

Public Prosecutor v Wang Zhijian
[2012] SGHC 238

Case Number : Criminal Case No 3 of 2011
Decision Date : 30 November 2012
Tribunal/Court : High Court
Coram : Chan Seng Onn J
Counsel Name(s) : Hay Hung Chun, Mohamed Faizal, Charlene Tay Chia and Eunice Chong (Attorney-General's Chambers) for the Prosecution; Kelvin Lim Phuan Foo (Kelvin Lim & Partners) and Jason Peter Dendroff (JP Dendroff & Co) for the accused.
Parties : Public Prosecutor — Wang Zhijian

Criminal law – offences – murder

Criminal law – special exceptions – diminished responsibility

[LawNet Editorial Note: The Prosecution's appeal to this decision in Criminal Appeal No 12 of 2012 was allowed and the accused's cross-appeal in Criminal Appeal No 4 of 2012 was dismissed by the Court of Appeal on 28 November 2014. See [\[2014\] SGCA 58.](#)]

30 November 2012

Judgment reserved.

Chan Seng Onn J:

Introduction

1 The accused, Wang Zhijian ("Wang"), is a 46 year-old male Chinese national who faced the following four charges:

That you, **WANG ZHIJIAN**,

1ST CHARGE ("the First Charge")

Sometime between 11.00 pm on the 18th day of September 2008 and 12.49 am on the 19th day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]–[ZZ], Singapore, did commit murder by causing the death of one **ZHANG MENG** (Female/Date of Birth: 13 November 1966), and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

2ND CHARGE ("the Second Charge")

Sometime between 11.00 pm on the 18th day of September 2008 and 12.49 am on the 19th day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]–[ZZ], Singapore, did commit murder by causing the death of one **FENG JIANYU** (Female/Date of Birth: 23 August 1991), and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

3RD CHARGE ("the Third Charge")

Sometime between 11.00 pm on the 18th day of September 2008 and 1.15 am on the 19th day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]–[ZZ], Singapore, did attempt to murder one **LI MEILIN** (Female/Date of Birth 10 February 1993), to wit, by slashing and stabbing her repeatedly with knives at various parts of her body including on her neck, lower back and face, with the intention of causing death to the said Li Meilin, and you have thereby committed an offence punishable under section 307(1) of the Penal Code, Chapter 224.

4TH CHARGE ("the Fourth Charge")

Sometime between 11.00 pm on the 18th day of September 2008 and 12.49 am on the 19th day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]–[ZZ], Singapore, did commit murder by causing the death of one **YANG JIE** (Female/Date of Birth: 3 April 1972), and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

2 The Prosecution stood down the Third Charge for attempted murder and proceeded with the First, Second and Fourth Charges ("the murder charges"). The trial lasted 10 days and took place over three tranches. Although it was not specified in the murder charges, the Prosecution clarified that they were proceeding under limb (a) of s 300 of the Penal Code (Cap 224, 2008 Rev Ed), which states:

Murder

300. Except in the cases hereinafter excepted culpable homicide is murder —

(a) if the act by which the death is caused is done *with the intention of causing death*;

...

[emphasis added]

3 At the close of the Prosecution's case, I was satisfied that there was some evidence which is not inherently incredible and which satisfies each and every element of the charges as framed by the Prosecution. I therefore called upon Wang to give his defence and he elected to take the stand and give evidence. Wang admitted that he committed the acts that caused the death of Zhang Meng ("Zhang") and Feng Jianyu ("Feng"). However, Wang did not admit that he caused the injuries found on the fingers of Yang Jie ("Yang"). There was also some dispute as to the sequence of events leading to the death of Yang. The Defence relied exclusively on the defence of diminished responsibility found at Exception 7 to s 300 of the Penal Code, which states:

Exception 7.—Culpable homicide is not murder if the offender was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as *substantially impaired his mental responsibility* for his acts and omissions in causing the death or being a party to causing the death.

[emphasis added]

4 Unusually, the Prosecution's and Defence's psychiatric experts both agreed that Wang was

suffering from a medical condition known as “adjustment disorder”. However, both experts disagreed on whether the Wang’s adjustment disorder had substantially impaired his mental responsibility at time of committing the offences. The trial before me essentially involved three issues:

- (a) whether the elements of murder under s 300(a) of the Penal Code were satisfied in relation to Wang’s attack on Zhang, Feng and Yang;
- (b) what was Wang’s state of mind when he killed each victim; and
- (c) whether Wang qualifies for the defence of diminished responsibility by virtue of his adjustment disorder for each of the killings?

5 I shall first set out the undisputed facts. Next, I will evaluate the disputed evidence and make the necessary findings. Based on my findings, I shall then determine Wang’s state of mind when he killed each victim. Finally, if I am of the view that Wang is guilty of an offence under s 300(a) of the Penal Code, I will evaluate the relevant evidence and in particular the experts’ evidence in order to determine whether or not Wang qualifies for the defence of diminished responsibility.

The facts constituting the offence

Background

6 The background of the parties is not in dispute and can be stated briefly. Wang met Zhang in China in 2005, where they began a romantic relationship. In 2007, Zhang’s daughter, Feng, came to Singapore to study. Zhang came to Singapore with Feng and rented two bedrooms in a flat at Yishun Avenue 11 (“the Flat”). Zhang stayed in one of the bedrooms (“Bedroom 1”) of the Flat, while Feng stayed in another bedroom (“Bedroom 3”). The two tenants staying in the remaining bedroom in the Flat (“Bedroom 2”) were Yang, and her daughter Li Meilin (“Li”). Zhang, Feng, Yang and Li were Chinese nationals. Li attended the same school in Singapore as Feng. Yang and Li were not related to Wang and Zhang.

7 Wang’s undisputed evidence was that he had a troubled history with Zhang and her family. After Zhang’s family members found out about his relationship with Zhang, they objected to the relationship. Some of Zhang’s family members went to Wang’s home and his workplace to harass him, in order to force him to leave Zhang. To avoid the repeated harassment, Wang had to change his place of residence frequently and was unable to continue working as a result. Wang chose to retire early, and he received about RMB 400,000 as retirement funds.

8 Wang maintained that he continued to love Zhang deeply despite her family members’ objections, and Zhang had loved him in return. Wang stated in court that Zhang was an emotional person. Zhang had allegedly attempted suicide when Wang tried to break up with her in September 2006. Wang also stated that Zhang was difficult to maintain because she led a lavish lifestyle. Even before Wang came to Singapore, his retirement funds were quickly depleted to RMB 50,000 through Zhang’s expenditure and losses in the stock market. Wang’s explanation and description of the tattoos on his body in his statement recorded by the police pursuant to s 121 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) (“Long Statement”) on 2 October 2008 offered a glimpse into his extremely complicated relationship with Zhang:

Sometime in the beginning of May 2007, I had my first tattoo at my back. I tattooed Zhang Meng’s face and half-body on my back and a rose at the bottom. I did it to express my sincere love for Zhang Meng. I tattooed a snake on my left shoulder, while a skeleton and heart on my

right shoulder. The snake symbolizes the viciousness of Zhang Meng. The skeleton resembled the "dead god" slowly and gradually swallow[ing] my heart, and the "dead god" referred to Zhang Meng.

9 In November 2007, Feng secured a place in a secondary school in Singapore. Zhang decided to accompany her daughter to Singapore. Zhang suggested that Wang should come to Singapore to be with her, and promised to help him find work. In that way, they could be together far away from her family members. Before Zhang's death, Wang came to Singapore three times to be with Zhang. Wang's third visit to Singapore was on 9 September 2008. During this visit, he stayed with Zhang in Bedroom 1 of the Flat until her death nine days later on 18 September 2008.

Zhang's bizarre treatment of Wang

10 Wang's evidence was that he was subjected to rather bizarre treatment by Zhang during his visits to Singapore. Apparently, Zhang did not allow Wang to leave Bedroom 1 and insisted that Wang had to remain in Bedroom 1 naked. As a result, Wang had to urinate and defecate into plastic bags in Bedroom 1 because the room did not have an attached toilet. Zhang also prohibited Wang from interacting with anybody else in the Flat or leaving Bedroom 1 to use the toilet in the kitchen. Wang stated in his Long Statement recorded on 25 September 2008 that:

46. During my second trip to Singapore, ... Zhang Meng disallowed me to leave my bedroom. She did not want me to meet the tenants. I suspected Zhang Meng did not want the tenants to know our relationship. Jianyu disliked me and Zhang Meng told me to stay in the bedroom most of the time. ... There were two main reasons [why] Zhang Meng prohibited me from leaving the room whenever the tenants and Jianyu were in the house. The first reason being Jianyu disliked me, secondly Zhang Meng did not want me to see or talk to the tenant Yang Jie. I felt myself confined in that bedroom. She controlled all my movement. I felt I was being suppressed.

11 Wang gave further details of Zhang's bizarre treatment of him by stating in his Long Statement recorded on 2 October 2008 that:

62. I also want to add when I stayed in my bedroom, on several occasions, I passed motion and urinated inside the bedroom since Zhang Meng did not like me to go out when [Feng] and the other two tenants were in the house. I would dispose my faeces and urine wrapped in newspaper and plastic bags when [Feng] and the two tenants left the house.

12 The Prosecution did not dispute this aspect of Wang's evidence. In fact, Li, who appeared as the Prosecution's witness, testified in court that Wang rarely walked around the Flat, and each time she saw Wang, he kept his head down without ever starting a conversation or establishing eye contact with her or Yang. This aspect of Wang's evidence was relatively consistent with what he told the two psychiatrists who examined him a year apart, and with Wang's oral testimony in court. I accept this aspect of Wang's evidence, viz, Zhang's bizarre treatment of him while he was in Singapore.

