

Citation: *R. v. Evans*, 2022 YKTC 22

Date: 20220107  
T.C. Docket: 21-00420  
21-00341  
21-00288  
S.C. Docket: 20-01502  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before Her Worship Justice of the Peace Morrison

REGINA

v.

TRAVIS THOMAS EVANS

Appearances:

Noel Sinclair

Brian Goldsworthy (by telephone)

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR JUDGMENT**

[1] MORRISON J.P.T.C. (Oral): Mr. Evans is before the Court for a judicial interim release hearing. Mr. Evans is in a reverse onus position. The Crown is opposed to the release of Mr. Evans on primary, secondary, and tertiary grounds.

[2] Briefly, the first offences before the Court are from August 13, 2018, and are allegations of arson endangering life.

[3] The second Information in time is from June 16, 2021, and are allegations of obstruct peace officer in the investigation of a stolen licence plate on an unregistered vehicle.

[4] The third Information in time is from July 31, 2021, and are allegations of fail to comply with a demand for breath samples, resist arrest, and fail to comply with a release order (the abstain from alcohol condition).

[5] The fourth Information in time is from August 8, 2021, and involves allegations of possession of a restricted firearm, possess such firearm without authorization or licence to possess such firearm, the carrying of a weapon for a purpose dangerous to the public peace, and a further breach of a release order condition of not possess any firearm, ammunition, et cetera.

[6] Counsel, I am not going to go into detail of the allegations of those offences, as they have been read in.

[7] I would note that with respect to the August 13, 2018 allegations, Mr. Evans was subject to a release order. Again, I am not going to go through the appearance, history, and detail except to say that there was more than one release with respect to that order that was revoked and further releases made.

[8] With respect to the June 16, 2021 offences and the July 31, 2021 offences, Mr. Evans was subject to an appearance notice.

[9] On the fourth Information in time, Mr. Evans came into custody on those matters. There was a revocation of all prior release and all matters are before the Court for show cause.

[10] The release plan that has been put before the Court by Mr. Evans and his counsel is one that would have him entering into a five-week intensive live-in treatment program offered by Mental Wellness and Substance Use Services. Information was provided that this program includes daily group counselling, therapeutic workshops (art and experimental), and community-based programming. Cultural programming was also available. In addition to group counselling, clients meet with individual counsellors weekly and support is offered for three months following the program completion.

[11] It has been indicated that this is the most intensive treatment program that is offered by Mental Wellness and Substance Use Services. This program commenced a few days ago and the Court has been advised that Mr. Evans, should Mr. Evans be released, can enter the program immediately. The residential program runs until February 4, 2022.

[12] After February 4, 2022, the plan is that Mr. Evans would reside at the Connected program, which I understand replaces the John Howard Society bail program, located on University Drive. The information is that he would be supervised from 6:00 p.m. to 7:00 a.m., and from 7:00 a.m. to 6:00 p.m. the plan would be that Mr. Evans would be employed by a company by the name of Anvil Environmental, owned by Mr. Ben Devellano, and he would be employed as a heavy equipment mechanic. Mr. Evans is a Red Seal mechanic.

[13] In addition to that, counsel has outlined conditions of release that would address primary and secondary grounds as follows. There would be a reside condition; no contact and not attend conditions regarding any victims/witnesses; the standard not possess alcohol/cannabis clauses; not go to any place where the sale of alcohol is the primary business; a weapon clause, including not possess any petroleum-based fuel accelerants with exceptions for employment.

[14] There has been a surety declaration filed. Mr. John Evans, the father of the accused, is prepared to act as a surety. This surety resides in Saskatchewan. I have already given a decision, given where the surety resides, that the Court would not accept him as a suitable surety as he would not be able to provide the required supervision that would be expected of a surety.

[15] In addition to the treatment program, residency, and conditions that counsel has proposed, Mr. Evans has \$7,000 cash that he is prepared to deposit.

[16] Mr. Goldsworthy's submissions with respect to the tertiary grounds that the Crown has raised are that the arson charges are significant triable issues, identification being one of them. He indicates that there are witnesses that the gas Mr. Evans acquired was used for an entirely different purpose.

[17] With respect to the offences from June 16, 2021 and July 31, 2021, Mr. Evans was released by way of an appearance notice, and the submission is, given these matters were dealt with by appearance notice, that surety bail should be granted with respect to those matters.

[18] With regard to the August 8, 2021 offences, Mr. Goldsworthy's submissions are that Mr. Evans was in possession of this weapon for a very short period of time, that it was not used in the commission of any offence, and, in fact, that he had found the weapon and was going to turn it in. He further submits that the presence of weapons does not automatically satisfy tertiary grounds.

[19] With respect to the Crown's submissions on the primary grounds, Mr. Evans' record has two fail to attend court convictions, one from 2002 and one from 2011.

[20] With respect to the secondary grounds, of course, is Mr. Evans' criminal record. I will review that record shortly, and there is little or no respect with respect to court orders or the ability to abide by the conditions.

[21] With respect to the tertiary grounds, submissions are that the arson will bring a significant penitentiary sentence if found guilty and that the disturbing allegations with respect to the 357 Magnum weapons charges would fall into tertiary grounds.

[22] With respect to the primary grounds, the convictions for the fail to appears are very dated and they are not the major concern that the Court has.

[23] With respect to the tertiary grounds, I agree with Mr. Goldsworthy that there are triable issues and that weapons do not necessarily automatically bring the tertiary grounds into a situation where an accused ought to be detained.

[24] Of major concern to the Court is the criminal record of Mr. Evans. Mr. Evans' criminal record is lengthy. It commences in 1995 as a youth. A summary of those convictions are 87 prior convictions, including a driving-related conviction;

31 property-related convictions; one weapons-related conviction; 46 convictions with respect to the administration of justice; and eight offences of violence.

[25] While on release for the arson charges, Mr. Evans has accrued further charges, including the one of major concern to the Court from August 8, 2021, that brought Mr. Evans back into custody.

[26] Given Mr. Evans' criminal record and the accumulation of further charges while out on release, in my view, the Court cannot have any confidence that Mr. Evans would abide by conditions of release, and I am detaining Mr. Evans on the secondary grounds.

---

MORRISON J.P.T.C.