

**SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES LAUDAT,	)	CIVIL CASE NO. SX-15-CV-155
Petitioner,	)	
	)	
v.	)	WRIT OF HABEAS CORPUS
	)	
WINNIE TESTAMARK, IN HER CAPACITY AS DIRECTOR OF	)	
THE BUREAU OF CORRECTIONS, JOE BOOKER, IN HIS	)	
CAPACITY AS WARDEN, GOLDEN GROVE ADULT	)	
CORRECTIONAL FACILITY, AND DENISE N. GEORGE	)	
COUNTS, IN HER CAPACITY AS ATTORNEY GENERAL OF	)	
THE VIRGIN ISLANDS,¹	)	
Respondents.	)	
	)	

Cite as: 2019 VI Super 115

Appearances:

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MEMORANDUM OPINION

MOLLOY, Judge

¶1 **THIS MATTER** came before the Court on a Petition of Habeas Corpus filed by James Laudat ("Laudat") on March 26, 2015. This Court granted Laudat's writ on March 22, 2017. *Laudat v. Mulgrave*, Civ. No. SX-15-CV-155, 2017 V.I. LEXIS 57, *1 (V.I. Super. Ct. Mar. 22, 2017). Laudat is currently incarcerated having been convicted of four counts of assault in the first degree, two counts of assault in the third degree, and two counts of possession of a deadly weapon in the commission

¹ The Petition lists individuals being sued in their official capacity: (1) Dwayne Benjamin, in his capacity as acting Director of the Bureau of Corrections; (2) Diane Prosper, in her capacity as Acting Warden of Golden Grove Adult Correctional Facility, and (3) Terri Griffiths, in her capacity as Acting Attorney General of the Virgin Islands. Pursuant to Virgin Islands Rule of Civil Procedure 25(d), the Court substitutes the names of the persons who are currently serving in their respective capacities. V.I. R. Civ. P. R. 25(d) ("An action does not abate when a public officer who is a party in an official capacity dies, resigned, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party.").

of a crime of violence.² *See* Pet. For Habeas Corpus (“Pet.”) 15 (citing J.A. 436-38).³ Laudat’s convictions were affirmed by the Appellate Division of the District Court of the Virgin Islands.⁴ *See Laudat v. Gov’t of the V.I.*, 48 V.I. 892, 893 (2007). Laudat alleges that his convictions should be overturned because: (1) the People failed to prove his sanity beyond a reasonable doubt; (2) his Sixth Amendment right to a trial by jury was violated by an improper jury instruction; (3) his Eighth and Fourteenth Amendment rights were violated by incarcerating an individual who is mentally ill; (4) his Sixth Amendment rights were violated through ineffective assistance of counsel; (5) his conviction was illegal based on deportation risk; and (6) his Sixth Amendment due process rights were violated under the Treaties Clause of the Constitution. *See Laudat*, 2017 V.I. LEXIS 57 at *1 (citing Pet. 9-10). For the reasons stated below, the Court will grant him relief because the People did not prove his sanity beyond a reasonable doubt.

I. FACTUAL AND PROCEDURAL BACKGROUND

¶2 The undisputed facts that gave rise to this case began on the evening of November 21, 2001. *See generally Laudat*, 2017 V.I. LEXIS 57, at *2 (citing Pet. 11).⁵ On November 21, 2001, Laudat warned his mother, his sister, his sister’s friend and her mother’s male friend who were all residing in the same home, that “judgment is coming” and that they would all die. *See id.* (citing Pet. 11 (citing

² *See* Superior Court criminal case *Gov’t of the Virgin Islands v. Laudat*, Crim. No. SX-01-CR-350.

³ On March 26, 2019, counsel for Laudat filed a document in this case entitled, “Joint Appendix to Petition for Writ of Habeas Corpus.” The Court will hereinafter refer to this document as “J.A.”

⁴ Prior to the establishment of the Virgin Islands Supreme Court in 2007, appellate jurisdiction over the Territorial Court (now Superior Court) “was vested in the Appellate Division [of the Federal District Court] pursuant to § 23A of the Revised Organic Act of 1954, codified as 48 U.S.C. § 1613a.” *Hypolite v. People*, 51 V.I. 97, 101 (2009) (“The [Virgin Islands] Supreme Court officially assumed appellate jurisdiction over appeals from the Superior Court on January 29, 2007”).