The attack of Zhang and Feng

13 The facts leading to Zhang's and Feng's death are also not disputed. On the day of the incident, at about 8 pm, Wang and Zhang had an argument in Bedroom 1. The argument appeared to be triggered by Zhang's demand for money from Wang to buy crabs for dinner. In response, Wang told her not to spend money this way and to save up the money instead. Zhang became unhappy and started berating Wang using vulgarities. [\[note: 1\]](#) In Wang's statement recorded pursuant to s 122(6)

of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("Cautioned Statement") on 19 September 2008, he stated that:

Zhang Meng humiliated and used vulgarities words on me. She scolded me poor fellow. In actual fact, I have some savings but she spent all for me. She wanted money from me to buy crab. I did not give it to her. She said I am a poor fellow and how can I afford to support her. I told her I have spent all my savings on her. What she expects from me? She even said that I was produced by dogs and donkey. She everyday confined me in the house and only allow me out once to purchase goods. I was not allowed to go to the toilet. On hearing all these, I became very angry.

14 It appears that Zhang's berating of Wang on the evening of 18 September 2008 was, proverbially speaking, the "straw that broke the camel's back". After the argument, Zhang slept at about 9 pm. Wang laid down on his mattress in the same room but could not fall asleep. After about an hour, Wang went into the kitchen and remained there for some time. Thereafter, Wang grabbed a knife ("the serrated knife") and walked back to Bedroom 1 and closed the door without turning on the lights. Wang stabbed Zhang in her abdomen area. When Wang stabbed Zhang the first time, she was surprised and screamed "AR". Wang then stabbed Zhang repeatedly with the serrated knife until she became motionless. Wang's evidence on the stabbing was corroborated by the autopsy report prepared by Dr Wee Keng Poh ("Dr Wee") [\[note: 21\]](#), where he identified 48 wounds (most of which were stab or slash wounds) to Zhang's head, neck, chest, abdomen and limbs. Dr Wee also stated that Zhang died as a result of these wounds, 6 of which were fatal.

15 While Wang was stabbing Zhang, the door to Bedroom 1 suddenly opened and a person stood at the doorway. Wang recalled seeing a person at the doorway but did not immediately identify the person as Feng. Wang then proceeded to attack the person and stab her repeatedly in the abdomen region with the serrated knife until she too collapsed. Dr Wee found 45 wounds (most of which were stab or slash wounds) on Feng, 12 of which were fatal. Feng also died as a result of these injuries.

16 The profile of some of the wounds on both Zhang and Feng were consistent with the pattern found on the blade of the serrated knife. The Defence did not dispute the Prosecution's case that all the wounds found on Zhang and Feng were inflicted by Wang. The details in the above narration were consistent with Wang's Long Statement recorded on 29 September 2008:

53. I returned to my bedroom and Zhang Meng was sleeping on the mattress lay on the floor. She rested her head on the usual flowery pillow, lying on the mattress and her face facing the ceiling. The room was in darkness as I did not switch on the light. I closed the bedroom door and went up to Zhang Meng. I could see her figure on the mattress although the light was not switched on. In a half squatting position, with my left knee on the mattress, *I grasped the knife with my right hand and thrust it 45 degree downwards at Zhang Meng's abdomen region. At that moment, she screamed and struggled a little as if she wanted to sit up.* I think it was her instant reaction, a normal human reaction. She did not manage to sit up. I thrust her many times with the knife continuously and I could not remember the exact number of times. *When I gave her the first stab, she screamed once followed by few screams. I remember she screamed "AR".* I kept on stabbing her abdomen region. It happened very fast and vaguely *I remember she continued to struggle and moved her body. I thrust her abdomen region with the knife until she became motionless.* My knife went in and out of her body.

54. *When I was thrusting Zhang Meng's abdomen region with the knife, suddenly the bedroom door opened.* I did not lock the bedroom door. Actually during my stay there I have never locked the bedroom door. Zhang Meng was the only one who entered by bedroom. *I saw a person standing at the bedroom doorway and uttered something which I did not hear clearly.* The whole

house was in darkness and the only source of lighting came from outside the flat, giving faint lighting to the surrounding around me. I was near to the doorway and I stepped forward towards that person at the doorway. *I lost my mind and I could not control my emotion. I picked up from the squatting position and went forward to stab that person's abdomen region. In a horizontal direction, I thrust the knife into that person's abdomen region.* That person bent forward slightly in a standing position. I gave that person a few thrusts at the abdomen region with the same knife. It all happened within ten of seconds. That person did not struggle. She staggered forward when I gave her the subsequent stabs. She collapsed on the same mattress, beside Zhang Meng.

[emphasis added]

17 I note that while Wang stated in his Long Statement recorded on 29 September 2008 that he had lost his mind and could not control his emotions when he was stabbing Zhang and Feng, he was able to remember many details extremely vividly. The Prosecution submitted that the requisite *mens rea* for murder under s 300(a) of the Penal Code was established because Wang's mind was not "blank" when he killed Zhang and Feng. All the vivid details that Wang narrated in his Long Statement were a product of conscious recollection and not reconstruction. Wang could not have reconstructed details such as how Zhang and Feng struggled or screamed just by looking at the aftermath in Bedroom 1. Therefore, the Prosecution submitted that Wang did not "lose his mind". The fact that Wang was able to provide such a detailed account of the attacks suggested that Wang was aware of what he was doing when he was stabbing Zhang and Feng. The Prosecution submitted that Wang had intended to kill Zhang and "the person standing at the bedroom doorway" by stabbing them to death.

18 I accept the Prosecution's submissions. The degree of recollection, albeit imperfect at times, suggests that Wang was sufficiently conscious to react to external stimuli and could even feel emotions while committing the acts of stabbing. The acts of stabbing were clearly intentional in nature and Wang had intended to kill both Zhang and Feng at the time when he stabbed them multiple times with the serrated knife. I therefore find that the *mens rea* for murder under s 300(a) of the Penal Code has been established beyond reasonable doubt with respect to the killing of Zhang and Feng. The issue then becomes whether Wang qualifies for the defence of diminished responsibility under Exception 7 to s 300 of the Penal Code.

19 In relation to the defence of diminished responsibility, I am prepared on the facts of this case to treat Wang's acts of stabbing both Zhang and Feng as a single transaction because the two incidents followed each other so closely in time that it was extremely unlikely that Wang's state of mind, his cognisance and understanding of the nature and consequences of his acts, his ability to form a rational judgment on whether his actions were right or wrong and, in particular, his ability to and the degree of exercise self-control would have changed significantly in the interval of time between stabbing Zhang and stabbing Feng. The implication of treating both killings as one transaction would be that any defence that would apply to the murder of Zhang would also apply to the murder of Feng. I shall deal with the defence of diminished responsibility later in my judgment (see [55] – [900]) where the psychiatric evidence will be additionally considered.

The attack of Yang and Li

20 There appears to be some dispute as to what happened after Wang stabbed Zhang and Feng. Unlike the stabbing of Zhang and Feng, to which there were no witnesses, Li (who was the sole survivor of the fateful incident) had witnessed how Wang entered Bedroom 2 to attack herself and her mother and she was able to give evidence in court. I will now scrutinize the forensic evidence and the evidence of both Wang and Li in order to make findings of fact as to what happened, and to draw

the necessary inferences about Wang's mental state when he attacked Yang and Li after killing Zhang and Feng.

Whether Wang's mind was sufficiently clear when he entered Bedroom 2

21 In his Long Statement voluntarily given to the police and recorded on 29 September 2008, Wang described the following sequence of events and the emotions he felt at each stage of attacking Yang and Li:

55. Suddenly the bedroom door occupied by the mother and daughter tenants opened, and I saw two persons standing at the doorway. *I gathered that Jianyu was the person I stabbed and collapsed on the mattress beside Zhang Meng, and not Yang Jie and Meilin. I was holding a knife and rushed towards the other bedroom. The two of them retreated into their bedroom and they screamed. The bedroom was also in darkness and I only knew two persons in that room. I was unable to see their faces, but I knew they were the tenants Yang Jie and Meilin.* They retreated till the edge of the window. I grasped the knife and stabbed the person on my left hand side, directly in front of me. I lost my mind and I could not control my emotion. My mind was blank. I kept stabbing that person many times at her abdomen region. *While stabbing that person in front of me, the other person ran out of the bedroom.* I dragged the one whom I stabbed to the double-decker bed and continued stabbing her at the lower deck with the same knife. ... *I left the bedroom to look for the one who escaped from the bedroom.*

56. When I left the tenants' bedroom, I did not see anyone in the living room. I continued to search at Jianyu's bedroom and kitchen. I also checked the toilet in the kitchen and I did not see anyone. *The sliding glass-door leading to the balcony was closed and I thought the one who escaped from the tenants' bedroom did not leave the house.* After that I returned to my bedroom and I only saw Zhang Meng and the person I stabbed lying on the mattress who was Jianyu. I realised Jianyu was lying beside her mother and both of them were motionless. I did not know whether they were alive or dead. *I became **panicky** when I could not locate the one who ran out of the tenants' bedroom. I went back to the tenants' bedroom. I was **shocked** to find out that no one was in. Immediately I walked out to look for her and I noticed the kitchen toilet door closed. I suspected she was hiding inside. I just gave a kick at the plastic-foldable door and it gave way. I saw a person standing there and I did not see her face. I stood at the doorway inside the toilet and I stabbed her with the same knife.* She struggled with me and managed to take away my knife. It happened very fast and I did not know how to describe the process. I saw her holding my knife with her left hand, leaning against the wall. I became **frighten [ed]** when she was in possession of my knife. I took another knife from the cutlery shelf in front of that toilet. I continued to stab her with my second knife. I think my finger was injured during this time when she took away my knife. In the midst of the attack, I dropped my 2nd knife. I took a 3rd knife from the cutlery shelf and returned to continue stabbing her with the 3rd knife. I stopped attacking her when she lay on the floor and stopped moving.

