

**IN THE GENERAL DIVISION OF  
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

**[2023] SGHC 358**

Criminal Case No 39 of 2023

Between

Public Prosecutor

And

CNK

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**FOUNDATIONS OF DECISION**

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[Criminal Law — Offences — Culpable homicide]

[Criminal Law — Special exceptions — Diminished responsibility]

[Criminal Procedure and Sentencing — Sentencing — Mentally disordered offenders]

## **TABLE OF CONTENTS**

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<b>INTRODUCTION.....</b>	<b>1</b>
<b>THE PARTIES' POSITIONS ON SENTENCING .....</b>	<b>3</b>
THE PROSECUTION'S CASE.....	3
THE DEFENCE'S POSITION.....	5
<b>DECISION.....</b>	<b>7</b>
THE ACCUSED'S MENTAL DISORDER .....	9
A DISTURBING ASPECT OF THE ACCUSED'S PSYCHE.....	15
THE DOMINANT SENTENCING PRINCIPLES.....	17
CALIBRATION OF THE APPROPRIATE LENGTH OF IMPRISONMENT .....	19
<b>CONCLUSION .....</b>	<b>21</b>
<b>ANNEX A: EXTRACTS FROM THE STATEMENT OF FACTS.....</b>	<b>23</b>

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**Public Prosecutor**

**v  
CNK**

**[2023] SGHC 358**

General Division of the High Court — Criminal Case No 39 of 2023  
Hoo Sheau Peng J  
1 December 2023

28 December 2023

**Hoo Sheau Peng J:**

**Introduction**

1 On 19 July 2021, the accused, a 16-year-old Secondary 4 student at River Valley High School (“RVHS”), brutally killed Ethan Hun Zhe Kai (“the deceased”), a 13-year-old Secondary 1 student from the same school. It happened in school. It was a school day. They were not known to each other.

2 For months prior to that day, the accused had meticulously planned for the killing. In a vicious manner, he carried out his plan, inflicting multiple incised wounds on the deceased. The killing was part of his twisted plan to commit “suicide by cop” – which would have involved killing *more than one individual* in a killing spree in order to give the police no choice but to shoot him to death.

3 By Exception 7 to s 300 of the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code”), culpable homicide is *not* murder if at the time of the acts causing the death concerned, an offender was suffering from such abnormality of mind as substantially impaired his capacity to know whether such acts were wrong. At the material time, the accused was suffering from major depressive disorder (“MDD”), as substantially impaired his capacity to know whether his acts were wrong. As this defence of diminished responsibility is applicable to the accused, the charge brought against him is one of culpable homicide *not* amounting to murder punishable under s 304(a) of the Penal Code.

4 The charge reads:

That you, [the accused], on 19 July 2021, between 11.16 a.m. and 11.44 a.m., inside the toilet located at level 4 of Block D in [RVHS] at 6 Boon Lay Avenue, Singapore, caused the death of [the deceased], male, 13 years old, to wit, by slashing the head, neck and body of [the deceased] multiple times with an axe (measuring 50cm by 22cm), with the intention of causing the death of [the deceased], and you have thereby committed an offence of culpable homicide not amounting to murder punishable under section 304(a) of the Penal Code (Cap 224, 2008 Rev Ed).

5 The accused pleaded guilty to the charge, and he also admitted to the facts and circumstances of the offence as set out in the Statement of Facts. Substantial extracts from the Statement of Facts are reproduced at Annex A. Having convicted the accused of the charge, the matter to be determined was the appropriate sentence to be imposed. After hearing the sentencing submissions of the parties, I imposed a sentence of 16 years of imprisonment on the accused (with my main reasons given by way of an oral judgment). The accused has appealed against sentence, and I now provide my full reasons for the decision.

## The parties' positions on sentencing

### *The Prosecution's case*

6 The Prosecution acknowledged that generally, the primary sentencing consideration where young offenders are concerned is rehabilitation (*Public Prosecutor v Mok Ping Wuen Maurice* [1998] 3 SLR(R) 439 at [21]). However, the seriousness of the offence and the outrageousness of the accused's actions displaced rehabilitation in favour of retribution and deterrence as the dominant sentencing considerations (*Public Prosecutor v Mohammad Al-Ansari bin Basri* [2008] 1 SLR (R) 449 (“*Mohammad Al-Ansari bin Basri*”) at [34]-[35]).<sup>1</sup>

7 Ordinarily, rehabilitation would also feature in the sentencing of offenders who have been diagnosed with a mental disorder (*Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 (“*Lim Ghim Peow*”) at [39]). Again, in the present case, this was largely displaced by the level of harm and culpability involved, and retribution should outweigh the consideration of rehabilitation.<sup>2</sup> For the criminal law to serve its function of preserving the moral fabric and values of society, the sentence must also appropriately encapsulate the proper degree of public aversion and disquiet arising from the crime.<sup>3</sup>

8 In this connection, the Prosecution highlighted that the aggravating factors fell within three broad areas. These were the deceased's vulnerability (in age, build, and from being isolated and ambushed in the toilet),<sup>4</sup> a significant degree of premeditation and planning for about four months,<sup>5</sup> and the vicious

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<sup>1</sup> Prosecution's Sentencing Submissions (“PSS”) at paras 4–7 and 34.

<sup>2</sup> PSS at para 7.

<sup>3</sup> PSS at para 30.

<sup>4</sup> PSS at paras 10–12.

<sup>5</sup> PSS at paras 13–15.

manner of the attack (with the use of a sharpened axe to forcefully inflict multiple incised wounds on the deceased).<sup>6</sup> Moreover, having been committed on the grounds of a school, the offence had the wider-felt impact of triggering unease in the general public, and in particular, in parents, teachers, and students.<sup>7</sup>

9 The Prosecution also argued that limited mitigating weight ought to be placed on the accused's MDD. While it qualified him for the defence of diminished responsibility, it carried far less weight in the context of a charge of culpable homicide not amounting to murder as the accused ultimately retained control over his actions, and displayed a clear rational thread of thought throughout.<sup>8</sup> He could appreciate the physical damage required to increase the chances of death, methodically prepare for the fatal assault, and understood its wrongfulness.<sup>9</sup> Furthermore, the accused's MDD was but one of three major factors which contributed to the killing, the other two being his refusal to get external help, and his consumption of videos depicting actual scenes of human death (including murder and suicide) (termed "snuff" videos) at least half a year before the onset of the MDD, both of which were also matters well within his own control.<sup>10</sup> Likewise, limited mitigating weight ought to be given to the accused's plea of guilt, as it would be outweighed by the sheer gravity of his crime.<sup>11</sup>

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<sup>6</sup> PSS at paras 17–18.