⁵ This Court’s Memorandum Opinion issued on March 22, 2017, gave a background of the facts giving rise to this petition. In that opinion, the Court cited to the Petition for Habeas Corpus which cited to the transcript for Laudat’s trial. *See* J.A. 17-441.

J.A. 132, 198)). Early the next morning, Laudat attacked his mother, his mother's friend, his sister and her friend while they were asleep, striking them repeatedly in the face, chest and back with both a hammer and a knife, stabbing his sister's friend repeatedly until the knife broke off inside her back. *See* J.A. 116-18, 120, 84-86, 120-21, 190-91, 153. After the attack, he cut the exterior telephone lines and left on foot. *See Laudat*, 2017 V.I. LEXIS 57, at *2 (citing Pet. 11-12 (citing J.A. 199-20, 84-86, 120-21, 190-91, 155)). The victims survived the attack and later described Laudat as "wide-eyed" and silent throughout the attack, "but for making a 'Hmmp, Hmmp' sound." *Id.* (quoting J.A. 153, 191-92). Laudat stated that he had no recollection of the attacks. *Id.* (citing Pet. 12). Laudat was subsequently charged with Assault in the First Degree—four counts, Assault in the Third Degree—two counts, Domestic Violence—two counts and possession of a deadly weapon during the commission of a crime of violence—two counts. *See* Pet. 12 (citing J.A. 47-49).

¶3 Before trial, Laudat raised an insanity defense and was evaluated by Dr. Norma Carillo ("Carillo") who generated three reports based on her examinations of Laudat. *See Laudat*, 2017 V.I. LEXIS 57 at *2 (citing Pet. 12 (citing J.A. 17-18, 35-36, 41-42, 273-80)). Carillo's reports did not conclude that Laudat was operating under a mental disease or defect at the time of the crimes. *See* Pet. 13. The reports were not entered into evidence at trial. *See id.* However, Carillo testified about information within the reports. *Id.* Carillo testified that Laudat had a history of mental illness, had previously been diagnosed as schizophrenic and that his "schizophrenic behaviors could be controlled if a medication regimen had been followed." Pet. 12 (citing J.A. 138-39, 274-79, 311-21). At trial, Carillo testified that it was possible "that [Laudat] was mentally ill at the time of the assaults" and "was not adhering to his prescribed medicine at the time." *Id.* at 13-14 (quoting J.A. 287). Additionally, Laudat's family testified that he was mentally ill for some time and had threatened

them on several occasions. (J.A. 138-39, 142, 197-98).

¶4 At the conclusion of the trial, the jury was instructed about the insanity defense as follows:

The defendant claims to have been insane at the time the crimes charged in all counts of the information were committed. Since the law does not hold a person criminally accountable for his conduct while insane, insanity is a defense to the crimes charged. The insanity-the sanity of a defendant, James Laudat, at the time of the alleged offense is, therefore, a question you must decide.

To be found insane, the defendant must introduce evidence that first, he had a severe mental disease or defect at the time that the acts constituting the crimes were committed; and second, as a result of this severe mental disease or defect he was not able to understand what he was doing or to understand what he-or to understanding that what he was doing was wrong. . . .

A defendant is presumed to be sane until he introduces evidence of insanity, at which point the burden shifts to the government to prove sanity beyond a reasonable doubt. The defendant has introduced some evidence that he was insane at the time of the crime to rebut the presumption of sanity. If such evidence does create in your mind a reasonable doubt as to his sanity, the legal presumption of sanity is rebutted. It is the government's burden to remove that reasonable doubt and prove that the defendant is sane beyond a reasonable doubt.

The test is whether the defendant has sufficient reason to know right from wrong. If you find that at the time of the crime the accused was laboring under such a defect of reason as to not know the nature and quality of the act he was committing, or that the act was wrong, then the defendant was insane and is entitled to an acquittal.

Laudat, 2017 V.I. LEXIS 57 at *3 (brackets omitted)(quoting J.A. 406-08).

¶5 Neither parties' counsel objected to the jury instructions regarding the burdens of proof under the not guilty by reason of insanity standard. *See* J.A. 426-27. During deliberation, the jury requested clarification on the instruction for not guilty by reason of insanity. *See Laudat*, 2017 V.I. LEXIS 57 at *4 (citing Pet. 15(citing J.A. 432)). In response, the judge re-read the instruction. *Id.* On December 18, 2003, the jury found Laudat guilty on all counts. *Id.* Laudat's sentencing hearing was

held on February 18, 2004. On March 18, 2004, the trial judge sentenced Laudat to a term of years⁶ remanding him to the custody of the Virgin Islands Bureau of Corrections (“BOC”). *Id.* In 2007, Laudat’s convictions were upheld. *See Laudat v. Gov’t of the V.I.*, 48 V.I. 892 (D.V.I. App. Div. 2007).

