Citation: *R.* v. *Magill,* 2013 YKTC 8

Date: 20130130
Docket: 12-00450A
12-00450B
12-00451
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: Her Honour Judge Ruddy

REGINA

v.

DAVID SID MAGILL

Publication of evidence taken or information given at show cause hearing has been prohibited by court order pursuant to section 517(1) of the *Criminal Code*.

Appearances:
Bonnie Macdonald — Counsel for the Crown
Jennifer Cunningham — Counsel for the Defence

REASONS FOR JUDGMENT

[1] David Magill has no prior criminal record. For 23 of his 24 years, he has, it appears, managed to stay out of serious trouble. He is now facing six charges, including forcible entry, impaired causing death, dangerous operation causing death, obstruction of justice, and two counts of failing to abide by the abstain condition of his release orders. He is before me seeking his release.

The alleged facts:

[2] The first allegation arises on June 26, 2012. Mr. Magill is accused of having kicked open a door to a Ross River residence from which he then removed his girlfriend. She was later located unharmed.

[3] Mr. Magill was released on an Undertaking to an Officer in Charge which included a condition requiring him to abstain from the consumption and possession of alcohol. It is alleged that his failure to comply with this condition resulted in tragic and devastating consequences.

[4] On July 7, 2012, a number of youth and young adults, including Mr. Magill, were consuming alcohol. The group travelled to a cabin at the end of Sawmill Road where they continued to drink. Five of the party of six left the cabin in Mr. Magill's truck. Mr. Magill is alleged to have been the driver. When the group realized that someone had been left behind, they decided to return to the cabin. Mr. Magill is described as driving too fast, when he failed to negotiate a turn. The vehicle ended up in the Pelly River and began taking on water. Only four of the five individuals inside made it to shore. Despite efforts to save her, Katelynn Sterriah drowned in the river while still trapped in Mr. Magill's truck. She was sixteen years old.

[5] Mr. Magill was apparently upset at the prospect of losing his young daughter as a result of the incident. Sixteen year old Katherine Atkinson offered to take the blame. All members of the group provided statements indicating Ms. Atkinson had been the driver. Mr. Magill gave two such statements to the police.

[6] It was not until July 16th, the day after Katelynn's funeral, that one of the other passengers, Megan Ladue, disclosed to insurance adjustor Pat Brazt that Mr. Magill not Katherine Atkinson had actually been the driver when the truck went into the river.

[7] Mr. Magill was arrested on July 18, 2012.

[8] On July 20th, Mr. Magill appeared before Justice of the Peace Smyth, seeking his release. He was detained on the secondary grounds.

[9] On September 26, 2012, Mr. Magill sought a bail review before Mr. Justice Goudge, and was released on a Recognizance with four sureties. Conditions required him to report to a Bail Supervisor, reside with his father at Marsh Lake, not attend Ross River, have no contact with a number of named individuals, and to abstain from the possession or consumption of alcohol.

[10] On November 25, 2012, Mr. Magill again came to the attention of the police as a result of a complaint regarding a fight outside the 202 Hotel. One witness indicated that Mr. Magill was involved in the fight. Mr. Magill approached the police, holding out his hands saying he was going to jail as he was breaching his conditions. He admitted to consuming six beer.

[11] While representations were made at the bail review regarding Mr. Magill's intention to pursue employment and programming, he failed to follow through. According to Mr. Magill's father, Mr. Magill had apparently been struggling with drugs and alcohol since his release, including hiding alcohol in his room.

[12] Mr. Magill is again seeking his release. He is in a reverse onus situation and the Crown is opposed on the secondary and tertiary grounds.

The proposed release plan:

[13] Defence counsel has presented a plan for Mr. Magill's release, the main focus of which is his participation in an inpatient treatment program at the Kapown Rehabilitation Center in Alberta with a tentative intake date of February 19, 2013. This program is 56 days long, and it incorporates best practices in alcohol and drug treatment with traditional First Nations teachings and practices. In contrast, although there are substance abuse pre-treatment programs in the WCC, Evann Lacosse, the clinical counselor from the Kwanlin Dun Health Centre who is working with Mr. Magill and helping him through the application process, notes that these are oversubscribed and have no First Nations content. It seems from her letter that First Nations programming at the jail is lacking generally.

[14] Before and after his return from treatment, defence has proposed that Mr. Magill reside with a friend in Whitehorse and attend individual counseling at the Kwanlin Dun Health Centre, while attending school or working and maintaining a pro-social lifestyle.