57. I came out from the toilet and I saw the units from the opposite block lights up. The residents from those units were looking at the direction of the ground floor. *I also looked down and I saw a body lying on the floor. I then closed the kitchen's window.* I deduced that the body was the person who escaped from the tenants' bedroom.

[emphasis added in italics and bold italics]

22 The extract from his Long Statement (above, at [21]) are based on his recollection of the events, and I accept that his recollection might be imperfect and certain facts could have been

forgotten by Wang or omitted because his attention was not drawn to them at the time the statement was given. It is also possible that he might have intentionally added false facts, omitted certain true facts or embellished his narration of the events in other ways in order to mitigate his involvement or reduce his culpability, in particular for Yang's death.

23 Although some portions of the sequence of events stated by Wang in his Long Statement reproduced at [21] above are not consistent with the forensic evidence and appear to differ from the testimony of Li, I will at this juncture treat Wang's recollection of the events and the emotions he felt at that time to be true and correct. Without considering Li's evidence and looking solely on the extract from his Long Statement reproduced at [21] above, I find that even if I were to assume that Wang was not in full command of his senses and full control of himself when he was stabbing and slashing Zhang and Feng in an apparent frenzy, he must have regained sufficient mental faculty to understand the nature and consequences of his actions, to judge rationally the rightness or wrongness of those actions and to exercise self-control over them by the time he first approached Bedroom 2 in order to attack Yang and Li with a sharp weapon. I base my above finding on the following five aspects of Wang's Long Statement dated 29 September 2008.

24 For a start, Wang was able to make extremely logical deductions and rationalisations from the facts that he perceived. For example, after seeing two persons standing at the doorway of Bedroom 2, he was able to deduce immediately that they must have been the tenants of the Flat, Yang and Li, although he could not see their faces in the darkness, because they were the only ones occupying that room. From this, Wang could further logically reason that the person who had suddenly appeared at the doorway to Bedroom 1 whilst he was stabbing Zhang and whom he had stabbed earlier in Bedroom 1 must have been Feng, and not Yang or Li.

25 The next significant aspect of Wang's Long Statement was that whilst he was stabbing Li, he was observant enough to notice that Yang had run out of Bedroom 2. Shortly after, when Wang was searching the Flat, he had the presence of mind to deduce that the person who escaped from Bedroom 2 was still in the Flat merely from an observation that the sliding door to the balcony had remained closed. This was because the main door of the Flat was situated in the balcony itself and one could only reach the main door by entering the balcony first.

26 Thirdly, the fact that Wang "panicked" when he searched the Flat and could not locate the person (Yang) after she escaped from Bedroom 2 gives rise to the inference that he was able, at that time, to fully comprehend the serious consequences that would follow if Yang had indeed escaped from the Flat and raised an alarm, then he might not have sufficient time to escape.

27 Fourthly, Wang was "shocked" when he found that the person (Li) whom he knew he had stabbed many times in the abdomen region was no longer in Bedroom 2. Wang discovered this on returning to Bedroom 2 after having searched in vain for Yang, who had escaped. Wang understandably used the term "shocked" to describe his emotions and feelings at that time, because it was indeed quite astonishing for a person (in this case, Li) who had been stabbed many times in the abdomen to be mobile and capable of walking out of Bedroom 2 without any assistance.

28 Fifthly, when Wang then started looking for Li, he was able to deduce that Li was hiding inside the kitchen toilet because he observed that the kitchen toilet door was closed when he returned to the kitchen. His alert mind furnished him with a good logical basis for his suspicion because when he looked for Yang earlier in this same toilet, he had left the toilet door open but it was now closed. Wang decided to break down the locked toilet door. Finding Li inside, he stabbed her again. When Li managed to snatch the knife away from him and held it in her left hand, Wang became "frighten[ed]". That was yet another emotional response that he was able to experience during this episode. Wang

then retrieved another knife and continued to attack Li. After he had stabbed Li to the point that she was motionless, he came out of the toilet and was observant enough to notice that the units from the opposite block had switched on their lights, when it was dark previously. He even noticed that the residents from those units were looking towards the direction of the ground floor. He also looked down and saw a body lying on the ground floor. He then deduced that the body was that of Yang.

29 From the exposition above, it is clear that Wang was observant and sensitive to his surroundings. He even had the presence of mind to close the kitchen window, possibly to avoid suspicion that Yang's body fell from the kitchen window of the Flat that he was staying in. Wang had given another statement to the police that he closed the kitchen window as he "did not want to attract attention" [\[note: 31\]](#). In my view, the clarity of Wang's thought and reasoning processes, the rationalisations and deductions he made, and the relevant kind of emotions he experienced during the entire period after he entered Bedroom 2 to commence his attack on Yang and Li were not consistent with someone who was in a state of loss of self-control or who was having a blank state of mind at that time. Wang's actions were directed, purposeful and certainly not mindless.

30 Therefore, based solely on Wang's own version of the events as set out in his statements to the police, and regardless of Wang's earlier state of mind when he was stabbing Zhang and Feng, I find that Wang's mind must have been sufficiently clear and that he was in sufficient control of his mental faculties, his senses and his actions by the time he entered Bedroom 2 to attack Yang and Li, such that he could substantially, if not fully appreciate the nature, consequences and rightness and wrongness of his actions and therefore, he should be made to bear substantial mental responsibility for his acts. Wang was capable at that time of thinking rationally and clearly. He was fully able to experience varied emotions of panic, shock and fear (as the case may be) as he progressed through the various situations he found himself in. I therefore reject the Defence's submission that Wang's mind was a complete blank or that he was still in a state of loss of his self-control when he was attacking Yang and Li. By the time Wang started attacking Yang and Li, he had not lost his mind nor had he been unable to control his emotions as alleged in his Long Statements.

Whether Wang attacked Yang and Li immediately after his attack of Zhang and Feng

31 The Prosecution disputed Wang's Long Statement that as he was stabbing Feng, the door of Bedroom 2 opened "suddenly" with Yang and Li appearing at the doorway, which led him to rush immediately towards Bedroom 2 to attack Yang and Li with the same serrated knife that was used to stab Zhang and Feng earlier. The Prosecution's case theory was that after stabbing Zhang and Feng in Bedroom 1, Wang did not immediately enter Bedroom 2 to attack Yang and Li. Instead, there was a short but significant break in time when Wang entered the kitchen to search for another weapon. There, Wang picked up a metal spatula ("the spatula"), but subsequently deposited the spatula into the washing machine upon realizing that it was not a sufficiently sharp object to kill a person with. Wang then picked up a chopper ("the chopper") and entered Bedroom 2 to attack Yang and Li with the intention of silencing them.

32 The Prosecution relied on Li's evidence to dispute this specific part of the sequence of events described by Wang in his Long Statement recorded on 29 September 2008: see [21] above. Li testified that both she and her mother were sleeping in Bedroom 2 when she was awakened by the sound of heavy breathing outside her bedroom which sounded like someone suffocating. [\[note: 41\]](#) Then, the door to her bedroom suddenly swung open and Wang rushed in to attack Li, slashing her on her left cheek. Li retreated and squatted down, and raised both her hands to cover her face. Wang continued to slash Li many times. Thereafter, Wang left Bedroom 2. Apparently, Li was not aware at that time that her mother, Yang, had seized the opportunity to run out of Bedroom 2 whilst he was attacking her and that Wang left Bedroom 2 in order to pursue Yang. When Wang was outside

Bedroom 2, Li heard Wang telling her in Mandarin words to the effect "you do not move, you do not move." Li's testimony, if true, would show that Wang even had the presence of mind to give coherent instructions to warn Li not to move out of Bedroom 2 as he embarked on his search for Yang.

33 I find that Li's evidence on the whole was consistent with the evidence given by the Prosecution's expert forensic witness, Ms Lim Chin Chin ("Ms Lim"), the Senior Consultant Forensic Scientist at the Health Sciences Authority of Singapore ("HSA"). Ms Lim prepared a Crime Scene Reconstruction Report ("the Reconstruction Report") [\[note: 5\]](#) of the entire episode based on the information and findings from thirteen expert reports. Blood smudges containing a mixture of the DNA profile of Wang, Zhang and Feng were found on the exterior door knob of Bedroom 2. This establishes that it was very likely that it was Wang who had opened Yang's and Li's bedroom door to enter their bedroom to attack them. Having regard to the locations of the three knife exhibits recovered from the scene of crime (of which only one had unique serrated edges), the photographs and DNA evidence found on the knife exhibits, it was clear that the serrated knife used to kill Zhang and Feng was not the weapon used by Wang to attack Yang and Li.