<sup>7</sup> PSS at para 31.

<sup>8</sup> PSS at paras 20–22.

<sup>9</sup> PSS at para 24.

<sup>10</sup> PSS at para 23.

<sup>11</sup> PSS at paras 26–31.

10 While the aggravating features noted above at [6] would have placed this case squarely at the upper end of the sentencing range for culpable homicide *ie*, 17 to 20 years of imprisonment, the mitigating effect of the accused’s MDD, minimal though it might be, and the other mitigating factors, might warrant a downward calibration to a sentence of between 12 to 16 years of imprisonment.<sup>12</sup> This would be somewhat consistent with the sentences handed down in precedent cases.<sup>13</sup>

### ***The Defence’s position***

11 To the Defence’s credit, there was no attempt to downplay the severity or the egregious nature of the killing.<sup>14</sup> The arguments focused mainly on the accused’s MDD, its impact on his culpability, and in turn, on the calibration of the appropriate sentence.

12 The Defence observed that if it were not for the accused’s MDD, the killing would simply not have occurred, as the accused would not have wanted to commit suicide to begin with.<sup>15</sup> The stark contrast between the heinous nature of accused’s acts, and the positive observations of his general character and temperament from family and friends,<sup>16</sup> underscores the strong contributory link between the accused’s mental impairment and the offence.<sup>17</sup> At the material time, the accused’s mental condition was not known to him or his family.<sup>18</sup>

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<sup>12</sup> PSS at para 19.

<sup>13</sup> PSS at paras 32–33.

<sup>14</sup> Accused’s Mitigation Plea (“AMP”) at para 78.

<sup>15</sup> AMP at paras 34 and 87.

<sup>16</sup> AMP at paras 36–37.

<sup>17</sup> AMP at para 35.

<sup>18</sup> AMP at paras 19-20.

Notwithstanding the veneer of rationality inherent in his planning and premeditation, the decision to kill remained the product of his disordered mind, and he did not have any realistic moment of rationality and self-control which would have enabled him to pull back from his plan.<sup>19</sup> Accordingly, less weight ought to be placed on the principles of deterrence and retribution, with rehabilitation remaining the dominant sentencing principle.<sup>20</sup>

13 Further, the Defence also pointed to other factors which should be given mitigating weight, such as the accused’s young age, the fact that he did not know how to seek external help, and that he did not know he had a psychiatric condition.<sup>21</sup> The Defence expressed concern that prolonged exposure to the corrupt influence of a prison environment may be undesirable for a young offender such as the accused.<sup>22</sup> The Defence highlighted that the accused has shown willingness and determination to continue his education, and renewed hope and motivation while in prison.<sup>23</sup> The accused is also genuinely remorseful for the irreparable harm done to the deceased and the deceased’s family, as evident from a letter of apology written to the deceased’s parents.<sup>24</sup>

14 Additionally, the Defence highlighted the accused’s low risk of reoffending.<sup>25</sup> He no longer wants to commit suicide, and his MDD is in remission.<sup>26</sup> He has been disabused of his “misconception of our local reality in

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<sup>19</sup> AMP at paras 85–87.

<sup>20</sup> AMP at paras 59 and 62.

<sup>21</sup> AMP at para 40.

<sup>22</sup> AMP at para 41.

<sup>23</sup> AMP at para 42.

<sup>24</sup> AMP at paras 29, 49–50.

<sup>25</sup> AMP at para 44.

<sup>26</sup> AMP at paras 44–45, 78.

respect of his ‘suicide by cop’ plan”, and as such no longer has any propensity to commit acts of violence.<sup>27</sup> His family is exceptionally supportive of him, and his relationship with them has been growing stronger.<sup>28</sup> Accordingly, the protective rationale of sentencing is engaged to only a minor degree.<sup>29</sup>

15 In view of the foregoing arguments, the Defence cited various precedents in which offenders received sentences of between five to nine years imprisonment for culpable homicide.<sup>30</sup> The submission was that the accused was as culpable or less culpable compared to the offenders in those precedents. On that basis, a sentence of around five years of imprisonment was sought.

### **Decision**

16 Section 304(a) of the Penal Code prescribes that whoever commits culpable homicide not amounting to murder shall be punished *either* with imprisonment for life (and shall also be liable to caning) *or* for imprisonment for a term which may extend to twenty years (and shall also be liable to fine or to caning).

17 The parties’ sentencing positions diverged to a considerable degree. To reiterate, the Prosecution sought 12 to 16 years of imprisonment, while the Defence’s position was that a term of approximately five years’ imprisonment would be appropriate. As noted, the Defence accepted the seriousness and gravity of the offence. The Prosecution also accepted the mitigating factors of the accused’s MDD, his youth and plea of guilt. The divergence arose largely

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<sup>27</sup> AMP at para 78.

<sup>28</sup> AMP at para 46.

<sup>29</sup> AMP at para 81.

<sup>30</sup> AMP at paras 90-107.

from their disagreement over the appropriate mitigating weight to be attributed to the mitigating factors, particularly the accused's mental condition, and whether the dominant sentencing principle or principles in the present case ought to be rehabilitation (as argued by the Defence), or retribution and deterrence (as contended by the Prosecution).