¶6 On March 25, 2015, Laudat filed a petition requesting that the Court issue a writ of habeas corpus, vacate the judgment and commitment and enter a judgment of not guilty by reason of insanity under *Nibbs v. People*, 52 V.I. 276 (2009)(*per curiam*) and *Petric v. People*, 61 V.I. 401 (2014). *See Laudat*, 2017 LEXIS 57 at *5-6 (citing *Pet.* 41). Laudat also requested that the Court order his transfer to a suitable treatment facility which would determine his release. *See id.*

¶7 On March 22, 2017, this Court found that Laudat had established a *prima facie* case to issue a writ of habeas corpus. *See id.* at *10. Respondents filed a return on April 21, 2017. *See Resp’t’s* Return. This Court held a habeas hearing on May 30, 2017. Laudat filed a traverse on June 5, 2017. Respondent’s post-hearing brief stipulated to insufficiency of evidence regarding sanity but argued that he should remain confined “until he . . . regain[s] judgment, discretion, and control of his affairs and social relations.” *Resp’t’s* Post Hrg. Br. 2, 4, and 5 (citing 5 V.I.C. § 3637).

II. LEGAL STANDARD

¶8 The Superior Court’s authority to hear a writ of habeas corpus is provided by the Revised Organic Act, “the de facto constitution of the Virgin Islands,” and provides that ‘all persons shall

⁶ Laudat was sentenced as follows: (1) Count I, Assault first Degree remanded to the BOC for a period of ten (10) years; (2) Count II, Assault First Degree—remanded to the BOC for a period of ten (10) years to run consecutive to Count I; (3) Count III, remanded to the BOC for a period of ten (10) years to run consecutive with Count II; (4) Count IV, Assault First Degree—remanded to the BOC for a period of ten (10) years to run consecutive to Count III; (5) Count V, Assault Third Degree—remanded to the BOC for a period of five (5) years to run concurrent to Count I; (6) Count VI, Assault Third Degree—remanded to the BOC for a period of five (5) years to run concurrent to Count II; (7) Count VII, Possession of a Dangerous Weapon—remanded to the BOC for a period of seven and one-half years (7 ½) years to run consecutive with Count VII and a fine of \$10,000. The Judgment and Commitment also ordered that the Laudat “receive treatment for his mental illness.” *See People v. Laudat*, SX-2001-CV-350, Order, Mar. 18, 2004,.

have the privilege of the writ of habeas corpus.” *Laudat*, 2017 V.I. LEXIS 57 at *5 (quoting *Rivera-Moreno v. Gov’t of the V.I.*, 61 V.I. 279, 293 (2014) quoting 48 U.S.C. § 1561 *et seq.*). Initially, a petitioner must allege specific facts to present a *prima facie* case. *See id.* (citing *Rivera-Moreno*, 61 V.I. at 311). Once a writ has issued, a case is reviewed on the merits. *See id.* (citing *Rivera-Moreno*, 61 V.I. at 291). The standard of review for insufficiency of the evidence on a criminal conviction is whether there is substantial evidence, when “viewed in the light most favorable to the government,” to support a jury’s verdict. *Ritter v. People*, 51 V.I. 354, 359 (2009) (citation omitted).

¶9 Generally, courts reviewing a habeas petition hold an evidentiary hearing to hear such proof as may be offered against the petitioner’s imprisonment or detention at which time the petitioner may challenge the sufficiency of the evidence and present any facts showing that the detention was unlawful. *See* V.I. Hab. Corp. R. 2(g)(1), (4). If the reviewing court grants the petitioner habeas corpus relief on the merits, in whole or in part, it may:

order discharge of the petitioner or award a different form of remedy as the justice of the case may require. Consistent with Section 3 of the Organic Act, the court shall provide a successful habeas corpus petitioner with redress in the form of a remedy that cures the constitutional or statutory violation, even if that specific remedy is not set forth in a statute.

V.I. Hab. Corp. R. 2(h). Therefore, this Court is allowed the discretion to fashion the relief that justice requires. *Id.* (“it may order . . . a different form of remedy as the justice of the case may require.”).

