

SUPREME COURT OF YUKON

Citation: *R v Craig*, 2026 YKSC 32

Date: 20260331
S.C. No.: 15-11044B
Registry: Whitehorse

BETWEEN

HIS MAJESTY THE KING

Respondent

AND

KRISTOPHER LANE CRAIG

Applicant

Before Chief Justice S.M. Duncan

Counsel for the Respondent

Leo Lane

Counsel for the Applicant

Geoffrey D. Simair

REASONS FOR DECISION

Overview

[1] This is an application brought by the defence based on sections 490.013, 490.015 and 490.016 of the *Criminal Code*, RSC 1985, c C-46 (the *Criminal Code*), to terminate an order requiring Kristopher Lane Craig to comply with reporting under the *Sex Offender Information Registration Act, SC 2004, c 10 (SOIRA)*. Five years have elapsed since the imposition of the ten year order, mandatory at the time of its imposition. Mr. Craig provided an extensive affidavit in support of his application detailing the circumstances relevant to the determination to terminate the order. The Crown concedes the application.

[2] On March 31, 2026, at the end of the submissions on this application, I granted the requested order. I found the test under the *Criminal Code* had been met: there was no connection between the order and the purposes of preventing future sexual offences and/or assisting in the investigation of sexual offences; and the impact on the defendant was grossly disproportionate to the public interest in protecting society through preventing and investigating offences of a sexual nature. I advised I would provide written reasons in due course. The following sets out those reasons.

Facts in Brief

[3] Mr. Craig pleaded guilty to the charge of sexual assault (s. 271) on August 14, 2018. The Crown proceeded summarily and counsel recommended jointly the maximum custodial sentence of 18 months, to be served in the community. The Court found him guilty and sentenced him to a conditional sentence of 18 months and issued orders that he provide a blood sample for storage and analysis, and that he comply with *SOIRA* requirements for ten years (mandatory).

[4] The charge arose from a sexual encounter between Mr Craig and the victim in August 2015 when he was 29 years old and she was 26 years old. They had originally met through their involvement in the 'kink' community. Kink activities can include pain play or impact play, using paddles, restraints and toys. Mr Craig admitted he failed to obtain necessary consent from the victim before engaging in certain sexual and kink activities. The impact upon her of the encounter with Mr. Craig was significant and affected her detrimentally in many aspects of her life and especially in her close relationships.

[5] Before this offence Mr. Craig had no criminal charges or convictions. Since this offence, he has had no arrests or charges. He has not breached any of his conditions, including the *SOIRA* reporting requirements. Once made aware of the sexual assault charge in 2016, he quit the kink community and has not been involved in any kink activities since that time. The appropriateness of this decision for Mr. Craig was confirmed by the advice of his counsellor with whom he engaged after his conviction as part of his conditions. The counsellor recommended he avoid participation in kink as it is a potential trigger for reoffending.

[6] When Mr. Craig learned of the warrant for his arrest in the Yukon on his return to British Columbia from a trip in 2016 he immediately retained legal counsel and surrendered himself to the authorities to address the charge.

[7] The Crown attempted to contact the victim about this application but was unable to locate her.

***SOIRA* Requirements**

[8] The *SOIRA* requires initial reporting and registration and subsequently annual in person reporting (ss 4.1(1)(c) and (2)). Information to be provided includes name, date of birth, gender, address of main residence and every secondary residence, address of employment, name of employer, telephone number, height, weight and physical distinguishing mark, details of registered motor vehicle and driver's licence, details of passport, and detailed information about any travel plans (s.5, s.6). Any change of address of employment or change of employer or type of work must be reported within seven days of the change (s. 5.1).

Legal Background to *SOIRA* Requirements

[9] In 2022, the Supreme Court of Canada in *R v Ndhlovu* 2022 SCC 38, decided that the *Criminal Code* ss 490.012 (mandatory *SOIRA* Order after convictions of sexual assault and certain other designated sexual offences) and 490.013(2.1) (mandatory lifetime registration after convictions of more than one designated offence and not applicable here) infringed the right to liberty guaranteed under s. 7 of the *Canadian Charter of Rights and Freedoms* (the *Charter*). The mandatory registration under s. 490.012 was overbroad because it would lead to the registration of offenders who are not at an increased risk of committing a future sex offence. There was no connection between registering such offenders and the purpose of capturing information about offenders that may assist police in preventing and investigating sex offences. The section was not saved by s. 1 of the *Charter* because it was not a minimal impairment of an offender's rights and the negative impacts on the individual outweighed the benefits of the requirements. There were other alternatives to fulfill the legislative objectives, including what was ultimately done by Parliament through the *Criminal Code* amendments – i.e. allowing for judicial discretion in the *SOIRA* process with statutory criteria to guide the court in the exercise of that discretion. The Court wrote at para 45:

“...the impact on anyone subject to *SOIRA*'s reporting requirements is considerable. The requirements impact privacy and liberty, personal interests that are fundamental to society: liberty of movement and choice, mobility, and freedom from state monitoring or intrusion in our personal lives. The scope of the personal information registered, the frequency at which offenders are required to update their information, the ongoing monitoring by the state, and, of course, the threat of imprisonment make the conditions onerous.”