18 It is worth observing that despite their divergent positions, the parties did not disagree on two important points. First, that this was not a case justifying a life sentence to be imposed. In relation to a mentally disordered offender committing a grave offence, a life sentence is justified for the sake of public protection, where the offender will pose “a serious danger to the public for an indeterminate time” (*Public Prosecutor v Aniza bte Essa* [2009] 3 SLR(R) 327 (“*Aniza bte Essa*”) at [14] citing *AG’s Reference No 32 of 1996 (Steven Alan Whittaker)* [1997] 1 CR App R (S) 261 at 264). The evidence did not show that the accused is a long-term threat to society. Alternatively, a life sentence, being the highest punishment for the offence, is to be reserved for the *worst* type of cases (*Aniza bte Essa* at [34]). Given that this case is not devoid of any mitigating circumstances, the Prosecution did not press for a life sentence. In fact, in view of the mitigating circumstances, the Prosecution, very fairly, did not submit for a sentence at the upper end of the sentencing range for culpable homicide *ie*, 17 to 20 years of imprisonment.

19 Secondly, the parties agreed that caning would not be necessary. There is no compelling need to impose caning on mentally disordered offenders, and caning has generally not been imposed on such offenders even in cases of culpable homicide not amounting to murder.

20 With those preliminary points clarified, it bears remembering that the range of circumstances in which culpable homicide is committed is extremely

wide and varied (*Public Prosecutor v P Mageswaran and another appeal* [2019] 1 SLR 1253 (“*P Mageswaran*”) at [46]). The sentencing inquiry in respect of such offences must therefore be highly fact-sensitive (*Dewi Sukowati v Public Prosecutor* [2017] 1 SLR 450 at [15]), and limits the utility of precedents (*Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 (“*Lim Ghim Peow*”) at [55]). This is all the more so for the present case, which, as the Prosecution and the Defence both acknowledged, is without precedent in Singapore’s history.

### ***The accused’s mental disorder***

21 With that, I address the key point of disagreement between the parties, which concerns the mitigating weight which ought to attach to the accused’s MDD. Based on the evidence, the accused suffered from MDD of moderate severity for about six months prior to the killing. There was, however, insufficient evidence that the accused was suffering from psychopathy.

22 Turning to the law, the starting point is that the moral culpability of mentally disordered offenders lies on a spectrum, and depends on the nature and severity of the mental disorder (*Public Prosecutor v Kong Peng Yee* [2018] 2 SLR 295 (“*Kong Peng Yee*”) at [60] and [65]). On one end, where the mental disorder severely impairs the offender’s ability to understand the nature and consequences of their acts, to make reasoned decisions or control their impulses, deterrence should not be a dominant consideration (*Kong Peng Yee* at [66]).

23 Conversely, where an offender retains understanding of his actions, the ability to reason, to think logically and coherently, to weigh the consequences of his actions, and where his mind ultimately remains rational notwithstanding his mental affliction, that affliction can only ameliorate his culpability to a limited extent (*Kong Peng Yee* at [65]). Even if the mental affliction might be severe, the underlying reason for the offender’s subsequent action might

nonetheless be founded on a true and rational factual basis rather than fantasy, fiction or delusion. For example, an offender may experience severe depression, intense jealousy, and anger over a spouse's actual infidelity, or fear of losing their employment or being subject to disciplinary action when some wrongdoing on the offender's part is discovered (*Kong Peng Yee* at [65]). In respect of such offenders, deterrence and retribution must remain the predominant sentencing principles, for no matter how severe, depression cannot be a license to kill or to harm others (*Kong Peng Yee* at [65]).

24 In a joint report by Dr Cai Yiming ("Dr Cai"), a psychiatrist at the Institute of Mental Health ("IMH"), and Dr Kenji Gwee ("Dr Gwee"), the Principal Clinical Forensic Psychologist at IMH, dated 9 December 2022 ("the second joint report"), they state that notwithstanding his MDD, the accused retained control over his actions, and understood that what he was doing was morally and legally wrong.<sup>31</sup> Indeed, far from being delusional, incoherent, or irrational, the accused had his *factual* basis for proceeding as he did. After considerable research on the internet, he consciously decided to kill in school because he believed that his chances of killing someone before he was subdued would be higher there than in public.<sup>32</sup>

25 To that end, he exhibited a chilling degree of premeditation and cold logic in planning and preparing for the killing. He carefully selected weapons for their lethality and efficiency, purchased, tested and sharpened them.<sup>33</sup> He taught himself to wield them to maximum effect by watching videos he found

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<sup>31</sup> Prosecution's Bundle of Documents ("PBOD") at p 103-104.

<sup>32</sup> Statement of Facts at paras 6 and 8.

<sup>33</sup> Statement of Facts at paras 10-11.

on the internet.<sup>34</sup> He had photographs of RVHS' floor plan on his mobile phone,<sup>35</sup> and selected the toilet as the site for the killing as it was far from his classroom.<sup>36</sup> He concealed the weapons ahead of time,<sup>37</sup> and cordoned off the toilet to prevent other students from entering it.<sup>38</sup> He had the presence of mind to anticipate that his prospective victim would cry out in distress, to close the windows and door of the toilet to prevent the victim from being heard.<sup>39</sup> After the deceased entered the toilet, he exited the toilet to replace the caution tape across the corridor to buy himself more time.<sup>40</sup> His entire plan was premised on his keen awareness that what he planned to do would be so outrageous and horrific that it could not but incite a lethal response from law enforcement officers. However irrational his goals might have been, and however twisted and perverse the means by which he sought to achieve them, the sheer sophistication and planning displayed made clear that he fully retained his ability to think logically and coherently (*Kong Peng Yee* at [65]). This clearly placed him in the second category of offenders described at [23] above – where culpability should be ameliorated only to a limited extent by a mental disorder.

26 For this amongst other reasons, the cases of *Public Prosecutor v Ho Wei Yi* [2014] SGHC 96 (“*Ho Wei Yi*”) and *Public Prosecutor v Rosdi bin Joenet* [2016] SGHC 58 (“*Rosdi*”), in which the respective offenders were sentenced to eight and nine years respectively, were of little assistance to the accused. The

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<sup>34</sup> PBOD at p 72 para 38.

<sup>35</sup> Statement of Facts at para 12.

<sup>36</sup> Statement of Facts at paras 13 and 16.

<sup>37</sup> Statement of Facts at para 18.

<sup>38</sup> Statement of Facts at para 18.

<sup>39</sup> Statement of Facts at para 19.