¶10 The Virgin Islands Supreme Court has expressly ordered that relief may stop “well short of immediate discharge from custody[.]” *See Rivera-Moreno*, 61 V.I. at 295 (quoting *Bryan v. Gov’t of the V.I.*, 56 V.I. 451, 459 (2012) (“Both the Superior Court and the Magistrate were mistaken in concluding that discharge is the only remedy available under the local habeas corpus statute.”)). The “habeas corpus statute itself contemplates remedies other than discharge.” *See id.* (quoting 5

V.I.C. § 1311). It provides that a petitioner, at a hearing, “may deny or controvert any of the material facts or matters set forth in the return, or except to the sufficiency thereof, or allege any fact to show *either* that his imprisonment or detention is unlawful, *or* that he is entitled to his discharge.” *Id.* (emphasis added). “[T]he habeas corpus statute recognizes that an incarcerated individual may not be entitled to immediate discharge from custody, yet still be entitled to relief.” *Rivera-Moreno*, 61 V.I. at 295 (citing *Gilbert v. People*, 52 V.I. 350, 364 (2009) (contrasting the remedy available for trial error, a new trial, with the remedy available when the evidence is insufficient to sustain a conviction, an outright acquittal)).

III. DISCUSSION

¶11 Laudat presented numerous arguments in support of his writ for habeas relief. The factual events in this matter are undisputed. *See Laudat*, 2017 V.I. LEXIS 57 at *4 (citing Pet. 41). Laudat concedes that he committed the underlying acts of the offenses. *See id.* The matter in dispute is what type of relief Laudat is entitled because: (1) the trial court improperly instructed the jury on the proper test to determine whether Laudat was sane at the time of the offense, and (2) whether Laudat’s conviction and confinement is unconstitutional because at trial he demonstrated some evidence of insanity and the People failed to prove beyond a reasonable doubt that he was sane. Because this Court agrees that the People ultimately failed to prove his sanity beyond a reasonable doubt, the Court finds it unnecessary to decide his other arguments. Laudat also argued that the Superior Court erred in giving the final jury instructions when the court shifted the burden of proof to Laudat and failed to properly instruct the jury regarding a verdict of not guilty by reason of insanity. While these arguments need not be addressed because this Court will grant Laudat relief due to insufficient evidence, this Court does note that the trial court did shift the burden of proof by

requiring Laudat to introduce evidence beyond that required by law. *Petric*, 61 V.I. at 407-09 (quoting *Nibbs*, 52 V.I. at 292 (defendant need only introduce some evidence of mental illness and need not demonstrate a “severe” mental disease or defect)).

¶12 As this Court noted, the issue of the jury instruction to test for insanity was clarified by the Supreme Court in *Petric*. See *id.* at *8-9 (citing *Petric*, 61 V.I. at 407-08). The criminal code of the Virgin Islands “parallels the ‘product test’ for insanity” which states that “persons who are mentally ill and who committed the act charged against them in consequence of such mental illness,” lack the capacity to commit a crime. 14 V.I.C. § 14(4). The Virgin Islands “specifically rejects other tests”—such as the *M’Naghten* test—which assess “whether a defendant can tell right from wrong.” *Petric*, 61 V.I. at 408 (citing 14 V.I.C. § 14(4) (1957 revision note) and *Gov’t of V.I. v. Fredericks*, 578 F.2d at 940 (3rd Cir. 1978) (Adams, J., dissenting) (examining the history of the insanity defense in the Virgin Islands)).⁷ The Supreme Court has reiterated that the “product test” is the sole test for insanity. *Id.* Thus, the Supreme Court has rejected tests which require a defendant to show that they did not “know right from wrong.” *Id.*

¶13 Furthermore, as the Supreme Court explained in *Nibbs*, a defendant need only introduce “some evidence” to show that he was “mentally ill and . . . committed the act charged against [him] in consequence of such mental illness” to raise an insanity defense. *Nibbs*, 52 V.I. at 284 (citing *Gov’t of the V.I. v. Webb*, 821 F.2d 187, 189 (3d Cir. 1987)). The test “requires that there ‘be more than a scintilla [of evidence] but less than that which would compel reasonable doubt as a matter of law.’” *Id.* (quoting *Smith v. State*, 614 P.2d 300, 303 (Alaska 1980)).