[10] The ability of the court to exercise discretion in imposing the *SOIRA* requirements cures the unconstitutionality. The exercise of discretion allows a judge to assess the particular circumstances of the situation and of the individual, including the impact of the order on the individual, in the context of the purposes and objectives of *SOIRA*.

[11] There are two purposes set out in *SOIRA*. Section 2 provides the purpose of *SOIRA* is to help police services prevent and investigate crimes of a sexual nature by requiring the registration of certain information relating to sex offenders. In other words, capturing of detailed information about convicted sex offenders will assist police in this work.

Application of Discretion to Terminate the *SOIRA* Order

[12] Section 490.016(1.1) of the *Criminal Code* lists the following factors to be considered in determining whether discretion should be exercised in making a termination order:

(a) The nature and seriousness of the offence

In this case the offence is serious.

(b) The victim's age and personal characteristics

At the time of the offence the victim was 26 years old. She lived in Dawson City, Yukon, had attended university, and had stable employment.

(c) The nature and circumstances of the relationship between the offender and the victim

They knew each other. They had met before the date of the offence.

Mr. Craig lived on Vancouver Island, British Columbia and was visiting Dawson City at the time of the offence. They were both participants in the 'kink' community. Mr. Craig subjected the victim to sexual activities to which she did not consent.

(d) The personal characteristics and circumstances of the offender

Mr. Craig is currently 39 years old. He is employed as a millwright and travels to remote worksites such as mines, hydroelectric dams, pulp mills, and Liquefied Natural Gas facilities. His work involves fixing, maintaining and installing industrial equipment. His primary residence is his childhood family home, but he is away for his work on a regular schedule year-round of 14 days on, and 14 days off. While at work he lives in a hotel or in a dormitory at a work camp. He is in a long-term (ten years) committed relationship. His partner is approximately four years younger than he is and she works as a pipefitter, also at remote work sites. She is aware of the circumstances of the offence, was present at the sentencing. She has not been and is not involved in the kink scene.

(e) The offender's criminal history – the age of any offence and the length of time without offending

This is the only offence on Mr. Craig's record. It occurred 11 years ago when he was 29 years old. He surrendered himself to police when he

learned of the warrant. He pled guilty and has complied with all of his conditions without breach.

(f) Any expert opinion

No expert opinion was sought or provided in this case.

(g) Any other relevant factors

Mr. Craig described in his affidavit the difficulties he experiences in complying with the ongoing *SOIRA* reporting requirements:

- (a) Mr. Craig lives and works in small and/or remote communities in British Columbia. Many of the police detachments where he is required to report have only one person designated to receive and process *SOIRA* reports. Mr. Craig often has to call or visit detachments multiple times in order to comply. In 2023, in order to fulfill his annual reporting requirement, he went in person to four different RCMP detachments before he could find someone to whom he could report. This finally occurred only two days before he would have been in breach of his reporting condition.
- (b) In addition to annual reporting, Mr. Craig must report (previously in person, then by telephone, now by email) every time he changes his address for a job that takes him away from his primary or established secondary residence for more than seven days.

- (c) Mr. Craig must report every time he has a new employer, which can be several times a year.
- (d) Mr. Craig must report within seven days when his employer changes his work location, which can happen quickly and without advance warning.

[13] Assessing these circumstances against the objectives of *SOIRA*, there is no connection in this case between the order and the purpose of helping police services prevent or investigate crimes of a sexual nature. Mr. Craig has no other offences on his record, has undergone counselling, no longer participates in the kink community, which was a cause of this offence, and is in a committed long term relationship. The sentencing judge observed he had shown remorse and that she doubted he would ever be before any court again. The Crown acknowledged during the hearing of this application their view that he is at low risk of reoffending. The ongoing reporting requirements for Mr. Craig will not assist police in preventing or investigating any further sexual offences.

[14] Further, complying with *SOIRA* reporting requirements has a disproportionate impact on Mr. Craig. His regular travel away from his primary or secondary residence to remote sites for employment for more than seven days, the frequent changes to his addresses as a result, sometimes on short notice, and the changes to his employers, result in numerous and onerous reports. His residence and employment in remote areas make finding an RCMP detachment who can process his reporting more challenging.

Conclusion

[15] As a result, I grant this application to terminate the order requiring Kristopher Lane Craig to comply with the *Sex Offender Information Registration Act*.

DUNCAN C.J.