

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

Regina

v.

Joseph Neil Taylor

Appearances:
Ludovic Gouaillier
Jennifer Reid

Counsel for Crown
Counsel for Defence

REASONS FOR JUDGMENT

[1] CAMERON J.P.T.C. (Oral): The primary grounds are of little or no concern with regards to Mr. Taylor. It appears that Mr. Taylor has made court appearances when required to do so in the past.

[2] The secondary grounds are of some limited concern, and they really arise only out of the fact that over the period of the last 28 years, Mr. Taylor has amassed a number of offences. So that really only arises on the concern that randomly Mr. Taylor, from time to time, finds himself in trouble with the courts and with the law, and again, in and of itself, would certainly not constitute his detention.

[3] What we're really talking about here are the tertiary grounds. Let me speak firstly

towards the case law tendered by the Crown, which was *R. v. Carniato*, [1991] B.C.J. No. 3411 (QL). I bring to the attention of counsel and for the record that this case law comes from British Columbia Supreme Court, 1991. It predates the *R. v. Morales* decision, (1992), 777 C.C.C. (3d) 91. The *Morales, supra*, decision came out in 1992 and struck down the public interest section of the show cause section of the *Criminal Code*. So although it does raise some interesting views and concerns that may have, at one point in time, been relevant with regards to the situation that Mr. Taylor finds himself in, it is less helpful than something that may have been dealing more directly with the tertiary grounds.

[4] The tertiary grounds, I might also add, came into play after *Morales, supra*, and did not reinstitute the public interest section as it was prior to *Morales, supra*, but rather, reinstated a section dealing with the public's interest in the administration of justice. Prior to *Morales, supra*, the public interest section was dealing with the public interest in regards to virtually anything, and this is why it was struck down. It was just far too broad to handle.

[5] So I wanted to make those comments. In regards to the law, as was tendered by Ms. Reid, and then her arguments thereupon, they may be very valid arguments, however, I don't believe that they hold much in the way of sway in regards to today's hearings. We have got to remember, Mr. Taylor is charged only; he is innocent until proven guilty. However, that due process involves the process of going to court, at which time the proof must be made. Not at this proceeding.

[6] The proposal for his release puts forward much the same circumstances that Mr. Taylor was in prior to his coming into custody. Family has come forward. Mr. Taylor, I agree with Crown that you are very fortunate. You have got family representation

here, and it is true and obvious that they are concerned and support you. But I think that the record also shows, the history also shows, that that has not to date been nearly enough. They may all recognize you have a serious alcohol problem. I am sure you recognize it yourself. They recognize that you have certainly had troubles and difficulties with the courts and the law. I am sure you recognize that yourself. But inasmuch as their involvement prior to December with you was able to stop any further problems arising, it appears that they were unable to do so. This is not new stuff. They are not proposing new stuff that all of a sudden, well, this has never been tried before. It's always been available. I do not know whether it has been tried or not.

[7] So my concerns are that I am not so sure that this particular plan has really any bearing as far as changing the scenario that we are faced with.

[8] Having said that, let us get back to the tertiary grounds. What is the concern on the tertiary grounds? The concern on the tertiary grounds is a number of things. They have alluded to the strength of the Crown's case, and at this stage, with the evidence before me, I am not able to say one way or the other whether it is a strong case. It may be a difficult case. Ms. Reid, you may be very right, it may be very difficult for the Crown to prove their case, but that does not mean it is not a strong case. Difficulty often runs with the onus being one of beyond a reasonable doubt.

[9] So I am not concerned that -- to oppose the wording and say that the Crown has a weak case. I would not go that far. So I do not believe that that is necessarily a concern with regards to the strength or lack thereof of the prosecution's case.

[10] The gravity and nature of the offence is very clear. This is a straight indictable

offence. It is a very grave offence in its very nature. The circumstances surrounding its commission and the potential for a lengthy term of imprisonment, again, is certainly all very clear. If Mr. Taylor were to be convicted of this, with his prior history, he could certainly face a serious term of incarceration. But let's go back to whether detention is necessary in order to maintain confidence in the administration of justice. This is perhaps a little more difficult to try to grasp.

[11] The allegations are that Mr. Taylor was involved with a number of individuals who, at this stage, created something in the way of an attempted escape. Whether it's been proved or not, those are what the allegations are. The administration of justice could hardly be looked at with, I would think, respect if the response was that these individuals that allegedly were involved in this were unsuccessful at this stage, so now we should be releasing them. This becomes a very difficult scenario to try to grasp. Where does the administration of justice lie if, in fact, we take individuals who have been charged with, at this point, attempting or being involved in some form of possible escape, and then turn them loose. This becomes a very difficult issue and I think it is one that is very hard to justify with the release plan as it has been put forward.

[12] I have concerns, if you were to be released at this time, Mr. Taylor, I have concerns that I don't think your family, as much as they support you and want to support you and want to assist you, will have the sway that's necessary, and I do not believe that the public interest in the administration of justice can be served by your release. I am detaining you on both the secondary and the tertiary grounds.

[13] MS. REID: Tomorrow at 2:00 p.m. for a set date, please.

[14] THE COURT: So January 30th, 2:00 p.m., fix date for trial. There

has not been an election as yet, Ms. Reid.

[15] MS. REID: Straight indictable, Your Worship, make the election when they set the date tomorrow.

[16] THE COURT: So it would be for election and plea.

[17] MS. REID: Yes.

CAMERON J.P.T.C