<sup>40</sup> Statement of Facts at para 20.

offender in *Ho Wei Yi* suffered from paranoid schizophrenia, delusion, and auditory hallucinations, and started the fire which killed his father to exorcise evil spirits whose voices he heard from the master bedroom (*Ho Wei Yi* at [3] and [6]). The killing in *Rosdi* was committed in anger and jealous delusion (*Rosdi* at [2]), and the offender was diagnosed with delusional disorder which subsisted even up till the time of his sentencing (*Rosdi* at [16]–[17]).

27 In sharp contrast, the accused was neither deprived of self-control, nor beset by any fit of uncontrollable rage or jealousy. As for whether the accused was delusional, the Defence made several references to his mistaken belief that “suicide by cop” was “compatible with our local reality” and sought to attribute this to his mental affliction.<sup>41</sup> In doing so, the Defence relied on Dr Cai’s report of 19 August 2021, in which he stated that:<sup>42</sup>

... [The accused] is genetically predisposed to develop depression leading to a sense of hopelessness where he felt that there was no way out for his life predicament other than committing suicide. He then learnt from internet to kill others and get himself killed by police. **This reflected his distorted thinking and fantasy that is not compatible with the local reality.** Seeing too much violence on the internet desensitized him not only to violence but also decreased his empathy to people. Hence, his acts of killing appeared extraordinarily callous. This is out of his usual character.

[emphasis added]

28 Dr Cai and Dr Gwee expressed a similar view in their first joint report dated 26 September 2022 (“the first joint report”):<sup>43</sup>

[The accused’s] depressive state of mind made him feel so sad and hopeless that he felt there was no way out other than

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<sup>41</sup> AMP at paras 22, 34, 39, 78.

<sup>42</sup> PBOD at p 88–89 para 42.

<sup>43</sup> PBOD at p 94.

committing suicide. He then learnt from internet that a way to do this could be to kill others and get himself killed by the police. **This tunnel vision and distorted thinking in reaching his goal of suicide is not compatible with the local reality.** In addition, the extreme and uncharacteristic callousness he displayed, which was a product of his depression, facilitated the execution of his acts. The whole tragic event could be summed up as his failed attempt at “suicide by cop”.

[emphasis added]

29 However, to the extent that the accused might have been under any misconception that his plan was “compatible with our local reality”, this was at best a misconception as to the viability of suicide by cop as a means by which to end his life, which would depend on, *inter alia*, prevailing police practices. This being the case, it did not seem to me that this belief amounted to the same sort of delusion which might have been operative in *Ho Wei Yi* or *Rosdi*. In fact, it was not clear to me this could even be properly called a delusion at all.

30 I turn to the Defence’s argument premised on *Ahmed Salim v Public Prosecutor* [2022] 1 SLR 1110 (“*Ahmed Salim*”) at [37] and [50], that even if the act of killing *is* premeditated under a veneer of rationality, the decision to kill from which those actions followed might itself nonetheless have been the product of the disordered mind. The Defence argued that the accused had no realistic moment of rationality and self-control that would have enabled him to resile from that intention or plan. This should serve to lower the accused’s mental culpability for the purposes of sentencing, even though he had premeditated and planned out his actions.<sup>44</sup>

31 However, I noted, and the Defence acknowledged,<sup>45</sup> that the question in *Ahmed Salim* was whether the offender could avail himself of the defence of

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<sup>44</sup> AMP at paras 84-88

<sup>45</sup> AMP at para 88.

diminished responsibility *at all*. I recognise that Dr Cai and Dr Gwee responded in the negative when directly asked whether the accused had any realistic moment of rationality and self-control that would have enabled him to pull back from executing his plan to commit the attack. In the present case, it was already common ground that the accused's MDD played a sufficiently significant role at the time of the killing to warrant a charge of culpable homicide rather than murder. In other words, the mitigating effect of his MDD on him – that he was not able to pull back from that killing – had been reflected, in the Prosecution's charging decision.

32 Beyond that, as further noted in the second joint report, the accused had been wrestling with ambivalence for *months* before the killing. Dr Gwee's report on 18 August 2021 also notes that, while the accused had initially planned to carry out his suicide by cop plan in May 2021, he had postponed it with "self-talk and extenuating circumstances" and by focusing on things he enjoyed.<sup>46</sup> In addition, even after the accused resolved to commit suicide by cop in early 2021, he retained the capacity to recognise that something was wrong with his own mind, as evinced by his visit to a webpage titled "Suicidal Ideation: Symptoms, Diagnosis, Treatment, Coping".<sup>47</sup> Therefore, based on the evidence, despite his mental affliction, it is clear that the accused *knew* that what he intended to do was legally and morally wrong, and struggled with it for *months*. He *knew* there was something wrong with himself. He *had* the capacity to talk himself out of doing what he intended to do. Even after his aborted attempt to put his plan into action on 14 July 2021, rather than pulling back or resiling from his plan then, he *resolved* to complete it.

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<sup>46</sup> PBOD at p 71 para 34.

<sup>47</sup> PBOD at pp 114–115.

33 Furthermore, the accused's MDD was but one of three major factors which contributed to the killing, the other two being his refusal to get external help and his consumption of snuff videos and other materials (which were matters within his control). RVHS had advised his parents to seek professional help for him. Unlike many persons who suffer from mental health issues, his parents were supportive and willingly offered help to him. They also expressed willingness to go for family therapy. However, the accused would not share what bothered him, and rejected all offers of help.<sup>48</sup> Moreover, as pointed out by the Prosecution, the accused's consumption of snuff videos (which commenced in April 2020) predated the onset of his MDD by at least half a year. Indeed, it should be noted that the accused resumed watching snuff videos a month before the offence to prepare for his intended attack, reporting to Dr Gwee that he focused on knife attack videos in preparation of his plan.<sup>49</sup>

34 By all of the above, I found it difficult to see how much more mitigating weight could be given to the accused's mental condition, and how the accused's MDD could possibly bring the sentence to the level proposed by the Defence of five years of imprisonment. His culpability remained high.