[15] Defence counsel also argues that the principles underpinning the decision in *R. v. Gladue*, [1999] 1 S.C.R. 688 should influence the way I consider the test set out in s. 515 of the *Criminal Code*. While I find that even on a straightforward assessment Mr. Magill has satisfied his onus with respect to the grounds set out in s. 515(10), this is the first time that our Court has been called on to consider the application of *Gladue* principles to bail hearings in any meaningful way, and their application has made my

decision to release easier to reach. I therefore propose to deal with these submissions in some depth as well.

Application of *Gladue* to bail hearings:

[16] There is no dispute in my mind that *Gladue* principles apply to bail hearings; the question is how. As noted in a chambers decision of the Ontario Court of Appeal in *R. v. Robinson,* 2009 ONCA 205:

> It is common ground that principles enunciated in the decision of the Supreme Court of Canada in R. v. Gladue, [1999] 1 S.C.R. 688, have application to the question of bail. However, the application judge cannot apply such principles in a vacuum. Application of the Gladue principles would involve consideration of the unique systemic or background factors which may have played a part in bringing the particular aboriginal offender before the courts. The exercise would involve consideration of the types of release plans, enforcement or control procedures and sanctions that would, because of his or her particular aboriginal heritage or connections, be appropriate in the circumstances of the offender and would satisfy the primary, secondary and tertiary grounds for release.

[17] The application of *Gladue* has been considered in *R. v. Brant*, [2008] O.J. 5375 (S.C.) and followed in *R. v. Silversmith*, [2008] O.J. No. 4646 (S.C.). *Gladue* has also been applied in the bail context in Saskatchewan and Alberta: see e.g. *R. v. Daniels*, 2012 SKPC 189 and *R. v. D.P.P.*, 2012 ABQB 229.

[18] I think it is first important to situate these cases within the context of the guarantee of reasonable bail, the importance of this guarantee to the experience of an accused within the criminal justice system, and the significance of *Gladue* factors at this early stage of the criminal process.

[19] The *Charter of Rights and Freedoms* guarantees in s. 11(e) that "[a]ny person charged with an offence has the right … not to be denied reasonable bail without just cause". According to the Supreme Court of Canada in *R. v. Morales*, [1992] 3 S.C.R. 711, "there will be just cause for denial of bail if the denial can occur only in a narrow set of circumstances and if the denial is necessary to promote the proper functioning of the bail system" (para. 14).

[20] The Supreme Court of Canada in *Ell v. Alberta,* 2003 SCC 35 commented more generally on the significance of bail hearings at para. 24, with reference to a 1965 study by Professor Martin Friedland that paved the way for significant bail reforms in the 1970s:

> … Decisions on judicial interim release impact upon the right to security of the person under s. 7 of the *Charter* and the right not to be denied reasonable bail without just cause under s. 11(*e*). Professor Friedland commented upon the importance of bail hearings in *Detention before Trial: A Study of Criminal Cases Tried in the Toronto Magistrates' Courts* (1965), at p. 172:
>
> > The period before trial is too important to be left to guess-work and caprice. At stake in the process is the value of individual liberty. Custody during the period before trial not only affects the mental, social, and physical life of the accused and his family, but also may have a substantial impact on the result of the trial itself. The law should abhor any unnecessary deprivation of liberty and positive steps should be taken to ensure that detention before trial is kept to a minimum. …

[21] Professor Friedland recently followed up this seminal work with a paper published in 2012 (Martin L. Friedland, "The *Bail Reform Act* Revisited" (2012) 16 C.C.L.R. 315). The following observations are made in that paper:

- Statistics show that there are now more remand than sentenced inmates in provincial institutions;
- the percentage of Aboriginal inmates, both sentenced and remand, is greatly disproportionate relative to the community;
- as noted in his 1965 report, pre-trial custody affects the trial in terms of the punishment received (more severe) and the likelihood of conviction (higher);
- in Ontario, most releases require a surety, and this can be an obstacle for some accused.

[22] While Professor Friedland does not particularly elaborate on the last point, when considered in the context of Aboriginal communities and the socioeconomic context sketched out below, an Aboriginal accused is often doubly disadvantaged in terms of his or her ability to present an acceptable surety to the court.

