

SUPREME COURT OF YUKON

Citation: *R. v. Mantla*, 2012 YKSC 73

Date: 20120830
Docket S.C. No.: 12-01502
Registry: Whitehorse

BETWEEN:

REGINA

AND:

LAWRENCE MANTLA

Publication of information that could disclose the identity of the complainant has been prohibited by court order pursuant to s. 486.4 of the *Criminal Code*.

Before: Mr. Justice L.F. Gower

Appearances:

Joanne Phillips
Melissa Atkinson

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT DELIVERED FROM THE BENCH

[1] GOWER J. (Oral): This is an application under s. 525 of the *Criminal Code* for a review of the accused's detention, since he has been in custody for in excess of 90 days. Pursuant to that provision, I am to have regard to whether the continued detention of the accused is justified under s. 515(10) of the *Criminal Code*, which sets out the primary, secondary and tertiary grounds. The accused is charged with a sexual assault as well as with choking in the process of committing a sexual assault; criminal harassment under ss. 264(2)(a); 264(2)(b); and 264(2)(c); and a

charge of breaching a recognizance under s. 145(3) - a total of six counts.

[2] The alleged facts are that after the accused was arrested and released on the sexual assault charge from October 25, 2011, within a few days, specifically, on or about November 4th around five o'clock in the afternoon, he pulled up beside the complainant at the liquor store, rolled his window down and looked directly at her. Then, on November 18th in the morning he walked by the complainant at her bus stop and waved at her. Later on that same day it is alleged that he was seen at the McDonald's Restaurant parking lot in a truck parked beside the vehicle of the complainant, as I understand it. Then again, on November 28th, again about eight o'clock in the morning, it is alleged that he walked by the complainant and made eye contact with her. On December 12, 2011, it is alleged that he attended a concert at the Yukon Arts Centre where the complainant was a performer and sat next to the complainant's mother, a person with respect to whom he was under a no contact order. On December 14, 2011, it is alleged that he again had contact with the complainant at her bus stop near the Westmark Hotel in Whitehorse.

[3] As a result of the foregoing, the police specifically spoke with Mr. Mantla to warn him about these repeated complaints from the complainant of violating the no contact order. Subsequent to that, the police performed surveillance and observed that, on December 22, 2011, the accused again walked by the complainant's bus at her regular bus stop and looked in. On January 6, 2012 the police found the accused talking with the complainant. They observed him embrace her and kiss her two times and, as a result, they arrested him and he has been in custody since.

[4] The accused has an old unrelated record for a .08 in 1992, a common assault in 1994, and a related record of assault and a threat from 2008 in Alberta, for which he received 75 days in jail plus a two year probation period. It is alleged that the sexual assault took place within the context of a ten-year relationship and the previous assault from 2008 involved the same complainant.

[5] The trial is scheduled to take place September 24th to 26th, 2012, which is just less than one month away.

[6] The accused is a 46-year-old First Nation person originally from the North West Territories. He has previously had good employment, but in recent years that has been more sporadic. He moved to the Yukon Territory about two and a half years ago and has had employment as a heavy equipment operator and more recently as a delivery person and a landscaper.

[7] The accused's plan is to propose a female friend, Ms. Enoch, as a surety, someone he has known for two and a half years. She is a long-time Yukoner with a sober home who is prepared to put up a \$1,000 pledge without a cash deposit. To be clear, I see Ms. Enoch present in the courtroom and I have no concerns about her as a surety. The accused also offers to put up \$1,000 of his own money as a cash deposit and he plans to work with Purell Industries, and specifically an individual by the name of Gary Smith. Although the bail assessment report seems to suggest that Mr. Smith and Mr. Mantla have not yet spoken directly, this was an arrangement that was made through another inmate at the Correctional Centre.

[8] Mr. Mantla claims that he has had seven months to think about these alleged

violations of his no contact order. He is doing relatively well at the Correctional Centre, attending AA and doing some academic upgrading.

[9] I think that Mr. Mantla's counsel has done and said everything that could fairly and reasonably be said in his favour on this application. What tips the balance in favour of detaining him in this case is my concern about Mr. Mantla's likely reoffending, if released, including any substantial likelihood that he will commit a further criminal offence or interfere with the administration of justice. That, of course, refers to the secondary grounds under s. 515(10). Like the Justice at the original bail hearing, that is my primary concern, and for that reason alone I would detain him. Therefore, I do not need to address the tertiary grounds raised by the Crown.

[10] The other thing that tips the balance in favour of the continued detention of Mr. Mantla is the fact that his trial is only a few weeks away. When I look at that circumstance and I look at the numerous alleged violations of the no contact order, two of which occurred after he was specifically given a warning by the police, I have no confidence whatsoever that Mr. Mantla has the ability to abide by a further no contact order if released. So I am ordering him detained until trial.

GOWER J.