***A disturbing aspect of the accused's psyche***

35 As alluded to in the foregoing discussion, Dr Cai and Dr Gwee's reports suggest that the accused viewed the act of killing as simply instrumental to his ultimate goal of ending his own life. In short, their understanding of the accused's motive is that killing was a necessary step in ending his own life, even if he felt it was regrettable and knew it to be wrong.

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<sup>48</sup> PBOD at p 85 paras 23–24, pp 69–70 para 28.

<sup>49</sup> PBOD, p 72 para 38.

36 Yet there was another more disturbing aspect of the accused’s psyche. This was in the two poems which the accused wrote prior to the killing in February to March 2021,<sup>50</sup> the contents of which make clear that the accused did not simply see the act of killing as the only regrettable and morally wrong option which he had left available to him to achieve his goal of committing suicide. The contents of the poem he titled “\_Liberated\_”, which the accused explained was about a school stabber who not only harmed people, but killed them, were particularly troubling. As the Prosecution submitted, which I accepted, the poem shows the accused as someone “who was enthralled with the idea of a school killing and followed through this idea to completion”.<sup>51</sup> The same sentiment was hinted at in Dr Gwee’s report of 18 August 2021 of how the accused “entertained ‘macabre thoughts of a school slashing’, and likened it to his suicidal thoughts two years ago, but ‘*spicing it up a bit*’ [emphasis added]”.<sup>52</sup>

37 Beyond the sheer brutality and randomness of the attack, the fact that the accused found the idea of a school killing appealing clearly sets the present case apart from the trio of cases upon which the Defence relied on to support a sentence of five years. In *Public Prosecutor v BAC* [2016] SGHC 49, the offender who suffered from major depressive disorder killed her child out of frustration and a misguided perception that the child had been the cause of her marital problems (at [4]). In *Public Prosecutor v Goh Hai Eng* (Criminal Case No 4 of 2010), the offender (who suffered from bipolar disorder) killed her daughter as she did not want to leave her daughter behind. In *Public Prosecutor v Graffart Philippe Marcell Guy* (Criminal Case No 36 of 2016), the offender,

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<sup>50</sup> PBOD, pp 134-135.

<sup>51</sup> PSS at para 16.

<sup>52</sup> PBOD at p 70 para 32.

who had major depressive disorder, was mired in a contested battle for his child's custody, and attempted to "take" his son with him prior to his own suicide attempt. It is pertinent to note that these cases concern killings in the familial context. Such cases involve different sentencing considerations. Furthermore, none of the offenders saw the act of killing as anything more than a means to end their own suffering, or to take their children with them before taking their own lives (*Public Prosecutor v CAD* [2019] SGHC 262 at [9]). They did not contemplate the appeal of a killing, or the notoriety that it may bring. The same points should be made of the offenders in *Ho Wei Yi* and *Rosdi*. On this count, the accused's culpability stood in a category of its own.

***The dominant sentencing principles***

38 By all of the above, I was of the view that this case is one so serious and heinous that retribution must prevail over the principle of rehabilitation, even though the accused is a young offender (*Mohammad Al-Ansari bin Basri* at [34]-[35]) and even though he was labouring under a serious mental disorder (*Lim Ghim Peow* at [39]; *Kong Peng Yee* at [59(g)]).

39 This was a gratuitously violent killing, terrifying and incomprehensible in its randomness. It was meticulously planned. It was deliberately perpetrated in a school, where young people ought to feel their safest, against a victim who was particularly vulnerable. A young and innocent life has been lost. While the accused's decision to take his own life was clearly directly attributable to his MDD, it did not prevent him from recognising that his plan to kill others pursuant to his plan to commit suicide by cop was wrong. It did not impair his ability to physically control his actions. He must also bear responsibility for failing to accept the professional help that was offered to him, and for continuing to expose himself to violent and graphic content despite knowing

that it was wrong for him to do so, which were both major factors which contributed to the killing.<sup>53</sup> Were it not for his MDD, and for his young age, this would arguably have qualified as amongst the worst type of offences warranting the maximum sentence of life imprisonment, or the upper end of the sentencing range of between 17 to 20 years of imprisonment.

40 In addition to retribution, another dominant sentencing principle in the present case was that of general deterrence. The court had to be mindful of the possibility that others who might find themselves in the same state of mind as the accused was in early-mid 2021, might be inclined to act in a similar manner. A clear message of deterrence had to be sent to deter any other potentially like-minded individuals who might be similarly situated from ever entertaining the thought of engaging in similar conduct (*Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 at [66]). The signal, to be sent in the strongest possible terms, is that any who might think of following in the accused's footsteps will be harshly punished. No less will suffice if the criminal law is to serve its function not only of preserving society's moral fabric and values (*Public Prosecutor v Kwong Kok Hing* [2008] 2 SLR(R) 684 at [17] and *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 at [25(c)]), but of protecting those who are society's very future.

41 For completeness, I did not find that the principle of prevention carried significant weight. Indeed, the Prosecution did not seriously contend otherwise. I accepted the evidence of Dr Cai and Dr Gwee that the accused's depression is in remission and has not relapsed, his recovery is progressing well, and that his likelihood of re-offending remains low given that the major risk factor of mental

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<sup>53</sup> PBOD at p 88 para 41.

illness remains absent.<sup>54</sup> I also recognised that his medication regime and various forms of therapy appeared to be effective.<sup>55</sup> Most of all, his family has strongly rallied around him, making the effort to visit him regularly in prison, improving their communication and openness, coming together as a family, and making efforts to gain a better understanding of mental health issues and to equip themselves to care for the accused after his eventual release from prison.<sup>56</sup>

### *Calibration of the appropriate length of imprisonment*

42 As I explained above, I did not find the Defence’s sentencing precedents of cases in the familial context where sentences of five years’ imprisonment were imposed relevant. Neither did I find *Ho Wei Yi* and *Rosdi* (where eight and nine years of imprisonment were imposed on the offenders) to be of assistance. The accused was significantly more culpable than those offenders. That said, the unique facts, and the accused’s mental state, also made it difficult to draw factual comparisons with the precedents the Prosecution has cited – which ranged from 14 years to 20 years’ imprisonment.<sup>57</sup> Nonetheless, they remained of some guidance to the task at hand.