34 Only the DNA profiles of Zhang and Feng, as well as that of Wang, were found on the serrated knife. Li's DNA was never found on the serrated knife. Several of the wounds found on Zhang and Feng bore intermittent small marks that were consistent with the test cuts and test marks from the serrated knife. On the other hand, Li's wounds were consistent with injuries inflicted with the chopper, on which her DNA was found. This shows that it was unlikely that Li had at any time been stabbed or slashed with the serrated knife. More importantly, the serrated knife was recovered by the police from a location hidden underneath the bed spreads on the floor in Bedroom 1 and it does not appear that the serrated knife had been taken out of Bedroom 1 after Wang had used it to stab Zhang and Feng. The fact that Wang's DNA was also found on the serrated knife further indicates that Wang had most probably cut his finger in the course of killing Zhang and Feng whilst in Bedroom 1, and not when he was attacking Li in the kitchen toilet as alleged by Wang in his Long Statement recorded on 29 September 2008. [\[note: 6\]](#)

35 Accordingly, I find that Wang did not use the serrated knife to attack Li in Bedroom 2 and therefore, Wang must have gone to the kitchen first to obtain another weapon before he set out to attack the tenants in Bedroom 2. This again contradicts Wang's Long Statement recorded on 29 September 2008 that he basically went straight from Bedroom 1 to Bedroom 2, still holding on to the same serrated knife when he crossed over to attack the occupants in Bedroom 2. I also accept the analysis and findings in the Reconstruction Report which states that before the assault on Li started in Bedroom 2, Wang had not only gone to the kitchen. He had also gone into Bedroom 3, switched on the light and opened the wardrobe there. What he was looking for is unclear. He had gone into the kitchen and made contact with the metal turner in the red basket beside the kitchen sink and he had also placed the metal spatula in the washing machine. All this meant that a considerable interval of time had elapsed (ie, since the frenzied attack on Zhang and Feng), which was spent by Wang doing these other things as described above before he embarked on his attack on the tenants Yang and Li, who were pretty much keeping to themselves inside Bedroom 2 with the door closed.

36 Whether or not Wang's ability to form a rational judgment, understand his actions or exercise his self-control could be said to have been impaired by the "adjustment disorder" that both experts agree he was suffering from, I find that there was nevertheless a sufficient interval of time elapsing thereafter to enable Wang to regain his senses, his rational judgment and his self-control even if he had substantially lost all of that earlier whilst he was stabbing both Zhang and Feng. This is buttressed by what I have earlier stated at [23] to [30] above about Wang's state of mind.

37 In summary, I therefore find that neither Yang nor Li had voluntarily opened the door of Bedroom 2 to find out what was happening outside out of curiosity. They had not intruded into what Wang was doing at that time. They continued to keep to themselves and probably, they were fearful after hearing the commotion and had not even dared to interfere. I accept the Prosecution's case theory that Wang himself had burst into Bedroom 2 after obtaining a chopper in the kitchen and that there was a distinct and marked temporal break between (i) the time Wang attacked Zhang and Feng; and (ii) the time he entered Bedroom 2 in order to attack Yang and Li. The natural consequence of this finding is that, assuming that the Prosecution proves beyond reasonable doubt that Wang murdered Yang, Yang's murder would be considered a separate transaction from Zhang's and Feng's murder. Whatever defence that applies to the first two murders does not necessarily apply to the murder of Yang as well, and any defence applicable to the Yang's murder must be considered separately.

Whether Wang had cut the fingers of Yang

38 I now make determinations as to the events leading to Yang's death, whether Wang inflicted any injuries on Yang, and if so, then what was Wang's state of mind at that time.

39 In sharp contrast to the level of detail that Wang provided on his attack of the other three victims, Wang did not describe in any detail how Yang fell to her death when he was interviewed by the police and by both the Prosecution's and Defendant's psychiatric experts. In my view, this omission could mean one of several things:

- (a) Wang did not inflict any injuries on Yang and therefore, Wang did not know what happened to Yang until he looked out of the kitchen window and saw a body at the foot of the block of the Flat, from which he could only surmise that Yang had, after running out of Bedroom 2, climbed out of the window to hide from him but had unfortunately fallen to her death;
- (b) Wang did not know what he was doing when he cut Yang's fingers and therefore no memory of cutting Yang's fingers had registered in his mind;
- (c) Wang knew what he was doing when he cut Yang's fingers but he had forgotten to mention this aspect of the incident in his statements to the police and psychiatric experts; or
- (d) Wang knew and understood what he was doing when he cut Yang's fingers and he was intentionally concealing his knowledge by not mentioning this aspect of his knowledge to the police in order to reduce his culpability.

40 The answer to the above question must be deduced from the circumstantial evidence in their totality. The Prosecution submitted that Wang knew what he was doing and had deliberately concealed his knowledge. The Prosecution's case was that as Wang was attacking Li in Bedroom 2 with the chopper, Yang ran outside and into the kitchen. Yang then climbed out of the kitchen window to stand on the narrow concrete overhang, holding on to the laundry pole holders right below the window sill. Worried that she might escape from the Flat and raise an alarm, Wang then came out of Bedroom 2 to pursue Yang. Upon finding Yang on the overhang, Wang used the chopper to cut Yang's fingers, causing Yang to lose her grip on the two laundry pole holders and to fall down from a height of six storeys to her death.

41 Dr Wee opined that the incised wounds on Yang's fingers were not caused by the fall or by the metallic window frame ledge. Dr Wee testified that the incised wounds on the anterior aspect of Yang's right hand fingers [\[note: 71\]](#) appeared to be defensive injuries, which could have been inflicted

when Yang gripped a sharp instrument with her hand, while the sharp instrument was being removed by her assailant. Dr Wee significantly concluded, after having regard to the Reconstruction Report, that the assailant had cut the back of Yang's fingers on her left hand while Yang was holding on to the two bamboo pole holders outside the Flat. I agree with Dr Wee's conclusions and I find that the injuries to Yang's left hand as depicted in Exhibit P466 were neither defensive injuries nor injuries caused by the fall or the window frame ledge.

42 I also accept the forensic analysis of Ms Lim and the conclusion she reached in the Reconstruction Report based on the vast amount of forensic evidence gathered from the scene of crime that there was no evidence to suggest that Yang's fingers were cut whilst she was in the Flat. If Yang's fingers were cut in the manner as shown in Exhibit P466 and Exhibit P467 whilst she was still inside the flat, one would naturally expect to find some of her DNA in the blood swabs taken within the flat, given that there must have been considerable bleeding from those wounds which would have at least left traces of DNA from Yang's blood on the floor within the Flat as she made her way to from Bedroom 2 to the kitchen.

43 If Yang's fingers were cut whilst she was in the Flat, some of Yang's DNA would have been found on (i) the inner kitchen wall, (ii) the kitchen window frame, (iii) the kitchen window sill areas; and/or (iv) the kitchen sink area, because in the process of climbing out of the kitchen window, Yang's bloodied fingers would have at least made contact with some of those areas. However, out of more than 300 swabs taken from various interior areas and items within the Flat, as well as the numerous swabs taken from the window and sink areas in the kitchen itself, none of the swabs contained any of Yang's DNA profile. The absence of Yang's DNA evidence within the Flat indicates that it was highly unlikely for Yang to have sustained the injuries to her fingers whilst she was inside the Flat.

44 On the contrary, the analysis of the blood smudges and finger marks found at the interior surface of the window and sink areas in the kitchen revealed that these contained a mixture of the Wang's, Feng's and Li's (but not Yang's) DNA profile. The presence of Wang's DNA profile in these areas is consistent with the Prosecution's case that Wang was at the kitchen window to slash Yang's fingers when she was standing on the overhang outside the kitchen window and holding on to the bamboo pole holders. The presence of the DNA profiles of Wang, Feng and Li on the interior surface of the kitchen window is consistent with the Prosecution's case that Wang attacked Yang at the kitchen window after he stabbed Feng and injured his finger at Bedroom 1, and after he stabbed Li in Bedroom 2.

45 Crucially, Ms Lim stated in the Reconstruction Report that Yang's DNA profile was found in contact bloodstains and spatter stains *outside* the Flat, specifically on the exterior wall surface of the kitchen beside the bamboo pole holders and on the third and fourth bamboo pole holders outside the Flat thereby establishing beyond a reasonable doubt that Yang's fingers were cut when she was still holding on to the bamboo pole holders to steady herself whilst standing precariously outside the Flat on the concrete ledge outside the kitchen window of the Flat. I therefore find as a fact that Yang was not injured with a bleeding wound *before* she climbed out of the kitchen window. Based on the totality of the evidence before me, I find beyond a reasonable doubt that it was none other than Wang who had cut the fingers of Yang, whilst she was holding on to the bamboo pole holders and standing on the concrete overhang outside the kitchen window of the Flat.

Wang's state of mind when attacking Yang

46 I turn now to examine Wang's state of mind when he slashed Yang's fingers while she was holding on to the two bamboo pole holders. I have given my reasons at [23] to [30] above as to why

I find that Wang had a clear state of mind when he was attacking Yang. The behaviour and actions of an accused immediately before, during and immediately after the criminal acts in question will naturally carry far more weight and have much greater probative value in the court's determination of the mental state of the accused at the time of commission of his criminal acts than any of his behaviour and actions long before or long after the criminal acts in question.

47 Although the Third Charge relating to Li had been stood down, the testimony of Li on what transpired after Wang returned to look for her in Bedroom 2 to attack her a second time, which was immediately after Yang's killing, is relevant because it helps to fortify my findings on Wang's mental state at the time he killed Yang.