⁷ Although *Petric* and *Nibbs* were decided after Laudat’s trial, they may be applied retroactively because they merely clarify the existing statute which was already in effect. See *Mercer v. Bryan*, 53 V.I. 595, 601 (2010) (citation omitted).

¶14 Once some evidence of mental illness is introduced, the defendant's sanity at *the time of the offense* becomes an element of the crime, which must be proven beyond a reasonable doubt. *Id.* (quoting *Wright v. United States*, 250 F.2d 4, 7 (D.C. Cir. 1957)(emphasis added)). Subsequently, the burden shifts to the People to prove that a defendant was sane at the time of an offense. *Id.*

¶15 In this case, Carillo testified that Laudat was mentally ill and likely suffered from schizophrenia which was not being managed with medications during the time of the offenses. Additionally, Laudat's family testified that he was mentally ill for some time and had threatened them on several occasions. This meets the requirement of "some evidence." See *Petric*, 52 V.I. at 410 (stating that to satisfy the "some evidence" test, the defense need only introduce "a slight quantum of evidence.") (quoting *United States v. McCracken*, 488 F.2d 406, 410 (5th Cir. 1974)(remaining citation omitted))). At that point, the burden shifted to the People to present evidence of his sanity beyond a reasonable doubt. However, the People did not present evidence upon which a jury would find that Laudat was sane beyond a reasonable doubt because, as they conceded, they were laboring under the incorrect test—the *McNaughten* test—for not guilty by reason of insanity. See *Petric*, 61 V.I. at 408 (citations omitted). Because of this, the People focused on presenting evidence as to whether Laudat could tell the difference between right and wrong, rather than on evidence of his sanity beyond a reasonable doubt. See *id.* Therefore, undoubtedly, Laudat is entitled to relief. However, the question is what type of relief.

¶16 At present, Laudat is housed at the Saguaro Correctional Center in Eloy, Arizona. Resp't's. Return 1. The People argue that Laudat should be transferred to a forensic facility, because he is mentally ill and poses a danger to others. The People note that throughout his trial, incarceration and this petition, Laudat has stated that he suffers from a mental illness. Petitioner's traverse also

points out that Carillo, a psychiatrist, found him to be mentally ill. Resp't's Return 1-2. Petitioner's traverse states, "I think I have schizophrenia, my mental illness started in June 1996." Pet.'s Traverse, June 5, 2017, 1. Laudat appears to concur, because in addition to requesting a directed verdict of not guilty by reason of insanity, he asks that the court order his transfer to a treatment facility and further determination of his release. Pet. 8.

¶17 In reviewing the relief a successful petitioner is entitled to, Courts have various options: (1) overturn convictions and order immediate release; (2) order a new trial; or (3) order re-sentencing. In this case, ordering a new trial invokes the double-jeopardy issue. *See Petric*, 61 V.I. at 414, n.8. The viability of a new trial was addressed by the Virgin Islands Supreme Court as follows:

[S]ome courts have remanded [a habeas petition] for a new [criminal] trial when the evidence of sanity was insufficient, *see Wright*, 250 F.2d at 10; *Fielding v. United States*, 251 F.2d 878, 880-81 (D.C. Cir. 1957), these cases preceded the United States Supreme Court's holding that retrial under these circumstances would violate double jeopardy by giving the People an impermissible "second bite at the apple." *Burks v. United States*, 437 U.S. 1, 17 (1978)).

Id. On the other hand, when ample evidence was presented that a petitioner committed the essential elements of the crimes, but insufficient evidence of sanity at the time the crime, a petitioner is entitled to a directed verdict of not guilty by reason of insanity. *Id.* at 408.

¶18 In this case, the Court reviews the sufficiency of the evidence to determine whether there is substantial evidence, when "viewed in the light most favorable to the government," to support a jury's verdict. *Ritter*, 51 V.I. at 359 (2009) (citation omitted). First, the Court examines whether there was ample evidence that Laudat committed the crimes. *See Petric*, 61 V.I. at 408. After a thorough review of the trial record and the evidence presented, the Court finds that sufficient evidence was presented at trial to establish that Laudat committed the crimes. *Id.* Furthermore, Laudat concedes that he committed the charged offenses. Therefore, the Court finds that Laudat's

guilt was established. *See id.* at 414-15 (citing *Nibbs*, 52 V.I. at 292-93 (quoting *Williams v. United States*, 312 F.2d 862, 865 & n.13 (D.C. Cir. 1962))).