Gladue evidence at bail hearings:

[23] According to the Supreme Court in *R. v. Ipeelee*, 2012 SCC 13, at para. 60:

> … [C]ourts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history continues to translate into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and of course higher levels of incarceration for Aboriginal peoples. …

[24] While *Ipeelee,* like *Gladue*, was written in the context of a sentencing decision, it provides indispensible guidance for other decisions that an adjudicator is faced with, including whether or not to release on bail. This broad application of *Gladue* factors has been recently recognized by the Ontario Court of Appeal in *United States of America v. Leonard*, 2012 ONCA 622, as a way of "[addressing] the need to ensure appropriate treatment for Aboriginal people as they interact with the justice system" (para. 53).

[25] However, while notice of the consequences that flow from the Aboriginal history of dislocation must be taken, and *Gladue* and *Ipeelee* make it clear that the result of this notice will often be different, possibly more rehabilitative, sentences, and an acknowledgement of reduced moral blameworthiness, courts need also be aware that recognition of these matters can in fact operate perversely, as is pointed out at para. 67 of *Ipeelee*:

> Socioeconomic factors such as employment status, level of education, family situation, etc. appear on the surface as neutral criteria. They are considered as such by the legal system. Yet they can conceal an extremely strong bias in the sentencing process. Convicted persons with steady employment and stability in their lives, or at least prospects of the same, are much less likely to be sent to jail for offences that are borderline imprisonment offences. The unemployed, transients, the poorly educated are all better candidates for imprisonment. When the social, political and economic aspects of our society place Aboriginal people disproportionately within the ranks of the latter, our society literally sentences more of them to jail. This is systemic discrimination (quoting from Quigley, Tim. "Some Issues in Sentencing of Aboriginal Offenders", in Richard Gosse, James Youngblood Henderson and Roger Carter, eds., *Continuing Poundmaker and Riel's Quest: Presentations Made at a Conference on Aboriginal Peoples and Justice*. Saskatoon: Purich Publishing, 1994, 269).

[26] These socioeconomic factors play an equally, if not more important, role at the bail stage of a criminal charge. An accused with a poor employment record, substance abuse issues and an unstable family and community support network is more likely to be detained, even though these are the very results that flow from the Canadian history of colonialism, dislocation and residential schools. A judge has the obligation to evaluate the application of bail criteria to ensure that the result does not serve to perpetuate systemic racial discrimination.

[27] Although a sentencing judge, like a judge in a bail hearing, requires information about the individual before him or her, there does not need to be a causal link made between systemic factors and the individual's circumstances: "the interconnections are simply too complex" (para. 83, *Ipeelee*).

[28] Generally, in the sentencing context, the court is provided with a fairly comprehensive report containing *Gladue* information about the individual being sentenced; in this jurisdiction, either through a *Gladue* report, which is preferable, or a pre-sentence report with *Gladue* content. This requirement for documentation is necessarily relaxed in the bail hearing context, as explained by Baynton J. at para. 16 of *R .v. Wilson* (1997), 160 Sask.R. 47 (QB):

> The rules of evidence applicable to a trial do not apply to judicial interim release hearings. These proceedings by their very nature must in most cases be conducted summarily and on short notice. If the rigid procedures of a trial have to be met, the result will be delay, inconvenience, and additional expense, and the spirit and intent of the bail provisions will be defeated. Hearsay evidence can be considered if it is reliable or trustworthy, but the parties must have the opportunity to contradict or challenge such evidence. The only question is the weight to be given to the hearsay evidence considered on summary applications, not whether such evidence is admissible.

[29] Indeed, this bail hearing ran on the basis of counsel's submissions, coupled with a letter from a clinical counsellor Mr. Magill has been seeing, and testimony from a proposed surety. Materials filed in support of Mr. Magill's bail review were also referred, and, on the continuation day, I received input from some of the family and community members who were present in court.

[30] Mr. Magill is a member of the Ross River Dena Council, and he grew up in the community of Ross River. I take judicial notice of the fact that virtually everyone in Ross River has been touched by the legacy of colonization and residential schools, and its effects are indeed pronounced. Alcohol consumption is extremely high, as is unemployment, and there is a high rate of offending within the community relative to other Yukon communities.

[31] Mr. Magill has seen and experienced first-hand the effects of the residential school system. His father, a member of the Kwanlin Dun First Nation, along with several of his aunts and uncles attended residential school. Growing up, Mr. Magill learned from them to use alcohol to hide from the hurt. There is no doubt he has a pronounced addiction and is in need of treatment.

Analysis:

[32] As noted, this is a reverse onus situation. The Crown opposes Mr. Magill's release on the secondary and tertiary grounds. There were no primary ground concerns raised.

