COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Slade, 2026 ONCA 381
DATE: 20260603
DOCKET: COA-25-CR-0160

Paciocco, Sossin and Madsen JJ.A.

BETWEEN

His Majesty the King

Appellant

and

Jay Jones Slade

Respondent

Dena Bonnet, for the appellant

Nicholas Xynnis, for the respondent

Heard: May 12, 2026

On appeal from the verdict of not criminally responsible by reason of mental disorder entered by Justice John M. Johnston of the Superior Court of Justice, on January 1, 2025.

REASONS FOR DECISION

[1] Jay Jones Slade, the respondent, was found not criminally responsible ("NCR") by reason of mental disorder on one count of first-degree murder, one count of indecent interference with human remains, and two counts of assault

causing bodily harm.[1] The respondent killed, decapitated, and scalped his sister's common law partner (his "brother-in-law"), before assaulting his mother and sister with a hatchet.

[2] The Crown appeals this verdict, making two submissions: first, that the trial judge misapplied the legal test in relation to expert evidence; and second, that he failed to answer whether the respondent, despite his delusions, retained the capacity to know that his actions would be considered morally wrong. The Crown seeks an order substituting convictions on the charged offences, or in the alternative, that the matter be remitted for a new trial.

[3] We do not accept the Crown's submissions and dismiss the appeal.

I. THE DECISION BELOW

[4] The underlying facts were generally agreed at trial. There was no dispute that the respondent committed the *actus reus* of the offences. The respondent was in the hospital from May 25 to May 30, 2021, after being diagnosed with cannabis-induced psychosis, first as an involuntary patient and then, from May 28 to May 30, on a voluntary basis. He was assessed, determined not to be a threat and, on his request, discharged on May 30, 2021. He went to his mother's residence to retrieve his vehicle and drove away.

[1] The respondent pleaded guilty and was convicted of a failing to stop his motor vehicle for police and dangerous operation of a conveyance contrary to ss. 320.17 and 320.13(1) of the *Criminal Code*, R.S.C., 1985, c. C-46. No appeal is taken from this conviction.

[5] On the night of May 30 until the early morning of May 31, 2021, the respondent led the police on a high-speed car chase, fled the scene, tried to rent a hotel room, and eventually made his way back to his mother's property to sleep in the shed. In his evidence he described delusional thinking during the course of this period.

[6] At about 3:00 am on June 1, 2021, he entered his mother's home and attacked his brother-in-law with a garden implement. He slit his throat, decapitated and scalped him, and placed his head on the kitchen table. The respondent then went upstairs, attacked his mother, struck his sister with a hatchet when she tried to intervene, and attempted to pry open his mother's hand to chop off two of her fingers. He demanded his mother's phone, called 911, identified himself and his mother's address to the operator, and reported a "domestic incident". He then waited outside for the police to arrive.

[7] Defence counsel's position at trial was that the respondent suffered from major mental illness at the time of the offences and felt that God commanded him to act to stop World War III. Due to this delusion, he was incapable of appreciating, at the relevant time, that his acts were morally wrong.

[8] The Crown's position was that the respondent was not suffering from a mental disorder within the meaning of s. 16 of the *Criminal Code,* R.S.C., 1985, c. C-46, at the time of the offences and, even if he was, the respondent had not

proved that any delusions or psychosis at the time affected his ability to know morally right from wrong.

[9] Three experts prepared reports and testified at trial.

[10] Dr. Gojer, a psychiatrist called by the defence, concluded that the respondent suffered from longstanding delusions as a result of an underlying major mental illness that existed at the time of the offences and were exacerbated by his consumption of cannabis, rendering him incapable of understanding that his acts, including killing his brother-in-law and attacking his sister and mother, were morally wrong.

[11] Dr. Iosif, a psychiatrist called by the Crown, reviewed Dr. Gojer's report and was of the view that the respondent was suffering from cannabis-indued psychosis rather than from an underlying major mental illness at the time of the offences. She could not displace the presumption of criminal responsibility, citing concern by the respondent's inconsistencies. In her opinion he was malingering his symptoms of a command delusion.