43 I begin with *Public Prosecutor v Gaiyathiri d/o Murugayan* [2022] 4 SLR 560 (“*Gaiyathiri*”). The offender (who had major depressive disorder and obsessive-compulsive personality disorder) killed her 24-year-old domestic worker in a fatal assault. This took place after the offender physically and psychologically tortured the victim over at least 35 days prior to her death. The offender was sentenced to 20 years of imprisonment for the s 304(a) culpable

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<sup>54</sup> PBOD at pp 107–108.

<sup>55</sup> PBOD at p 108.

<sup>56</sup> PBOD at pp 108–109.

<sup>57</sup> PSS at para 33.

homicide charge, and to a global sentence of 30 years of imprisonment. The aggravating factors there were that there was an abuse of position by the offender of a vulnerable victim, prolonged abuse of the victim, use of weapons to cause hurt, as well as an absence of remorse. In my view, the accused's culpability is marginally lower than that of the offender in *Gaiyathiri*. Further, the accused is a young offender, who has shown remorse and who has a low risk of re-offending.

44 Based on the aggravating factors, however, the present case is more egregious than *P Mageswaran*, where 18 years of imprisonment was imposed on the offender who suffered from executive deficits which caused him to act impulsively in strangling and suffocating an elderly family friend after he failed to get a loan from her. That said, unlike the offender in *P Mageswaran*, the accused is a young offender (who is now only 18 years old), and he acted under a more serious mental affliction when he was only 16 years old. Also, he has shown remorse and pleaded guilty. Next, I turn to *Public Prosecutor v Sumanthiran s/o Selvarajoo* [2017] 3 SLR 879 ("*Sumanthiran*"), where a sentence of 14 years of imprisonment was imposed on the 18-year-old offender who suffered from impulsivity, and who physically assaulted a 64-year-old victim causing his death simply because he was irritated and angry at the sight of the victim in the park. Unlike the young offender in *Sumanthiran* who had antecedents and was at risk of re-offending, the accused has a low risk of reoffending (but only so long as certain protective factors remain). That said, his culpability is far higher than the young offender in *Sumanthiran*. By way of comparison, an appropriate sentence for the accused would fall between 15 to 18 years of imprisonment. In relation to the Prosecution's submission for a range that would fall between 12 to 16 years of imprisonment, the lower end was not supported by the precedent cases cited at all.

45 Drawing the threads together, balancing the aggravating factors against the mitigating factors of the accused's mental condition, youth and plea of guilt, I imposed a sentence of 16 years' imprisonment on the accused. Subject to remission for good behaviour, which the accused has indeed so far exhibited, he will spend slightly more than 10 years behind bars. This sentence is backdated to 19 July 2021.

### **Conclusion**

46 In closing, I turn to address the Defence's exhortation that this sad episode cannot be of punishment, but must rather be about redemption. At the hearing, the Defence urged the court to focus on the *recovery* of the accused. In part, I agreed. While the accused made deliberate choices which he could have made differently, and which led him to take the innocent life of another, it is also true that he would not have made them but for the mental affliction he suffered, and his desire to end his own life. However, the substantial sentence meted out is necessary to be proportionate to the responsibility which he must bear for what he did in pursuit of that goal. Five years of imprisonment, or even eight to nine years of imprisonment, as contended by the Defence, would hardly reflect the seriousness of the offence, or the high culpability of the accused. Further, the sentence is not intended only as retribution. The sentence is also necessary to deter others from doing what he has done, and from acting for the same twisted and misguided reasons.

47 Although retribution and deterrence largely overrode rehabilitation in so far as sentencing was concerned, it did not mean that rehabilitation is impossible, or that redemption is out of reach, even while he remains in prison. Having been incarcerated for the past two years, there are some promising signs. The accused has turned in a stellar performance in his O level examinations, and

he hopes to pursue studies in the social sciences and to help others who suffer from mental illness. He has a newfound faith which he now shares with his mother. The accused has a family who loves him deeply and has strongly rallied around him in his time of need, to whom he has opened up and drawn closer. Indeed, as the Prosecution stated at the hearing, it is important for the accused to continue with the rehabilitative journey in prison. Whether this story might be about recovery and redemption is up to the accused. After his release from prison, he has a long road ahead of him. With his insight into his mental health issues, and with his intelligence and abilities, he has what he needs to make his story one of redemption. With the help and support of his family, he should see to it that it happens.

48 I turn to address the deceased's loved ones. In reply to a letter of apology sent by the accused's parents shortly after the tragedy, the deceased's parents wrote, with what is a display of remarkable strength and fortitude, that they have forgiven the accused. As the deceased's parents, together with other loved ones, continue to process the pain and sorrow brought about by his passing, it is hoped that with time, they will find a measure of healing and closure from this tragedy.

Hoo Sheau Peng  
Judge of the High Court

Kumaresan Gohulabalan and Sean Teh (Attorney-General's  
Chambers) for the Prosecution;  
Sunil Sudheesan, Ngiam Hian Theng Diana and Khoo Hui-Hui Joyce  
(Quahe Woo & Palmer LLC) for the accused.

**Annex A: Extracts from the Statement of Facts**

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**III. Background Facts****A. Conception of the plan to commit “suicide by cop”**

5 On or around 26 February 2019, the Accused started having suicidal ideations. Sometime in April 2020, the Accused chanced upon a website hosting videos depicting actual scenes of human death (including murders and suicides), termed “snuff” videos. The Accused was initially disgusted by the snuff videos but grew curious about them. Eventually, the Accused began watching snuff videos from time to time, at inconsistent intervals. ....

6 Sometime in January 2021, the Accused felt overwhelmed during the new school term and entertained thoughts of suicide. The Accused’s mood was low, and he did not want to interact with people or deal with school responsibilities. Between January 2021 and March 2021, the Accused explored ways of committing suicide. As he had previously failed to commit suicide in February 2019, he perceived that the only way he could overcome the psychological barrier of taking his own life was by getting someone else to kill him. The Accused eventually decided to slash people in his school and commit “suicide by cop”, which involved killing more than one individual in a killing spree in order to give the police no choice but to shoot him to death. The Accused decided to kill people in RVHS as he felt that his chances of killing someone before he was subdued, which would have stopped him from dying, would be higher in the school as compared to carrying out the act in public.