[33] Section 515(10)(b) and (c) read as follows:

> (10) For the purposes of this section, the detention of an accused in custody is justified only on one or more of the following grounds:
> …
>
> (b) where the detention is necessary for the protection or safety of the public, including any victim of or any witness to the offence, or any person under the age of 18 years, having regard to all the circumstances including any substantial likelihood that the accused will, if released from custody, commit a criminal offence or interfere with the administration of justice.

> (c) if the detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including
>
> (i) the apparent strength of the prosecution's case,
>
> (ii) the gravity of the offence,
>
> (iii) the circumstances surrounding the commission of the offence, including whether a firearm was used, and
>
> (iv) the fact that the accused is liable, on conviction, for a potentially lengthy term of imprisonment or, in the case of an offence that involves, or whose subject-matter is, a firearm, a minimum punishment of imprisonment for a term of three years or more.

[34] With respect to the secondary ground, the Crown points to Mr. Magill's breach of his abstain condition and the collusion between the individuals in the car that resulted in the misdirection of the police investigation. The tertiary ground submissions revolved around the strength of the Crown's case, especially with respect to the obstruct justice charge and the gravity of the driving offence, given that a young girl lost her life. As defence counsel relied on *Gladue* as a backdrop to her submissions overall, I will flesh out her position more thoroughly under each heading, as I also need to consider the application of the *Gladue* principles to the analysis required under each of the grounds.

Secondary ground:

[35] The *Brant* and *Silversmith* cases cited above consider the application of *Gladue* to this ground and to the primary ground; it does not seem that the tertiary ground was argued in the circumstances of those cases. *Brant* and *Silversmith* considered whether a proposed surety, in the context of an accused's Aboriginal culture, could control his or

her behaviour. They also considered whether there were relevant Aboriginal laws and customs that could provide assurance that the public would be protected if the accused was released. Finally, they considered the impact of detention on the accused and whether it would be disproportionate, given his or her Aboriginal status. In my view, this final consideration is something that informs the overall determination to release or not, rather than simply being applicable solely to one specific ground or factor.

[36] In terms of the ability of the proposed release plan to address secondary ground concerns, in addition to attending the Kapown residential treatment program, Mr. Magill advanced three sureties, his friend and cousin Terry Ollie, his mother Marie Atkinson and his mother's partner Christopher McLaughlin. He proposes to stay with Mr. Ollie and his family in Whitehorse before and after the completion of the program. Although a relatively young man (24), Mr. Ollie has known Mr. Magill since they were kids growing up in Ross River. He currently lives in Whitehorse with his partner Roxanne Johnny and her 11-year-old daughter, and they are willing to make room in their house for Mr. Magill. Mr. Ollie drinks once in a while; Ms. Johnny not at all. In recognition of Mr. Magill's issues around alcohol, Mr. Ollie is willing to stop drinking altogether while Mr. Magill is living there. Although Mr. Ollie has not secured definite employment, he is optimistic about finding work with Golden Predator, a mining company that he has worked for in the past. Golden Predator has indicated an interest in hiring both Mr. Ollie and Mr. Magill when work becomes available. Mr. Magill also proposes ongoing involvement with a clinical counselor at the Kwanlin Dun First Nation, which he has ties to through his father.

[37] The Crown did not raise any real issues with Mr. Ollie as a surety, other than his apparent minimizing of Mr. Magill's alcohol problems, and the fact that he knew Mr. Magill had been drinking while on his earlier release. While clearly uncomfortable with the idea of reporting Mr. Magill to the RCMP in the event of non-compliance, I am satisfied that Mr. Ollie understands his obligations and recognizes the important role he would play as a surety.

[38] In my view, the plan proposed by Mr. Magill is sufficient to discharge his onus with respect to the secondary ground. While I acknowledge that the collusion between the witnesses to the fatal accident interfered with the administration of justice, and I accept the Crown's submission that there is at least a potential risk of further interference, the fact that Mr. Magill proposes to reside outside of Ross River and abide by a significant number of no-contact conditions reduces this risk to an acceptable level.

[39] In terms of protecting the public from future criminal offences committed by Mr. Magill, I note that he comes before this court with no prior record of criminal convictions. The Crown points to his failure to abide by his release terms, in that he committed the impaired and dangerous driving causing death and obstruction of justice offences while on an undertaking to a peace officer and subsequently is alleged to have breached the terms of a judicial release secured on bail review. It is significant, however, that these breaches are of an abstain clause and were not in and of themselves substantive criminal offences. While the Crown pointed to the allegation in the bail synopsis that Mr. Magill had been fighting just prior to his arrest, he is not charged with anything in connection to this. I adopt the observation of Harradence J. in *Daniels,* cited above at para. 12:

> The Court must be vigilant to ensure the presumption of innocence and the right to reasonable bail are respected and enforced at a bail hearing. Bail should only be denied where just cause is demonstrated in reference to the primary and/or the secondary ground, and not where it is convenient, advantageous, or to give effect to the Court's frustration with the apparent lack of compliance shown to previous Court ordered conditions.

