

Citation: *R. v. Gork*, 2025 YKTC 53

Date: 20250721

Docket: 25-00367

Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before Her Honour Judge Caldwell

REX

v.

KEIRAN JOHN KEITH GORK

Appearances:

Elmer B. Brillantes
Amy E. Chandler

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] CALDWELL T.C.J. (Oral): Mr. Gork has put before the Court, no doubt largely thanks to Ms. Chandler's hard work, a robust plan for release, namely, release to Connective. Mr. Gork has definitely done substantial work while in the detention facility in terms of counselling, participation in courses, and he does have employment prospects upon release.

[2] Despite that fact, however, I find that the plan is not sufficient to meet the onus that is upon Mr. Gork in this case, and there will be a detention order.

[3] The onus is on Mr. Gork to demonstrate that his release with respect to his plan is sufficient in these circumstances to satisfy the various concerns put forward in s. 515(10) of the *Criminal Code*, and I find that that onus has not been met in this case and that he has not shown why his detention is not necessary.

[4] The Crown indicates concerns on all three grounds: primary, secondary, and tertiary grounds. My primary concern here, frankly, is on the secondary and the tertiary grounds. I do have some concerns with respect to the primary grounds given that Mr. Gork's ties to the Yukon are relatively recent and given his failure to comply with court orders in the past. However, that, in my view, is not the focus with respect to this hearing. In my view, the focus is with respect to the secondary and the tertiary grounds.

[5] When I turn to the secondary grounds, I have to look at whether detention is necessary for the protection or safety of the public with respect to all of the circumstances, including any substantial likelihood that Mr. Gork, if released, will commit a further criminal offence or interfere with the administration of justice. I do appreciate that, obviously, the presumption of innocence does apply at the bail hearing. However, by the same token, I do have to look at Mr. Gork's history here.

[6] I agree with the Crown that his history is serious, it is very recent, and he has accumulated a substantial number of charges in a very short period of time and quite contemporaneous to his arrest on these particular matters.

[7] When I look at his record, the striking aspect, and it is the record that really causes me the greatest concern, is the record itself is lengthy and it is extremely relevant to the charges that are before the Court. With 21 prior convictions, half of them

are failing to comply with court orders, which obviously does not give the Court any confidence that Mr. Gork would abide by any orders that are imposed or any terms of release that are imposed if he were to be released. Also, of course, what is very striking with respect to his record is that on two occasions in 2022, he was found guilty of virtually the same offences that are before the Court now, namely, unauthorized possession of firearms and unauthorized possession of firearms in a motor vehicle. That is extremely concerning.

[8] There is a substantial concern regarding the likelihood of commission of further offences if released from custody given the volume of recent convictions, the number of breaches of court orders, and the fact that there are convictions for offences virtually identical to those before the Court.

[9] Moving from the secondary grounds, I turn to the tertiary grounds. I have grave concerns on the tertiary grounds as well and find that Mr. Gork has not met his onus in that respect. I do appreciate that there may be some issues with respect to the strength of the prosecution's case in terms of the *Charter* arguments that undoubtedly will be launched if the matter proceeds to trial.

[10] It is difficult to assess the full strength of the prosecution's case at the show cause hearing stage but, having heard what I have heard, it would seem that there are certainly some *Charter* issues that could be raised with respect to the search. However, when it comes to the actual possession of the weapons, in my view, according to what I have heard in terms of the allegations, the Crown has quite a strong case when it comes to possession itself. I realize that there were two other individuals in the car, but,

by the same token, the allegations that Mr. Gork was the driver of the car, that one of the firearms was between the driver's door and the driver's seat, and the other firearm was actually under the driver's seat, on its face, it would appear that the Crown's case is quite strong when it comes to possession.

[11] In terms of the gravity of the offence, there is no question that possession of firearms, and firearms of this particular nature as well, which have been altered with serial numbers defaced, et cetera, are extremely serious charges.

[12] I am also aware of the area in which Mr. Gork was found. It is not a residential area in the sense of being a suburb of Whitehorse with houses, but, by the same token, I am aware that there are numerous condominium residential units within close proximity to the Raven's Inn. The Raven's Inn has numerous citizens that stay within that hotel. It is extremely concerning that Mr. Gork was allegedly found in a vehicle with weapons of this nature inside it and in close proximity to him, so I find that the offences themselves are quite serious.

[13] I am aware that there is a very live and increasing concern about firearms in Whitehorse and in the Territory in general.

[14] In terms of s. 515(10)(c)(iv) of the *Criminal Code*, though I agree with the Crown that it is highly unlikely that Mr. Gork would face the maximum punishment if he were to be found guilty, by the same token, these are by no means the types of offences that would attract minor sentences. They are firearms, and Mr. Gork has recent priors of the same nature, so certainly there is the potential for a lengthy period of imprisonment, and I take that into consideration as well.

[15] I do not agree with Ms. Chandler's submission that a reasonable person properly informed would not be shocked by Mr. Gork's release.

[16] I find that a reasonable person properly informed would be quite disturbed and shocked if Mr. Gork were released into the community given his recent and very related criminal record, the nature of the alleged weapons, where they were found in the vehicle, and the nature of the Connective plan given the amount of time Mr. Gork would be absent from the facility.

[17] This is certainly not to cast aspersions on Connective. I totally accept that it is one of the most robust that can be offered in the Yukon. Having looked at the various terms that have been outlined with respect to the curfew and their willingness to call the police if the curfew is breached, for example, I have no doubt that the plan is quite rigorous and robust and I have no reason to not believe that the individuals that are in charge of Connective would certainly inform the RCMP if there were breaches of the curfew. Bearing that in mind, in my view, given everything that I have heard, particularly turning to the secondary and the tertiary grounds, I simply find that the onus has not been met and that there will be a detention order.

CALDWELL T.C.J.