7 Sometime between February 2021 and March 2021, the Accused wrote two poems titled “Liberation” and “\_Liberated\_”, which alluded to mass killings conducted in a school.

8 Between 8 March 2021 and 18 July 2021, the Accused also conducted online searches involving stabbings, school shootings / attacks, and suicide.

...

**B. The procurement of weapons and subsequent sharpening**

10. Between 18 February 2021 and 4 March 2021, the Accused searched the internet for weapons which were sharp and could be used to harm people efficiently. He purchased three weapons on separate occasions: ...

11. After he procured the axe (mentioned at [10(b)]), the Accused tested the sharpness of the axe by trying to cut his thigh and forearm with the axe and was unsatisfied with its sharpness. He tried grinding the blade and the butt of the axe with the axe / machete sharpener he had bought, but he remained unsatisfied as to its sharpness. Consequently, he sent the axes and knife for sharpening at a store offering sharpening services at least once.

12. The Accused also bought a black badminton bag to hide the axe and the knife. Photographs of RVHS's floor plan were found on his mobile phone.

### **C. The aborted attempt on 14 July 2021**

13. The Accused initially decided to carry out his plan on 14 July 2021....

...

15. ...At about 2.46pm, he left the RVHS premises and went home. The Accused felt unsettled as he did not follow through with his plan to commit "suicide by cop".

## **IV. FACTS RELATING TO THE OFFENCE**

### **A. Events of 19 July 2021 leading to the fatal assault**

16. The Accused eventually decided to carry out his plan on 19 July 2021. The Accused maintained his plan to kill people at the male toilet at Level 4 of Block D of RVHS.

17. On 19 July 2021, at about 7.30am, the Accused left his home with his backpack. His backpack contained (a) the axe, (b) the knife, (c) a black badminton racket bag, (d) the caution tape and (e) transparent sticky tape, amongst other things.

18. At about 7.52am, the Accused arrived at RVHS and went to the male toilet at Level 4 of Block D. In the toilet, the Accused took out the axe, knife and black badminton bag from his backpack. He placed the axe and knife into the black badminton bag to conceal the weapons and placed the items onto a pipe which was below a basin of the toilet.... At about 7.56am, the Accused left the toilet and went to his classroom.... At about 8.03am, the Accused returned to the toilet. The Accused brought the caution tape and transparent sticky tape with him. At the entrance of the corridor leading to the toilet, the Accused measured the caution tape, cut it, and stuck the caution tape across the corridor with the transparent sticky tape. The Accused left the vicinity of the toilet at about 8.05am and returned to his classroom at about 8.06am.

**B. Fatal assault leading to the Deceased's death**

19. ... At about 11.16am, immediately after his Mathematics class ended, the Accused decided to carry out his plan to kill several people in RVHS. He left his classroom and headed to the toilet, where he found the caution tape hanging only on one side of the wall. There were students in the toilet. The Accused waited for them to leave. He then closed the toilet door and windows to prevent the prospective deceased's screams of distress from being heard. Soon after, the Accused took out the black badminton bag he had hidden and brought it to the central cubicle of the toilet, where he locked the cubicle door. Inside the cubicle, the Accused took out the axe and the knife.  
....

20. At about 11.21am, the Accused left the axe in the cubicle and exited the toilet to wait for an individual to enter the toilet. He loitered in the vicinity of the toilet while waiting, and soon re-entered the toilet. At about 11.28am, the Deceased entered the toilet. The Deceased and the Accused were not known to each other. Upon noticing the Deceased enter, the Accused exited the toilet and pasted the caution tape across the corridor to prevent others from entering the toilet. He then re-entered the toilet and saw the Deceased urinating at a urinal. The Accused armed himself with the axe with his left hand on the upper grip of the axe and his right hand at the lower grip. The Accused had learned how to grip the axe properly from the internet.

21. The Accused approached the Deceased while the Deceased had his back turned to the Accused. The Deceased did not notice the Accused approaching. Sometime between 11.16am and 11.44am, the Accused repeatedly slashed the Deceased on his head, neck and body with the axe. The Deceased attempted to stop the Accused's attacks. However, the Accused continued to slash the Deceased with the axe. The Deceased then collapsed onto the toilet floor. The Accused observed that the Deceased was still breathing. The Accused told the Deceased "I'm sorry". The Accused slashed the Deceased's body twice with the axe and observed that he was motionless.

22. With reference to the events at [21], the Accused had caused the death of the Deceased by slashing the head, neck, and body of the Deceased multiple times with an axe, with the intention of causing the death of the Deceased....

**C. Events of 19 July 2021 after the fatal assault**

23. The Accused claimed that he felt catharsis and regret after he had attacked the Deceased. He decided to stop his plan of killing more individuals and washed his hands. At about

11.35am, the Accused left the toilet with the axe. He approached two to three groups of students to call the police, but they ran away from him.

24. At about 11.38am, the Accused was approached by a female teacher. She told the Accused to drop the axe, and he complied. She kicked the axe away from the Accused. The Accused told her that he had killed someone and asked her to call the police. She asked to see the Deceased's body to confirm what the Accused had told her. She proceeded to the entrance of the toilet, where she saw the Deceased's body on the toilet floor. She exclaimed "Oh my god!" and left to seek assistance.

25. At about 11.40am, a male teacher approached the female teacher .... The male teacher moved the axe further away from the Accused and stood between the Accused and the axe. The female teacher decided to alert the school authorities of the incident. As she was contacting the school authorities, the Accused retrieved his handphone and called the police at 11.41am. The male teacher went to the toilet and saw the Deceased's body. At about 11.42am, upon seeing the Deceased's body, the male teacher called the police immediately.

26. The Accused was escorted by staff of RVHS to the General Office of the school. Paramedics from the Singapore Civil Defence Force ("SCDF") arrived at RVHS at about 11.53am, together with the police. The Deceased was pronounced dead by Sergeant Tan Wen Shi, a paramedic with the SCDF, at about 11.59am. The Accused was subsequently arrested.