48 Li's evidence was that after Wang left Bedroom 2, she had walked towards the door to close it. Wang thereafter returned to Bedroom 2 and pushed her to the lower deck of the double-decker bed. Li saw that Wang was holding a knife. Wang spoke to her in Mandarin, instructing her to "close her eyes and not to scream". Wang promised Li that he would not kill her. It would appear from Li's evidence that Wang had the clarity of mind to practise trickery on Li by promising not kill her. Li agreed but did not close her eyes fully as she did not trust Wang. Li then saw through the slit of her eyes that Wang used one of his hands to hold her shoulder while using the other to thrust the knife towards her body, whereupon she screamed and kicked Wang. Li then ran out of Bedroom 2 and across the living room into the kitchen toilet, where she locked herself in by securing the foldable door. Wang then pursued Li into the kitchen and attempted to dismantle the door by hitting it with a hard object. When Wang ultimately pulled the door apart and entered the toilet, he used a weapon to slash Li repeatedly at her face and neck. Thereafter, Wang said, in Mandarin, words to the effect "I do not chop you anymore" and walked out of the toilet. As Li laid in pain on the toilet floor, she said to herself, in Mandarin, words to the effect "God, let me go". At this juncture, Wang returned to the toilet and stabbed Li several more times. I infer from Li's evidence that when Wang heard Li's voice and realised that she was not dead yet, he returned to stab her with the aim of finishing her off.

49 When the police subsequently arrived at the Flat, Wang informed the Senior Investigating Officer, Desmond Tan Hsien Yang, that the three occupants in the Flat did not have any signs of life. From this fact, I deduce that Wang believed (albeit wrongly) that he had succeeded in killing Li. I further infer that Wang had the intention of silencing Li permanently and he was determined to do so as could be seen from the repeated attacks on Li, despite the fact that Li was another innocent party like her mother, Yang. Based on the DNA profiles found on the blood stains on a knife and chopper retrieved from the attached bathroom in Bedroom 3, it would appear likely that Wang had used the chopper and the knife to viciously stab and slash Li at numerous places whilst Li was in the toilet, with the intention of killing her.

50 I accept Li's version of events, which was corroborated by the Reconstruction Report. I find that Wang's actions were consistent with the Prosecution's case theory that Wang had intended to kill everyone else in the Flat after he killed Zhang and Feng. The fact that Li had survived the attack was completely fortuitous. In my view, Wang stopped stabbing Li further after she became motionless in the toilet most likely because he thought that Li was already dead. I therefore agree with the Prosecution's case theory that Wang's intention that night was to silence everyone present in the Flat including Yang and Li because they recognised him and they could provide useful information to enable the police to trace and identify him as the killer of Zhang and Feng. He therefore decided to kill both Yang and Li with the aim of making it more difficult for the police to find leads to trace the killing of Zhang and Feng to him.

51 In fact, after completing his attack on Yang and Li, Wang made immediate preparations for his escape but before he could do so, the police arrived at the Flat and found him there. Indeed, in his

Long Statement recorded on 29 September 2008, Wang described how he packed his bag and collected his documents. The undisputed evidence showed that the bag which Wang was referring to contained his passport and some money. To my mind, these actions were consistent with someone who was trying not only to flee the crime scene, but to flee Singapore and return to China, where it would be almost impossible to trace him. Wang further stated in his Long Statement as follows:

59. *In a hurry, I packed few of my clothing into a bag. Few of my clothing remained in the cupboard. I also collected my documents placed in the study-table drawer and kept them in the computer-bag. I placed the two bags on the sofa in the living room. I felt **stressful** and I wanted to leave the place as soon as possible. From Jianyu's bedroom, I looked down and I saw many people at the ground floor. I also saw the flash-lights of police car. I was **frightened** at that time.*

[emphasis added]

52 The evidence showed that after Wang had repeatedly stabbed Li in the kitchen toilet, he went to the attached bathroom in Bedroom 3 where he deposited the knife and the chopper that he had used to attack Yang and Li on the bathroom floor, and proceeded to take a bath. The Prosecution submitted that Wang was trying to wash off the bloodstains on his body. After Wang showered, he dressed up, put plasters on his injured finger, packed his bag, took his travel documents, and wore his shoes. In my view, the only logical explanation for Wang dressing up and wearing his shoes in the middle of the night was that he was preparing to flee the crime scene. I therefore find that Wang had the presence of mind to make preparations to leave the Flat and never to return. Such conduct is consistent with that expected of a person who could exercise rational judgment and who was in control of his mental faculties.

53 Returning to the various possible options I suggested above at [39], I accordingly find that the Prosecution has proved beyond a reasonable doubt that Wang was fully aware of and understood what he was doing when he cut Yang's fingers and that he had concealed his knowledge in his Long Statements and in his evidence in court of how he had deliberately caused Yang to fall to her death. I also find that Wang had intended to kill Yang in order to silence her as well. Wang did so by intentionally cutting the back of Yang's left second, third and fifth fingers with a sharp instrument whilst she was standing on the narrow concrete overhang, to force her to release her grip on the bamboo pole holders, so that Yang would fall down six storeys to her death. This leads me to the finding that Wang also possessed the requisite *mens rea* for murder under s 300(a) of the Penal Code in relation to the killing of Yang.

Finding on culpability for murder

54 In the light of my findings, I am satisfied that the Prosecution has proven beyond reasonable doubt the elements of the offence under s 300(a) of the Penal Code for the murder charges. As the Defence relies solely on the defence of diminished responsibility for all the murder charges, I shall next consider whether the Defence has succeeded in proving on a balance of probabilities that Wang is entitled to rely on such a defence. I note in passing that Wang has to succeed in proving his defence for all the murder charges in order to avoid the mandatory death penalty for murder under s 302 of the Penal Code.

The defence of diminished responsibility

55 It is well-established that the defence of diminished responsibility has three limbs. The Court of Appeal in *Ong Pang Siew v Public Prosecutor* [2011] 1 SLR 606 ("*Ong Pang Siew*") restated at [58] the

three-limb test which an accused must satisfy in order to establish the defence of diminished responsibility:

58 It is trite law that the appellant bears the burden of proving the defence of diminished responsibility on a balance of probabilities: see *Chua Hwa Soon Jimmy v PP* [1998] 1 SLR(R) 601 (at [8]) ("*Jimmy Chua*"). In *Took Leng How v PP* [2006] 2 SLR(R) 70, this court reiterated (at [46]) the three-limb test which an accused has to satisfy to establish the defence of diminished responsibility:

- (a) the accused was suffering from an abnormality of mind at the time he caused the victim's death;
- (b) the abnormality of mind arose from a condition of arrested or retarded development of mind or any inherent causes, or was induced by disease or injury; and
- (c) the abnormality of mind substantially impaired the accused's mental responsibility for his acts and omissions in causing the death.

56 The Prosecution called Dr Kenneth Gerard Koh Wun Wu ("Dr Koh") as its psychiatric expert witness, whereas the Defence called Dr Tommy Tan Kay Seng ("Dr Tan") to provide expert evidence. Both experts agreed that Wang was suffering from adjustment disorder. In fact, both experts were of the opinion that Wang satisfied both limbs (a) and (b) of the defence of diminished responsibility as set out in *Ong Pang Siew* at [58]; specifically that Wang was suffering from an abnormality of mind at the time that he caused the victims' deaths which arose from a condition of arrested or retarded development of mind or any inherent causes. In this case, both experts also agreed that the abnormality of mind arose from inherent causes and not from any arrested or retarded development of Wang's mind. Given the agreement, my role is limited to evaluating whether the experts' conclusion in this regard flew in the face of proven extrinsic facts: see *Khoo James and another v Gunapathy d/o Muniandy* and another appeal [2002] 2 SLR(R) 414 (at [65]), and [72] below. Since I am satisfied that it does not, I find that Wang has satisfied limbs (a) and (b) of the defence of diminished responsibility for all three murder charges.

Limb (c) of the defence of diminished responsibility

57 I shall turn next to limb (c) of the defence, which requires me to make a finding as to whether the abnormality of mind substantially impaired Wang's mental responsibility for his acts. The three-stage test for the defence of diminished responsibility is essentially a composite one: see *G Krishnasamy Naidu v Public Prosecutor* [2006] 4 SLR(R) 874 at [6]. The Prosecution submitted and I agree that not every accused person who satisfies limbs (a) and (b) would automatically satisfy limb (c); otherwise, limb (c) would be rendered wholly otiose. Therefore, it is necessary for the Defence to prove on a balance of probabilities that Wang's mental responsibility was impaired at the material time, and the impairment was substantial.

58 Choo Han Teck J in *Public Prosecutor v Juminem and another* [2005] 4 SLR(R) 536 ("*Juminem*") noted (at [30]) that the phrase "substantially impairs his mental responsibility" in the defence of diminish responsibility had has no precise definition, and endorsed Ashworth J's common-sense definition of "substantial" in *Regina v Lloyd* [1967] 1 QB 175 at 178:

30 Reverting to the question whether there was a substantial impairment of the first accused person's mental responsibility, I would begin with the reminder that the term "substantially impairs his mental responsibility" is couched in "popular language, (not that of the *M'Naughten Rules*)" as

the Court of Criminal Appeal in *Regina v Byrne* ([24] supra) at 404 observed. Following suit, Ashworth J, the trial judge in *Regina v Lloyd* [1967] 1 QB 175 at 178 summed up his directions to the jury as follows:

I am not going to try to find a parallel for the word 'substantial.' You are the judges, but your own *common sense will tell you what it means*. This far I will go. *Substantial does not mean total, that is to say, the mental responsibility need not be totally impaired, so to speak, destroyed altogether. At the other end of the scale substantial does not mean trivial or minimal*. It is something in between and Parliament has left it to you and other juries to say on the evidence, was the mental responsibility impaired, and, if so, was it substantially impaired?

