

IN THE SUPREME COURT OF THE YUKON TERRITORY

Citation: *R. v. Peter*, 2007 YKSC 4

Date: 20061218
Docket: S.C. No. 06-00554
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND:

ANTHONY SHAWN PETER

Before: Mr. Justice R.S. Veale

Appearances:
Ludovic Gouaillier
Gordon Coffin

For the Crown
For the Defence

**MEMORANDUM OF JUDGMENT
DELIVERED FROM THE BENCH**

[1] VEALE J. (Oral): This is an application by Anthony Shawn Peter to be released from custody pending the hearing of charges against him, which are scheduled for Faro on January 17, 2007. The charges are seven in number, all relating to an incident on November 26, 2006.

[2] The background to this matter is that Mr. Peter has a very serious problem with alcohol. He, at the young age of 25 years, has a criminal record of four convictions for assault and six convictions for failing to comply with court orders, and one conviction for failing to attend court. The most recent of those is in September 2006. He was under a no contact order with Stephanie John, and on September 18 he breached that. It was

concluded by way of a peace bond, which was entered into on September 23, 2006, for a six month period.

[3] That peace bond had three very straightforward conditions: One, keep the peace and be of good behaviour. Two, abstain absolutely from the possession or consumption of alcohol and controlled drugs or substances except in accordance with a prescription given to you by a qualified medical practitioner, and three, to have no contact directly or indirectly or communication in any way with Stephanie John while Ms. John is under the influence of alcohol. It is that peace bond that has given rise to the charges comprising the seven counts on November 26, 2006.

[4] An application was made to Justice of the Peace Cameron on November 27, 2006, and he denied release on the basis of the secondary factor under s. 515.10(b), which is detention is necessary for the protection or safety of the public. The plan put forward now by Mr. Peter involves a return to his mother's residence in Ross River. His mother, Jessie Peter, resides with one Elvis Presley. Mr. Presley has indicated that he would enter into a surety without cash deposit, stipulating, as I understand it, that it was the last chance that Mr. Peter would have. Previously, Mr. Presley has been a surety for Mr. Peter and has basically returned to the RCMP indicating that he is no longer prepared to do that.

[5] Unfortunately, the bail supervisor was unable to contact -- I guess there was no indication that Mr. Presley was going to be the person that would give the surety at the time of the bail supervision report, which was dated today's date, December 18, 2006. The Ross River detachment, which is very small, has indicated that they do not support

Mr. Peter returning to the residence of Jessie Peter, based primarily on the fact that Mr. Presley relieved himself of acting as a surety in September 2006 because Mr. Peter was failing to abide by the release conditions. The probation officer also concurred with the Constable's assessment that Mr. Peter does not do well while living at his mother's home on the most recent recognizance.

[6] Mr. Peter is a very well-spoken person. He stood up in the court and indicated that he would do his best. However, I find that there is not a plan that one can rely on in place. In other words, the residence has some serious problems from past experience, and from the fact that the surety, who has not put anything before this Court but comes simply by virtue of Mr. Coffin's statement that he would act, appears to have become directly involved in the charges that are before the Court. There is also, unfortunately, some complaints with respect to the conduct of the RCMP that Mr. Peter is pursuing with Mr. Presley. That really does not bode well over the Christmas holiday to have, in my view, the necessary condition of appearing on a daily basis with the RCMP when that relationship appears to be in great difficulty.

[7] So I am not prepared, on the facts before me, based on the secondary criteria and of the safety and protection of the public, to allow Mr. Peter to be released at this time.

[8] Mr. Peter, I say to you, sir, the best place for you and for the community of Ross River is for you to remain in custody pending your hearing on January 18. That gives you a great deal of opportunity to put a treatment plan into place, and, in my view, a far better opportunity to do it in the Whitehorse Correctional Centre than in the community

of Ross River where you have demonstrated a complete inability to do that. I know that is difficult for you because this is the Christmas period, but, quite frankly, unless you get control of your drinking, you are going to have a lifetime of going in and out of this jail and coming in and out of this court. Now is a good opportunity to realize that it is a serious matter. You have some very serious charges that you are facing. I think you can take some steps here and now to deal with it, but I am not prepared to have you released to Ross River during the Christmas period.

[9] Anything further?

[10] THE ACCUSED: Yes. I have not been convicted of anything yet.

[11] THE COURT: You have not?

[12] THE ACCUSED: No, not for these charges. I think that, you know, jail is not a good place right now. It really --

[13] THE COURT: It is not a good place, sir, but, quite frankly, there is not a good alternative for the citizens of Ross River. So that is why you are going to be there until the trial.

[14] THE ACCUSED: But I would be --

[15] THE COURT: We are at an end now, thank you.