[40] I again recognize that we are in a reverse onus situation; however, Mr. Magill has satisfied me that there is not a substantial likelihood that he will endanger the protection or safety of the public. This is especially so if he attends and engages with the proposed residential treatment program and is able to start coming to terms with his alcohol dependency.

[41] I am satisfied, as well, with his proposed surety. Mr. Ollie has known Mr. Magill for most if not all of his life, and he comes from the same Yukon community. It became apparent to me during the proceeding that the ties within the community are such that many people are related to one or the other or often both of the accused and the victim. Many of them attend Mr. Magill's appearances, either in support of him or as a show of support for the victim and her family, despite the fact that Ross River is upwards of a four-hour drive in good road conditions. I think this is significant in terms of the suggestion in *Brant* that I consider whether Mr. Magill's proposed surety can control his behaviour in the context of his culture and community; in a very real sense, the eyes of Ross River are on him.

Tertiary ground:

[42] The Crown additionally submits that Mr. Magill's detention is necessary to maintain confidence in the administration of justice, and points to a strong Crown case, and the seriousness of the offence.

[43] I note at the outset that the use of the tertiary ground will "arise rarely" and denial of bail on this basis will be "exceptional" (see *R. v. Bhullar*, 2005 BCCA 409). As McLachlin C.J.C. noted in *R. v. Hall,* 2002 SCC 64 at para. 41:

> Parliament has hedged this provision for bail with important safeguards. The judge must be satisfied that detention is not only advisable but necessary. The judge must, moreover, be satisfied that detention is necessary not just to any goal, but to maintain confidence in the administration of justice. Most importantly, the judge makes this appraisal objectively through the lens of the four factors Parliament has specified. The judge cannot conjure up his own reasons for denying bail; while the judge must look at all the circumstances, he must focus particularly on the factors Parliament has specified. At the end of the day, the judge can only deny bail if satisfied that in view of these factors and related circumstances, a reasonable member of the community would be satisfied that denial is necessary to maintain confidence in the administration of justice. In addition, as McEachern C.J.B.C. (in Chambers) noted in *R. v. Nguyen* (1997), 119 C.C.C. (3d) 269, the reasonable person making this assessment must be one properly informed about "the philosophy of the legislative provisions, *Charter* values and the actual circumstances of the case" (p. 274). (emphasis in original)

[44] I do not think that this is a case where the tertiary grounds arise as a legitimate concern. It is true that the court is here dealing with an accused who is facing a serious charge and that the Crown's case, based mainly on substantial eyewitness evidence appears strong, though by no means overwhelming. The Crown concedes that the collusion and disruption of the police investigation was not spearheaded by Mr. Magill,

although, if the obstruct justice charge is proven, it is undoubtedly quite serious regardless of his role as ringleader or participant. The consequences are undoubtedly tragic; the alleged conduct reprehensible. However, it must be remembered that the tertiary grounds involve consideration of public confidence in the administration of justice. They are not intended as a means of signalling society's abhorrence for particular types of offences.

[45] Despite the seriousness of the offence and the obstruction, and especially in light of *Gladue* factors, which I believe have an important role to play in a court's assessment of tertiary ground submissions, I do not believe that a reasonable member of the community would be satisfied that denial of bail is necessary to maintain confidence in the administration of justice.

[46] In terms of how *Gladue* should inform a bail court's consideration of the tertiary ground, I think that the hypothetical reasonable person whose views we are considering is also one that is apprised of the backdrop against which Aboriginal people come to appear before criminal courts. This means an awareness of the history of colonialism, dislocation and residential schools that *Gladue* and *Ipeelee* describe. This also means a recognition of the responsibility that the Canadian government must assume in addressing the harm that has been occasioned. As noted by Cozens J. in *R. v. Quash*, 2009 YKTC 54:

> **54** It is important to consider the context in which 718.2(e) is to be applied today in light of the apology offered by the Canadian government on June 11, 2008, to former students of residential schools in Canada for the government's role in the residential school system. In this apology, Prime Minister Harper recognized that the damage went beyond the negative impact on the individual, stating that:

> ... the consequences of the Indian residential schools policy were profoundly negative and that this policy has had a lasting and damaging impact on aboriginal culture, heritage and language.
>
> The legacy of Indian residential schools has contributed to social problems that continue to exist in many communities today.