That summation was fully endorsed by the Court of Criminal Appeal in the same case, at 181, and I think that it serves as a useful working guide.

[emphasis added]

59 Choo J's definition in *Juminem* was endorsed by the Court of Appeal in *Ong Pang Siew* at [64], where the court also emphasized that the question of whether or not the impairment was substantial was ultimately a question of fact to be decided by the court based on all the circumstances of the case:

64 What in fact amounts to a substantial impairment of mental responsibility is largely a question of commonsense to be decided by the trial judge as the finder of fact. ***As a working guide, substantial does not require a total impairment; neither is it trivial nor minimal: see Juminem (at [30]) applying Regina v Lloyd [1967] 1 QB 175 (at 178). As stated above, while medical evidence would be important in determining the presence and/or extent of impairment, whether an accused's mental responsibility was substantially impaired is ultimately a question to be decided by the court based on all the evidence before it*** : see *Zailani bin Ahmad v PP* [2005] 1 SLR(R) 356 (at [52]). ...

[emphasis added in bold italics]

Dr Tan's opinion

60 I shall now turn to evaluate each expert's evidence. The Defence called Dr Tan to support their case that Wang's adjustment disorder substantially impaired his mental responsibility for all the killings. Dr Tan is currently a Consultant Psychiatrist at Novena Psychiatry Clinic of Novena Medical Center. Dr Tan obtained a Postgraduate Diploma in Forensic Psychiatry in August 1999 from the University of London, and has given expert evidence in court before on many occasions. In terms of both his qualifications and experience, I find Dr Tan to be well-placed to give expert evidence in the present case.

61 Dr Tan examined Wang on 1 October 2010, about two years after the incident, and in his report dated 10 January 2011, Dr Tan was of the opinion that at the time of committing the offences, Wang was suffering from prolonged depressive reaction (F43.21, ICD-10) or adjustment disorder with depressed mood (309.0, DSM-IV-TR). Dr Tan clarified that both diagnoses referred to the same thing, depending on which classification system one adopted. The ICD-10 Classification of Mental and Behavioural Disorders: Clinical descriptions and diagnostic guidelines ("ICD-10") issued by the World Health Organization in 1992 classifies "prolonged depressive reaction" as a form of adjustment disorder at p 149:

F43.2 Adjustment disorders

...

Individual predisposition or vulnerability plays a greater role in the risk of occurrence and the shaping of manifestations of adjustment disorders than it does in the other conditions in F43.—, but it is nevertheless assumed that the condition would not have arisen without the stressor. The manifestations vary, and include depressed mood, anxiety, worry (or a mixture of these), a feeling of inability to cope, plan ahead, or continue in the present situation, and some degree of disability in the performance of daily routine. *The individual may feel liable to dramatic behaviour or outbursts of violence, but these rarely occur.* ...

[emphasis added]

62 Similarly, the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (American Psychiatric Association, 4th Ed, Text Revision) ("DSM-IV-TR") classifies adjustment disorder with depressed mood as a sub-type of adjustment disorder at p 679:

Diagnostic Features

The essential feature of an Adjustment Disorder is a psychological response to an identifiable stressor or stressors that results in the development of clinically significant emotional or behavioural symptoms. ... [A] reaction to a stressor that might be considered normal or expectable can still qualify for a diagnosis of Adjustment Disorder if the reaction is sufficiently severe to cause significant impairment. ...

The stressor may be a single event (e.g., termination of a romantic relationship) or there may be multiple stressors (e.g., marked business difficulties and marital problems). ...

Subtypes and Specifiers

Adjustment Disorders are coded according to the subtype that best characterizes the predominant symptoms:

309.0 With Depressed Mood. This subtype should be used when the pre-dominant manifestations are symptoms such as depressed mood, tearfulness, or feelings of hopelessness.

...

[emphasis added]

63 For the sake of consistency, I shall refer to Dr Tan's diagnosis of Wang's condition simply as "adjustment disorder". At p 7 of his psychiatric evaluation report, Dr Tan was of the opinion that Wang's adjustment disorder was caused by the following multiple stressors (which were not in dispute), all of which could be attributed or linked to Zhang:

Zhang's family

Zhang's family disapproved of Wang's relationship with her. Her family harassed him when they found out about their relationship. They had made death threats against him. Her father placed

notices about Wang at his home. They harassed him at his workplace. Wang had to move home to avoid harassment.

Loss of job

Wang was unable to work as a result of the harassment by Zhang's family.

Loss of retirement fund

Wang received RMB 400,000 when he retired. The money was quickly depleted through expenditure by Zhang and losses in the stock market. Wang was left with only RMB 50,000 before he came to Singapore. Zhang did not help Wang find a job when he came to Singapore. She continued to expect him to spend money on her and her daughter. The remaining money was quickly depleted. He had very little money left.

Humiliating conditions

Wang found himself in humiliating and degrading position [*sic*] when he arrived in Singapore. He was kept in the bedroom. He was not allowed to wear clothes. He was not allowed to leave the room even to go to the toilet and he had to deposit his waste in bags. He could only leave the bedroom when there was no one in the flat and with the permission of Zhang.

...

[emphasis added]

64 As a result of the multiple stressors above, Dr Tan opined that Wang suffered from adjustment disorder characterized by a prolonged depressive mood coupled with feelings of helplessness:

A prolonged depressive mood since 2007

Wang had been feeling depressive since 2007, after Zhang's family started harassing and threatening him. He continued to feel depressed through 2007. He felt more depressed in Singapore.

Helplessness.

Wang felt very helpless throughout his relationship with Zhang. He tried to break off from her but was not able to do so because she threatened suicide. When he did not agree to do what she asked, she would quarrel with him.

This sense of helplessness was exacerbated when he came to Singapore. He became even more dependent on her because he was in a foreign country. Zhang fostered his sense of helplessness by placing him naked in the bedroom and not allowing him to do anything without her permission. Wang dare not disobey Zhang.

65 Based on the facts that Wang conveyed to him during the evaluation, Dr Tan concluded that Wang's mental responsibility in causing the deaths of Zhang and her daughter was substantially impaired as a result of suffering from adjustment disorder, because it made Wang more liable to outbursts of violence:

The defendant, Wang, is a foreigner, who is not familiar with this country. He committed the

alleged offences after only a few weeks in the country. *He killed his girlfriend, Zhang, in a frenzied attack.* He had no apparent motives to kill [Zhang], [Feng], and [Yang].

In my opinion, Wang qualifies for a defence of diminished responsibility to causing the death of Zhang, and her daughter, Jianyu. *Wang had a sudden and temporary loss of self-control. He stabbed Zhang and her daughter, Jianyu, in a frenzy after Zhang insulted him and his parents and berated him for at least three quarters of an hour.*

He continued to brood after Zhang berated and insulted him and went to sleep. He suddenly lost his self-control. He said that his “mind went blank” and he stabbed Zhang “mechanically” [because] “he could not control”.

Wang was suffering from [adjustment disorder with depressed mood], a mental disorder at the time of the alleged offences. ...

...

This depressed mood and overwhelming sense of helplessness amounted to an abnormality of mind. It substantially impaired his mental responsibility for his acts *in causing the death of Zhang and her daughter.*

To a lay person, prolonged depressive reaction appears to be a lesser form of depressive disorder than depressive episode (ICD-10) or major depressive disorder (DSM-IV-TR). It is not a lesser form of depressive disorder. It is separately classified from the depressive disorders both in the ICD-10 and DSM-IV-TR. ... *Patients with adjustment disorders, are known to be liable to outbursts of violence.*

[emphasis added; underlining in original omitted]

66 I note in passing that Dr Tan in his evaluation did not immediately conclude that in his opinion the defence of diminished responsibility also applied to Wang’s act of causing Yang’s death. It was only in court that Dr Tan testified that in his opinion, the defence also applied to Wang’s act of causing Yang’s death.

67 Dr Tan explained in court that he based his opinion that patients with adjustment disorders “are more liable to outbursts of violence” on a study of the statistical relation between certain attributes and the risk of violence known as the MacArthur Violence Risk Assessment Study [\[note: 8\]](#) (“the MacArthur Study”). In the MacArthur Study, researchers studied a sample size of 1,136 individuals and statistically identified factors that were—or were not—related to increases in the risk of violence. According to Dr Tan, one factor that researchers from the MacArthur Study identified would significantly increase a person’s risk of violence was a diagnosis of a major mental disorder:

Diagnosis. A diagnosis of a major mental disorder—especially a diagnosis of schizophrenia—was associated with a *lower* rate of violence than a diagnosis of a personality or adjustment disorder. A co-occurring diagnosis of substance abuse was strongly predictive of violence.

[emphasis in original]

68 Relying on a subsequent work that summarized and integrated the principle findings of the MacArthur Study, John Monahan *et al*, *Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence* (Oxford University Press, 2001) at p 63, Dr Tan explained that the MacArthur

Study separated participants suffering from “major” mental disorders from those suffering from “other” mental disorders. Participants suffering from adjustment disorder fell within the latter group of “other” mental disorders. The results of the MacArthur study suggested that the prevalence of violence rate for participants diagnosed with “other” mental disorders was higher than those diagnosed with “major” mental disorders, and the difference was statistically significant. Dr Tan concluded that because Wang’s adjustment disorder impaired his mental responsibility by causing him to become more prone to violence, such impairment should be considered substantial; and Wang was therefore in his opinion entitled to the defence of diminished responsibility for the murder charges.