¶19 Next, the Court examines whether the People presented sufficient evidence of Laudat's sanity at the time of the offenses, which "must be proven by the People beyond a reasonable doubt." *Id.* at 410-411 (citation omitted). As previously discussed, Laudat presented sufficient evidence of mental illness at the time of the offenses, which shifted the burden to the People to prove beyond a reasonable doubt that he was sane at the time of the offenses. The People did not introduce any evidence of Laudat's sanity at the time of the offenses. Therefore, the People failed to carry their burden to prove beyond a reasonable doubt that Laudat was sane at the time that the underlying offenses were committed. Thus, Laudat is entitled to relief on that basis alone. *Petric*, 61 V.I. at 415; *accord* Resp't's Br. 3.

¶20 Where a person has been found not guilty by reason of insanity, and they have been confined to a forensic unit, courts examine several factors to determine whether release is appropriate. *See People v. Coaker*, No. ST-10-CR-644, 2019 V.I. LEXIS 38, at *8-9 (V.I. Apr. 4, 2019) (quoting V.I.C 5 § 3637(b)). The Virgin Islands mental illness of a criminal defendant statute states that:

[T]he [C]ourt in its discretion may, or upon objection of the [government] shall, after due notice, hold a hearing at which evidence as to mental condition of the person so confined may be submitted, including the testimony of one or more psychiatrists from said forensic unit. Evidence may be submitted upon deposition or interrogatories in the case of any forensic unit located more than 100 miles from the Virgin Islands. The court shall weigh the evidence and, if the court finds that such person has regained his capacity for judgment, discretion and control of the conduct of his affairs and social relations and will not in the reasonable future be dangerous to himself or others, the court shall order . . . discharge[] from . . . confinement in said forensic unit.

5 V.I.C. § 3637(b). Otherwise, a general release occurs when the superintendent or head of such forensic unit certifies:

(1) that such person has regained his capacity for judgment, discretion and control of the conduct of his affairs and social relations, (2) that, in the opinion of the superintendent . . . , such person will not in the reasonable future be dangerous to himself or others, and (3) in the opinion of the superintendent . . . is entitled to discharge from the forensic unit, and such certificate is filed . . . with the clerk . . . shall be sufficient to authorize the court to order the discharge of the person so confined[.]

Id.

¶21 In this case, ample evidence was presented that the petitioner committed the essential elements of crimes. The petitioner also introduced evidence that he was suffering from a mental illness at the time the crimes were committed. However, insufficient evidence was presented that the petitioner was sane at the time of the crime. A retrial would violate double jeopardy because it would give the People an impermissible “second bite at the apple,” and would allow them a chance to correct their previous error. *Id.* at 414 n.8 (quoting *Burks v. United States*, 437 U.S. 1, 17 (1978)). For this reason, under the standard articulated in *Petric*, the petitioner is entitled to a directed verdict of not guilty by reason of insanity. *Petric*, 61 V.I. at 408. Therefore, Laudat is entitled to a directed verdict of not guilty by reason of insanity and a transfer to a suitable treatment facility which would determine the suitability of his release. *See Coaker*, 2019 V.I. LEXIS 38, at *8-9 (Apr. 4, 2019) (quoting V.I.C 5 § 3637(b). Once transferred to a treatment facility, he can be evaluated to determine whether he has “regained his capacity for judgment, discretion and control of the conduct of his affairs and social relations, (2) that, in the opinion of the superintendent . . . , such person will not in the reasonable future be dangerous to himself or others, and (3) in the opinion of the superintendent . . . is entitled to discharge from the forensic unit.” *Id.*

IV. CONCLUSION

¶22 After careful consideration and review, this Court finds that under the standard set forth by the Supreme Court in *Petric*, the petitioner is entitled to a directed verdict of not guilty by reason of

insanity.⁸ *See id.* To facilitate the remedy of this successful habeas petition, the Court orders the clerk to reopen the criminal case against Laudat, randomly reassign the criminal case to a Superior Court Judge to re-sentence Laudat by reversing his conviction and sentence him as not guilty by reason of insanity and take further action consistent with that judgment. An order consistent with this opinion will follow.

Date: August 26, 2019



ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:

ESTRELLA H. GEORGE
Clerk of the Court

By: 

Court Clerk

Date: 8/26/19

⁸ In light of this ruling, the Court finds it unnecessary to address Laudat's other arguments raised in his Petition.