[12] Dr. Wright, a psychologist retained by Dr. Iosif to assist with testing on the issue of malingering, opined that while the respondent was engaging in "considerable impression management" to downplay negative feelings about his family, he was not malingering his psychotic symptoms and was currently suffering from a major mental illness. He concluded that the respondent's main motive for

his actions was likely delusionally based. All three experts acknowledged inconsistencies in the respondent's account of events and his periods of strong functioning in the years leading up to the offences.

[13] The Crown encouraged the trial judge to accept Dr. Iosif's evidence and argued that while the respondent had interacted sporadically with the mental health system in the years before the offences, it was his real-world grudges against his family members that drove his actions at the material time. He blamed his mother and sister for problems in his life and was angry that his brother-in-law was permitted to live in his mother's home and he was not. The Crown further argued that the respondent's claims about his state of mind should be rejected, creating a vacuum as to his motivations at the relevant time that prevented him from meeting his onus of establishing the mental disorder defence.

[14] Defence counsel urged the trial judge to accept the opinions of Dr. Gojer and Dr. Wright, emphasizing that major mental illness can coincide with cannabis-use disorder and that it was by reason of the mental disorder that the respondent was incapable of knowing that others would judge his conduct to be morally wrong.

[15] In a lengthy oral judgment, the trial judge extensively reviewed the evidence, including the testimony and reports of the experts, the respondent, and the respondent's sister. He concluded that the respondent was suffering from a major mental illness at the time of the offences. The trial judge concluded that it was his

illness that caused him to have command delusions that made him believe his actions would prevent World War III. He accepted Dr. Gojer and Dr. Wright's evidence that the respondent suffered from long-standing delusions going back to 2008 and continued to exhibit psychotic behaviour to the date of the indexed offences and after his arrest. The respondent's underlying mental illness was exacerbated by cannabis use but the delusions supporting the defence resulted from the mental illness. The trial judge further concluded that while the respondent understood that what he did was legally wrong, his command delusion rendered him unable to understand that his actions were morally wrong.

II. ANALYSIS

[16] Section 16 of the *Criminal Code* mandates a two-part test where a party seeks to raise the defence of not criminally responsible by virtue of mental disorder. First, the party raising the defence must show that the accused suffered from a mental disorder at the time of the act or omission. Second, the party raising the defence must show that the mental disorder rendered the accused incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong. Every person is presumed not to suffer from a mental disorder exempting them from criminal responsibility and the burden of proof is on the party seeking to prove the contrary on a balance of probabilities: s. 16(2), (3) of the *Criminal Code*.

[17] The Crown may appeal from an NCR verdict only on a question of law: s. 676(1)(a) of the *Criminal Code*.

[18] The Crown does not appeal the finding that the respondent suffered from a mental disorder within the meaning of s. 16(1) of the *Criminal Code*. Rather, the Crown's focus on appeal is on the trial judge's reasoning relating to the second part of the test, whether the respondent appreciated that members of the public would view his actions as morally wrong.

a. Expert Evidence on the Respondent's Understanding of his Actions

[19] The Crown submits that the trial judge erred in law by misapplying the legal test in relation to expert evidence. Specifically, the Crown argues that the trial judge failed to consider all of the evidence in assessing the expert evidence, including the "relevant temporally connected circumstantial evidence", which showed a chain of rational steps belying the respondent's claimed moral incapacity. Further, the Crown asserts that the trial judge failed to find the necessary facts underlying the expert opinion before relying on it and reduced his task to choosing one expert opinion over the other.

[20] We do not accept the Crown's submissions. In his lengthy oral judgment, the trial judge engaged extensively with the evidence of all three experts in the context of the testimony of the respondent as well as of his sister. The trial judge noted and considered the inconsistencies in the respondent's accounts to the

experts and the respondent's sister's evidence of the respondent's statements during the assaults. The trial judge was entitled to rely, as he did, on the expert evidence that was substantially supported by the evidence in the case.