Dr Koh’s opinion

69 Dr Koh, currently a Consultant Psychiatrist at the Department of General and Forensic Psychiatry, is another well-qualified expert to give evidence of Wang’s condition. Dr Koh examined Wang on three separate occasions: 10 October, 16 October and 10 November 2008. Dr Koh spoke to Wang’s brother twice over the phone. He also interviewed Li, as well as Ms Ler Chui Sia, an acquaintance of Zhang. After setting out in detail significant points in his findings, Dr Koh made the following evaluation of Wang’s mental state when committing the acts of killing in his report dated 15 November 2008: [\[note: 9\]](#)

Mr Wang presented as a young man who was attentive during the interviews and displayed no odd behaviour. He had several tattoos over his back and arms, the one on his back, being a representation of the Zhang Meng’s face, according to Mr Wang.

He gave an account of several symptoms of depressed mood, prior to and at the time of the alleged offences ..., *but these did not appear to approach the severity of a major depressive episode*, it being noted that Mr Wang still went jogging in the last 10 days in Singapore before the alleged offences. He also still went marketing with Zhang Meng daily and also engaged in sexual intercourse with her on several occasions in those last 10 days. He was also reported by Ms Li to be enjoying the company of and conversation with Zhang Meng.

At the time of my examinations, his mood also did not appear to be markedly depressed. He had no observable psychomotor retardation, his manner was polite and his eye contact good. His speech was relevant and flowed at normal rate, with normal inflections. His thoughts were organized and there was no slowness of his responses.

No symptoms and signs suggestive of psychosis were elicited, such as hallucinations, delusions or feelings of thought interference. Interview with Mr Wang’s brother Zhijie corroborated the finding that there was no severe psychotic or mood disorder present in Mr Wang, either in the remote or recent past. Mr Wang’s brother, however, repeatedly stated the caveat that Mr Wang was a reticent man who did not communicate his problems or feelings extensively, even with his family.

[emphasis added]

70 Based on his observations of Wang above, Dr Koh came to the conclusion that Wang was suffering from adjustment disorder with depressed mood because, in his opinion, Wang’s condition was not sufficiently serious enough to “warrant a diagnosis of a major depressive disorder”:

... Mr Wang was a subject of multiple stresses as a result of his relationship with Ms Zhang. He was assailed by her family and threatened with bodily harm or death. Later on, nearer the time of the killings, he began to feel cheated and used by her, and became the victim of ill treatment by her, this being especially the state of things in his last 2 visits to Singapore. From a role of

relative equality in their relationship, he was now financially bereft and thrust into a subordinate and abused role, and coming to the realization that she had used him for his money.

He suffered from an adjustment disorder with depressed mood consequent to the reported abuses by Zhang Meng, the unstable nature of their relationship and his subjugation in role to a much diminished one. The severity of his mood symptoms, however, were insufficient to warrant a diagnosis of a major depressive disorder at the time of the alleged offences.

[emphasis added; emphasis in bold in original omitted]

71 After receiving Dr Tan's evaluation, the Prosecution requested a further opinion from Dr Koh specifically commenting on Dr Tan's evaluation. In response, Dr Koh provided the following further opinion in a letter dated 14 April 2011 stating that he agreed with Dr Tan's diagnosis but not with his conclusion of how the diagnosis of adjustment disorder applied to the defence of diminished responsibility:

I have received and read Dr Tan's reports dated 10 January 2011 and 4 March 2011.

Dr Tan's diagnosis of [Wang] and mine do not differ significantly. Neither of us ha[d] diagnosed [Wang] to have suffered from a more serious mental illness, such as a severe depression, at the time of the alleged offences. ...

After perusal of Dr Tan's reports and his reasoning contained therein, I maintain my stand that from a psychiatric point of view, with the information available to me, [Wang] does not qualify for the defence of diminished responsibility.

I say this as [Wang] had good recollection of the events and his actions appear to have been organized during the alleged offences. He was reported by [Li] to have given her coherent instructions during the course of events of that night.

He was also aware that his actions were wrongful at the time he was carrying them out and he appeared to have concealed the weapons either during or after the acts were carried out. He was also described to have surrendered to the police in a calm manner and obeyed their instructions and given an account of his actions at the crime scene.

[emphasis added]

Evaluation of the psychiatric experts' evidence

72 The principles governing a trial judge's evaluation of conflicting expert testimony were stated by V K Rajah JA in *Sakthivel Punithavathi v Public Prosecutor* [2007] 2 SLR(R) 983 at [75]–[77]:

7 5 *Where there is conflicting evidence between experts it will not be the sheer number of experts articulating a particular opinion or view that matters, but rather the consistency and logic of the preferred evidence that is paramount.* Generally speaking, the court should also scrutinise the credentials and relevant experience of the experts in their professed and acknowledged areas of expertise. ...

76 What is axiomatic is that a judge is not entitled to substitute his own views for those of an uncontradicted expert's: *Saeng-Un Udom v PP* [2001] 2 SLR(R) 1. Be that as it may, a court must not on the other hand unquestioningly accept unchallenged evidence. *Evidence must invariably*

be sifted, weighed and evaluated in the context of the factual matrix and in particular, the objective facts. An expert's opinion "should not fly in the face of proven extrinsic facts relevant to the matter" per Yong Pung How CJ in Khoo James v Gunapathy d/o Muniandy [2002] 2 SLR(R) 414 at [65]. In reality, substantially the same rules apply to the evaluation of expert testimony as they would to other categories of witness testimony. Content credibility, evidence of partiality, coherence and a need to analyse the evidence in the context of established facts remain vital considerations; demeanour, however, more often than not recedes into the background as a yardstick.

77 ... *If, in the final analysis, the court is unable to settle on a preferred view the matter must be determined on the basis of the burden of proof; has a reasonable doubt been raised?* It would, however, be a legal heresy to suggest that a reasonable doubt is inexorably raised in all cases where experts differ. What nevertheless may plausibly be suggested is that genuine and irreconcilable differences between experts of comparable standing and credibility can create a reasonable doubt.

[emphasis added]

The Prosecution's submissions

73 The Prosecution argued that Dr Tan's assessment methodology appeared to be "less than rigorous" than Dr Koh's methodology for several reasons. Firstly, although this was not Dr Tan's fault, Dr Tan only assessed Wang more than two years after the incident; whereas Dr Koh had the benefit of examining Wang barely a month after the incident. The inordinately long passage of time between the incident and Dr Tan's interview with Wang made it more difficult for Dr Tan to obtain a contemporaneous account of the incident from Wang.

74 Secondly, the Prosecution argued that Dr Koh's holistic approach should be preferred over Dr Tan's approach which was described by the Prosecution to have been "conducted in a vacuum". Dr Koh had interviewed people who knew Wang and Zhang personally, such as Wang's brother and an acquaintance of Zhang. Dr Koh also interviewed Li, the sole survivor of the incident who had first-hand testimony of Wang's demeanour and actions before and after he had killed Yang. Dr Koh arranged for Wang to undergo a computerized tomographic (CT) scan and an electroencephalographic (EEG) examination in order to discern whether Wang was suffering from any physical impairment to the brain. In contrast, again through no fault on his part, Dr Tan did not have the benefit of conducting such an extensive and holistic assessment of Wang. One of the Prosecution's criticisms of Dr Tan's methodology was that even though he was given access to evidence such as Wang's and Li's statements to the police, Dr Tan had insisted on relying almost exclusively on his interview of Wang and on making independent findings without relying on any of the available contemporaneous evidence to shed light on Wang's condition. As such, the Prosecution argued that Dr Tan's evaluation was of limited assistance to the court.

75 Thirdly, the Prosecution argued that Dr Tan's heavy reliance on the MacArthur Study was misplaced because, as Dr Koh noted, there were several material differences between the participants of the MacArthur Study and Wang. Besides being based on admissions to acute civil inpatient facilities in several American cities, the participants of the MacArthur Study were of an entirely different age and ethnic profile from Wang.

76 Lastly, and most importantly, the Prosecution argued that Dr Tan's opinion appears to fly in the face of objective facts such as Wang's ability to act methodically and think logically during the attacks, his ability to feel emotions consistent with the events as those events were unfolding, as

well as Wang's evasiveness in court as a witness. The fact that Wang had been able to give coherent and logical instructions to Li during the attack suggested that he was in full control of his mental faculties at the material time. Dr Koh had opined that Wang did not appear to have suffered from any significant loss of self-control at all, and his conclusion was fortified by Wang's ability in his Long Statements and in court to remember the events and the purposive nature of his actions. Dr Tan, on the other hand, was only able to explain Wang's actions on the basis that Wang had gone berserk and turned violent because he lost the ability to control himself as a result of his adjustment disorder.

The Defence's submissions

77 The Defence, on the other hand, argued that on a balance of probabilities, Dr Tan's opinion should be preferred over Dr Koh's opinion. Firstly, the Defence argued that Dr Koh's took an overly-clinical approach towards the issue of substantial loss of self-control, concluding that Wang's brain did not register such loss because the results for the CT scan were negative. Dr Koh had conceded at trial that the presence of anger (which was undisputed) could lead to the loss of some degree of self-control.