#### **V. Autopsy report**

28. An autopsy was performed by A/Prof Teo Eng Swee on 20 July 2021 at about 9.50am at the Health Sciences Authority ("HSA") Mortuary. The Deceased's cause of death was certified to be "**Multiple Incised Wounds**".

29. According to the autopsy report, multiple incised wounds were found on the Deceased's body, including wounds on his scalp, face and neck.

30. In addition, fractures were found on the Deceased's skull. Underlying one such fracture were multiple dural lacerations.

...

#### **VII. The Accused's psychiatric condition**

36. On 18 August 2021, Dr Kenji Gwee, the Principal Clinical Forensic Psychologist at the Institute of Mental Health, prepared a psychological report opining that, among others:

(a) There was insufficient evidence to support a diagnosis of Psychopathy. However, a high degree of callousness was present, which appeared to be a recent development rather than representative of the Accused's underlying temperament.

(b) The Accused met the criteria for Major Depressive Disorder ("**MDD**") around the material time of the killing. Factors that contributed to the killing include:

(i) The Accused's misguided curiosity to address existential angst;

(ii) The onset of depression, which accentuated the Accused's fatalistic thinking, limited his perceived range of options when thinking about possible courses of actions, and hardened his otherwise empathic nature into a callous persona; and

(iii) Consumption of snuff videos, which worsened this callousness, and additionally removed psychological obstacles to carrying out the alleged act by desensitising him to the physicality and gore when taking a life.

37. On 19 August 2021, Dr Cai Yiming, a Psychiatrist at the Institute of Mental Health, prepared a psychiatric report opining that, among others:

(a) The Accused suffered from MDD of moderate severity for about six months leading to the killing. The Accused was not of unsound mind at the time of the offence, but his mental state amounted to an abnormality of mind as would have substantially impaired his criminal responsibility.

(b) There were three major and interacting factors of importance: (a) the Accused's sensitive temperament with a tendency to keep things at heart and refusal to get external help, (b) his MDD, and (c) the harmful effects of his misguided exploration of the internet.

(c) The Accused is genetically predisposed to develop depression leading to a sense of hopelessness, where he felt that there was no way out of his life predicament other than committing suicide. His acts of killing appeared extraordinarily callous, which was out of his usual character.

(d) The Accused is fit to plead and stand trial in Court.

38. On 26 September 2022, Dr Cai Yiming and Dr Kenji Gwee prepared the First Clarificatory Report, stating that, among others:

(a) The Accused's response to treatment had been positive. ...When assessed again on 19 September 2022, the Accused's depression was also observed to be in remission.

...

39. On 9 December 2022, Dr Cai Yiming and Dr Kenji Gwee prepared the Second Clarificatory Report, stating that, among others:

(a) The Accused was still able to comprehend and appreciate the physical damage required to increase the chances of death, and methodically prepared for the axe attack.

(b) The Accused's MDD did hinder his ability to form a rational judgment as to whether an act was right or wrong. The Accused's depression led to a serious consideration of suicide, as well as a limiting of alternative recourses. When he considered "suicide by cop" as a way to end his life, he knew that this was legally and morally wrong, and wrestled with some ambivalence over it for a few months. However, as his depression compromised his ability to make rational decisions, he ultimately resolved to proceed with his plan to commit "suicide by cop". The Accused's depression contributed to his irrationality in choice of suicide means and conviction towards completing his plan.

(c) The Accused's choice of suicide means, as well as his conviction to carry out his plan, were distorted and irrational. However, his depression did not undermine his ability to wilfully control his physical acts to materialise his plan.

(d) If the Accused did not have MDD at the time of the killing, he would not have made the decision to attack the Deceased with the axe. His decision for a school slashing (culminating in the attack on the Deceased) was an irrational solution to his intention of suicide. This irrational choice and conviction in his suicide means, as well as his suicidality, arose because of his depression. Without depression, there were no other factors present that could sufficiently account for his killing of the Deceased with the axe.

(e) The Accused did not have any realistic moment of rationality and self-control that would have enabled him to pull back from his intention or plan to kill the Deceased. When he made up his mind to commit "suicide by cop", the determination to carrying out the plan appeared to be intense. While he subsequently experienced some ambivalence and was also aware of the wrongfulness of using snuff videos in preparation for the murder, these did not override the initial conviction to completing his plan. The necessary stop that enabled him to pull back from his intention of a mass school slashing came only after he killed the Deceased and experienced a "psychological barrier" to continue [killing more people].

40. On 20 June 2023, Dr Cai Yiming and Dr Kenji Gwee prepared the Third Clarificatory Report, stating that, among others:

(a) The major domains in the Accused's life that can affect the management of his MDD (currently in remission) continue to be addressed and remain stable when compared to the assessment in the First Clarificatory Report. Additionally, the Accused remains aware of, and is on the lookout for his symptoms of depression. The short-term prognosis is positive.

(b) A longer-term prognosis remains indeterminate due to unforeseeable, potential major life disruptions. Life and its stressors, and one's response to them, can be dynamic. Nevertheless, potentially triggering events for the Accused can be identified: any decline in his grandparents' health (especially his maternal grandmother who is unable to visit him), comparing himself to peers who are perceived to be better than him, or difficulties integrating with the incarcerated population in prison.

(c) The Accused's depression remains in remission and there have not been any relapses.

...

(f) The Accused's likelihood of re-offending remains low. There has been no change to his risk profile as previously described. The protective factors of being in an institutionalised setting, having limited access to tools for violence, availability of mental health services and the observations by wardens, as well as greater emotional connection with his family, remain present. As indicated earlier, the Accused's depression is in remission, and he continues to be in the recovery phase – the major risk factor of mental illness thus remains absent.

41. By virtue of the psychiatric evidence presented by Dr Cai Yiming and Dr Kenji Gwee, the defence of diminished responsibility (under Exception 7 to section 300 of the Penal Code) is applicable to the Accused. At the time of the offence, the Accused was suffering from an abnormality of mind, *i.e.*, MDD of moderate severity, as substantially impaired his capacity to know whether his acts were wrong.