequences, which had resulted when it had gone untreated.

No one can deny or dismiss the pain and suffering of the victim's family and others affected by this tragedy. As the often quoted but still true adage states: “a society is measured by how it treats its most vulnerable.”

In this current climate of paranoia, recrimination and ill-informed opinion shaped by the endless deluge of disinformation flooding social media, it would be helpful if people took the time to learn all the facts before firing off angry missives.