78 Secondly, the Defence argued that Dr Koh seemed to have placed too little weight on the presence of multiple significant stressors which showed that Wang's conduct during the incident was truly bizarre and entirely abnormal. Essentially, Dr Koh had underestimated the severity of the impact of those stressors which undeniably existed, and "over-simplified a complex amalgam of issues".

79 Thirdly, the Defence argued that looking at the surrounding facts, if Wang had intended to kill Zhang and to silence the rest, it was not necessary for him to inflict more than 40 wounds (many of which were fatal) on Zhang and Feng. If Wang had wanted to kill everyone, a few fatal stab wounds would already be sufficient. However, Dr Koh had failed to take this fact into account. Neither did he explain this exceptional fact in his report.

Findings on the defence of diminished responsibility

80 I shall now set out my findings of whether the defence of diminished responsibility applies to Wang's murder of (i) Zhang; (ii) Feng; and (iii) Yang respectively.

Murder of Zhang

81 After considering all the circumstances of the case, I am of the view that both the Prosecution and the Defence had raised valid arguments. I am inclined to agree with Dr Tan that, on a balance of probabilities, Wang was in a state of frenzy when he attacked Zhang. Taking into consideration Wang's account of his history with Zhang, Zhang's berating on the evening of 18 September 2008, Wang's subsequent brooding and his description of "seeing red", I find that these facts were consistent with the description of a person who had anger building up within him. I find that, coupled with his adjustment disorder, which might have reduced his capacity to control himself and which developed as a result of the multiple stressors, some of which were bizarre, Wang became so angry with Zhang on that evening that he went into a frenzy which was beyond his control and he wanted to kill Zhang. The frenzy manifested and culminated in Wang stabbing her more than 40 times and during this time, his mental responsibility had been substantially impaired by his adjustment disorder. I therefore hold that Wang has succeeded in proving on a balance of probabilities that the defence of diminished responsibility applies to his murder of Zhang.

Murder of Feng

82 As for the murder of Feng, I have found at [15] above that Feng unfortunately entered Bedroom 1 while Wang was still in the frenzied state stabbing Zhang. In that frenzied state, Wang was unable to recognize Feng but wanted to kill "the person standing at the doorway" as well. I base this finding on the similar nature of the attacks on Zhang and Feng, in terms of type, location and number of wounds. Wang's evidence consistently showed that he realised "the person" was Feng only after he saw Yang and Li.

83 In light of my finding at [19] above that the stabbing of Zhang and Feng should be viewed as a single transaction, I find that Wang has succeeded in proving on a balance of probabilities that the defence of diminished responsibility applies to his murder of Feng as well.

Murder of Yang

84 Coming to the murder of Yang, I find that there was a sufficient interval of time for Wang to substantially recover his mental faculties and self-control from the time when he stopped stabbing Zhang and Feng to the time when he commenced his attack on Yang. Based on the totality of the evidence, I find that Wang had, on a balance of probabilities, at least regained sufficient control over his mental faculties and was able to exercise greater self-control to get out of his previous frenzied state before he entered Bedroom 2 to attack Yang and Li. In reaching my conclusion, I accord much weight to Li's testimony, because Li was the sole survivor and could give direct evidence, and her evidence was independently corroborated by the forensic evidence and major points in the Reconstruction Report prepared independently by Ms Lim.

85 Based on Li's evidence and Wang's account, I had earlier found that an interval of time had passed after Wang had stabbed Zhang and Feng during which Wang went into the kitchen to search for another weapon. I also found that Wang had subsequently entered the room where Li and Yang were in, and started attacking them with the intention of silencing them completely and permanently because they were possible witnesses to his killing of Zhang and Feng. Even though Yang and Li did not see Wang stabbing Zhang and Feng, they heard the commotion in Bedroom 1. More importantly, as tenants of the Flat, both Yang and Li recognized Wang. While motive is not an element of the offence of murder in Singapore, the presence of a logical explanation consistent with the evidence of why Wang had proceeded to another bedroom to attack two other victims who were totally unrelated to Zhang supports an inference that, on balance, the subsequent attacks on Yang and Li by Wang were done in cold blood in order to silence them and not in the heat of a frenzied attack.

86 I accept Li's evidence that Wang was able to converse coherently with her and could issue calculated instructions for her "not [to] move" and to "close her eyes and not to scream"; and to lie to her by promising that he would not kill her to induce her not to struggle so that he could continue with his determined physical attack on Li first in Bedroom 2 and subsequently in the kitchen toilet in order to kill her. Although the large number of wounds inflicted on both Zhang and Feng do indicate that he was in a sort of frenzy and that he had lost his self-control when he killed them, which on balance, I believe, is in part explainable by the stressors and by his adjustment disorder with depressed mood (an abnormality of mind from inherent causes) which substantially impaired his mental responsibility at that earlier time, I am inclined to believe however that by the time he attacked Yang at the kitchen window he had sufficiently regained his self-control and that his mental responsibility for his acts was no longer substantially impaired. The total of about 90 stab or slash wounds on Zhang and Feng must have caused Wang to expend a considerable amount of physical energy and it would have taken him several minutes to inflict. I also believe that there may have well been some cathartic effect and emotional release of the frustration and pent-up anger within Wang when he thrust the serrated knife each time into the bodies of Zhang and subsequently of Feng, that by the time he was done with stabbing Zhang and Feng to the extent that he did, the frenzy, rage and

anger in him would have sufficiently abated. This expenditure of physical energy in the process would have helped to reduce the rage and anger in him. Having killed the very person he was angry with and who had caused him much stress and misery, there ought to have been a considerable degree of release of his bottled up anger and emotions.

87 Based on the evidence of Ms Lim, Wang had also spent some time doing the following before he killed Yang:

- (a) walking into Bedroom 3, switching on the light and opening the wardrobe possibly looking for something in there;
- (b) walking to kitchen, making contact with the metal turner in the red basket beside the kitchen sink and picking up a metal spatula when it was still dark in the kitchen because the light was not switched on (no blood stains found on the kitchen light switch);
- (c) placing the metal spatula in the washing machine (possibly after realising that the spatula was not a good weapon);
- (d) looking for another weapon in the kitchen, and this time picking up a chopper, before approaching Bedroom 2 to commence his attack on Yang and Li;
- (e) attacking Li at the location towards the rear wall area of Bedroom 2 whereupon Yang seized the opportunity to rush out of the room and into the kitchen;
- (f) leaving Bedroom 2 to look for Yang and warning Li not to move upon realising that Yang had escaped from the room;
- (g) spending time looking for Yang whom he eventually found hiding outside the kitchen window of the Flat; and
- (h) cutting Yang's fingers with a knife, causing Yang to lose her grip and plunge down six storeys to her death.

88 To my mind, the long series of acts described above (which I accepted happened) all took place prior to killing of Yang and would have allowed Wang an opportunity to cool down. There was time enough for reason to resume its seat, and for Wang to be a master of his own mind and to be mentally responsible for his actions. I would also have expected that after he stabbed Zhang (the very person who had caused him to harbour so much hatred and anger) till she was motionless, that would have assuaged his anger. The subsequent movements around the flat and his actions as described above do not appear to me to be the actions of a man still seeing "red", still in a rage and in a state of loss of self-control. Clearly, Wang was no longer in a frenzied state by then, nor was he acting in an irrational manner or behaving in an uncontrolled fashion anymore. He knew and understood what he was doing when he cut Yang's fingers. He was able to exercise his rational judgment and his intention to have Yang killed to silence her as a potential informant and witness was clear. I repeat what I had stated at [23] to [30] and [46] to [52] above to support my finding that Wang's mental responsibility was no longer substantially impaired by this time. On the contrary, his acts were clearly deliberate, purposeful, directed and methodical.

89 Having regard to the totality of the evidence, I do not accept the Defence's submission that by the time Wang slashed the fingers of Yang with the intention of causing her to fall to her death, he had still not sufficiently regained his mental and emotional faculties and his self-control to the extent

that his mental responsibility for his actions were not substantially impaired. It is also telling that the Defence's expert, Dr Tan, conceded in his evidence in court that the fact that Wang was able to give instructions to Li (eg, "not [to] move") before he pursued Yang to kill her was logically more consistent with him having regained his self-control rather than with him having a continuing loss of self-control.

90 For the abovementioned reasons, I find that Wang has not succeeded in proving on a balance of probabilities that the defence of diminished responsibility applies to his murder of Yang.

Conviction and sentence

91 Accordingly, I find Wang guilty of murder under s 300(a) of the Penal Code in relation to the Fourth Charge, and sentence him to death.

92 Given that he had successfully raised the defence of diminished responsibility for his murder of Zhang and Feng, I convict Wang on the lesser charge of culpable homicide not amounting to murder in relation to the First and Second Charges.

I shall reserve my sentence on the First and Second Charges pending the outcome of the appeal for the Fourth Charge which shall follow in due course.

[\[note: 1\]](#) See Agreed Bundle at p 871.

[\[note: 2\]](#) Preliminary Inquiry bundle

[\[note: 3\]](#) Preliminary Inquiry bundle at pg 1057-1058

[\[note: 4\]](#) Certified Transcript, 22 November 2011, at p 94.

[\[note: 5\]](#) Agreed Bundle at pp 625–738

[\[note: 6\]](#) Agreed Bundle, p 1047

[\[note: 7\]](#) See Exhibit P467.

[\[note: 8\]](#) [Http://www.macarthur.virginia.edu/risk.html](http://www.macarthur.virginia.edu/risk.html) (accessed 12 April 2011).

[\[note: 9\]](#) Agreed Bundle at pp 114-121