[21] Reading the reasons as a whole and in the context of the record, the trial judge did not misuse the expert evidence. He found that, based on all the circumstances before him, Dr. Iosif's view that the respondent's psychosis was drug induced at the time of the offences was not supported by the evidence. Rather, the trial judge found that the opinions of Dr. Wright and Dr. Gojer were more consistent with the totality of evidence, in particular, with the respondent's statements. Along with other evidence, the respondent's testimony provided the necessary foundation for the expert evidence he accepted. Further, his comment that "[c]learly one side is right and one side is wrong" was simply a reference to the obvious fact that the respondent either did or did not meet the test for NCR under s. 16 of the *Criminal Code*. It was not a statement by the trial judge describing his reasoning.

b. The Respondent's Capacity to Know Whether his Actions Were Morally Wrong

[22] We also reject the Crown's submission that the trial judge failed to consider whether the respondent retained the capacity to know that his actions were wrong according to society's moral standards, jumping to a conclusion on moral reasoning capacity without analysis.

[23] The trial judge was well aware of the two-part test to be met for the respondent's defence of NCR by virtue of mental disorder to succeed. He set out the test several times and stated both the Crown and defence positions accurately.

[24] He painstakingly reviewed the evidence, including evidence relevant to the respondent's moral reasoning capacity. He accepted that the respondent had minimized his conflict with his family but found the Crown's theory that his actions were motived by this real-life conflict to be improbable in the circumstances.

[25] The trial judge also noted the existence of conflicting evidence and inconsistencies in the respondent's descriptions of events, yet nevertheless found the facts required to meet the test under s. 16 of the *Criminal Code*. While he did not make findings of fact in relation to each contradiction, he was not required to do so. He adequately resolved the factual issues germane to the test to be applied.

[26] The trial judge ultimately concluded as follows, demonstrating a thorough understanding of all of the evidence and his task:

> Accordingly, upon consideration of all of the evidence **I find that [the respondent] not only suffered from a major mental illness at the time of his offences, the murder and the assaults, that the illness caused him to have command hallucinations coming him to kill [his brother-in-law].** While he appreciated that it was wrong in law, he felt that he was saving society by preventing World War III. Dr. Iosif in her evidence agreed that if the court came to the conclusion that [the respondent] did experience such command hallucinations as he claims, that **would result in him not appreciating the moral wrongfulness of his actions.**

> Clearly Dr. Iosif is of the view that the Court should not accept those claims.
>
> **While the concerns expressed by Dr. Iosif in her report and evidence about the credibility of [the respondent]'s claims are notes and seriously considered.** I am though, in the end persuaded on a balance of probabilities that the section 16 Not Criminally Responsible criteria have been met.
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> **The assaults on [the respondent's mother and sister] occurred at or close in time to the murder of [his brother-in-law]. I accept the evidence of Dr. Gojer that the anger [the respondent] felt was part of the delusion and directly related to his major mental illness**. I accept Dr. Gojer's opinion that [the respondent] suffered from a major mental illness both before and during the offences. The illness continues to exist. The use of cannabis made the illness much worse. [Emphasis added.]

[27] The focus in the inquiry into moral wrongfulness is whether the respondent was deprived, by reason of mental disorder, of the capacity to know that the particular act is right or wrong, having regard to the everyday standards of reasonable people: *R. v. Oommen*, [1994] 2 S.C.R. 507, at pp. 516-20; *R. v. Campione*, 2015 ONCA 67, 17 C.R. (7th) 379, at para. 30. The trial judge was properly focused on this point. He expressly found that the respondent was suffering from a major mental illness that caused him to experience command delusions at the time of the offences, including the assaults on his mother and sister, and concluded that, because of that finding, the respondent would be unable

to appreciate the moral wrongfulness of his actions. We see no legal error in this analysis.

III. DISPOSITION

[28] The appeal is dismissed.

"David M. Paciocco J.A."

"L. Sossin J.A."

"L. Madsen J.A."