55 In accepting responsibility for their role in causing such a negative impact on First Nations individuals, their families and their communities, the Government of Canada implicitly should be seen as also accepting responsibility for ongoing participation in ameliorating the consequences of this impact on First Nations individuals, their families and their communities. All too often it is in the criminal justice system where these negative impacts are to be found, not just in the victims of criminal activity but in the offenders who commit the crimes.

56 It is not enough to apologize for harm done without making reparation for the harm. This reparation must reach beyond the payment of monies to former students of the residential schools. It must extend to how we treat First Nations peoples involved in the criminal justice system, regardless of their role within it. Legislation designed to "get tough" on crime must not lose sight of the fact that the very individuals that suffered harm, either directly or indirectly, perhaps as children of students of residential schools, may be the same individuals who are committing the crimes and who are, under such legislation, the individuals that the justice system will now "get tough" on.

[47] These comments are equally applicable to the bail context. In considering how we treat Aboriginal accused at this stage of the criminal process, we must bear in mind the terrible legacy of past government policy, and recognize the resulting socioeconomic problems and the contribution of these factors to the shockingly disproportionate representation of Aboriginal offenders within our corrections systems. Given the bias towards conviction and longer sentences that has been demonstrated to

flow from a denial of bail, it is critical to acknowledge these realities at an early stage of a criminal charge.

Conclusion:

[48] In the result, I am satisfied that any concerns can be met through imposition of the proposed release plan.

[49] Mr. Magill is in need of treatment for alcohol abuse. His counsellor and counsel at the bail hearing indicate that this intervention will be more effective if it is situated in a context that recognizes the systemic factors that underlie his addiction and can provide culturally relevant treatment options. This type of programming is not available at the WCC, and it as well seems that the available treatment is ‘pre-treatment’ rather than the intensive intervention that Mr. Magill seeks and needs. It is, however, available at the Kapown Rehabilitation Centre. Arrangements have been made; funding is in place.

[50] I am satisfied that the combination of intensive, culturally appropriate treatment combined with the medication prescribed to manage Mr. Magill’s depression, significantly increase the likelihood of compliance and thus decrease any likelihood of further offending behaviour.

[51] I am further satisfied that conditions of non-attendance in Ross River and no contact with potential witnesses are sufficient to address any concerns with respect further collusion.

[52] Accordingly, Mr. Magill will be released on a recognizance in the amount of $1,000, no deposit, with Terry Ollie, Marie Atkinson and Christopher McClaughlin as sureties each in the amount of $1000, no deposit. The conditions will be as follows:

1. Keep the peace and be of good behaviour;

2. Appear before the court as and when required to by the court;

3. Report to a Bail Supervisor immediately upon release and thereafter, when and in the manner directed by the Bail Supervisor;

4. Reside as approved by the Bail Supervisor, abide by the rules of the residence and not change that residence without the prior written permission of the Bail Supervisor;

5. Abide by a curfew by remaining within your place of residence between the hours of 9 p.m. and 7 a.m. daily, except with the prior written permission of your Bail Supervisor. You must present yourself at the door or answer the telephone during reasonable hours for curfew checks. Failure to do so will be a presumptive breach of this condition;

6. Abstain absolutely from the possession or consumption of alcohol and/or controlled drugs or substances except in accordance with a prescription given to you by a qualified medical practitioner;

7. Not attend any bar, tavern, off-sales or other commercial premises whose primary purpose is the sale of alcohol;

8. Take such alcohol and/or drug assessment, counseling or programming as directed by your Bail Supervisor;

9. Take such other assessment, counseling or programming as directed by your Bail Supervisor;

10. Have no contact directly or indirectly or communication in any way with Catherine Atkinson, Lacey Mai Dick, Mary Etzel, Jim Graham, Luke John, Sheila Johnny, Megan Ladue, Melissa Anne Ladue, Shirley Anne Ladue, Billie Mary Lee Maje, Dennis Steve Menacho, Tim Murray Moon, Caroline Ann Ollie, Tara Crystal Ollie, and/or Carl Sterriah except with the prior written permission of your Bail Supervisor; and

11. Not attend at Ross River except for the purposes of attending court.

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RUDDY T.C.J.