

SUPREME COURT OF YUKON

Citation: *Hartland v. Vachon*, 2017 YKSC 68

Date: 20171114
S.C. No. 17-AP003
Registry: Whitehorse

BETWEEN

SAMSON HARTLAND

RESPONDENT

AND

YOLANDE DENISE VACHON

APPELLANT

Before Mr. Justice R.S. Veale

Appearances:

J. Ellerton

Yolande Vachon

Counsel for the respondent
Appearing on her own behalf

REASONS FOR JUDGMENT

INTRODUCTION

[1] Ms. Vachon appeals a peace bond that she entered into July 20, 2017, before Deputy Judge Block of the Territorial Court, in the amount of \$500 no deposit on the following terms:

1. Have no contact directly or indirectly or communication with Samson Hartland or any member of his immediate family.
2. Not attend any known place of residence or any other private address you know Samson Hartland to be at.
3. Do not take photos of Samson Hartland or his immediate family.

[2] Ms. Vachon applied to have fresh evidence heard at this appeal but I am denying that application as the proposed evidence was not relevant to whether the peace bond should have issued or otherwise to the proceedings before Block J.

[3] Ms. Vachon has four grounds of appeal:

1. She denies that she consented to the peace bond;
2. She says that no disclosure was made available to her;
3. She says that the proper procedure was not followed in that evidence was not heard under oath, and;
4. She was not granted the right to cross-examine.

[4] Although she had the benefit of Legal Aid counsel at the hearing before Block J., Ms. Vachon is presently self-represented.

Setting Aside Ms. Vachon's Consent

[5] The record is clear that Ms. Vachon was represented by legal counsel, Ms. MacDiarmid, both on June 8, 2017, at a preliminary appearance before Judge Cozens, and on July 20, 2017, before Judge Block.

[6] At the June 8 appearance in response to her summons, Judge Cozens asked if Ms. MacDiarmid had seen the disclosure statement that is required to be provided at the time the informant lays the s. 810 Information. She advised that she and Ms. Vachon had reviewed it. This is followed by 23 pages of discussion with Ms. Vachon and her counsel ending with an adjournment to July 20, 2017, for the substantive hearing.

[7] On July 20, 2017, Ms. MacDiarmid and Ms. Vachon appeared before Judge Block. Ms. MacDiarmid advised:

THE CLERK: Recalling the matter of Yolande Vachon.

THE COURT: Ms. MacDiarmid, do you anticipate consent?

MS. MacDIARMID: Yes. What I can advise is that

Ms. Vachon is prepared to agree to the peace bond. She does not admit necessarily to some of the suggestions or allegations that she has done anything wrong. But for all concerned, we all agree it would be appropriate for the peace bond to be issued.

[8] Judge Block carefully explained the nature and terms of the Peace Bond:

THE COURT: --here's what I propose to craft as the term.

First of all, the amount of the bond will be \$500 no deposit, no surety. That means no money exchanges hands unless you break the bond, but there's always a financial penalty if the bond is broken.

MS. VACHON: So when I leave the courthouse today, I don't pay \$500?

THE COURT: No.

MS. VACHON: Okay.

THE COURT: No, you simply sign the bond before you leave the courthouse. And the other – the thing I'm most interested in doing is really doing what these bonds are supposed to do, which is cooling off a situation which has become tense for the parties and providing some reassurance for Mr. Hartland, who's brought this application.

So I think the terms that I outlined before, which is no communication, directly or indirectly, with Mr. Hartland or any member of his immediate family and no attendance at his home or any –

MS. VACHON: I never went there.

THE COURT: Okay, just –

MS. VACHON: I don't even know their address.

THE COURT: Okay, just listen to me. I'm going to put that in there anyway.

MS VACHON: Okay

THE COURT: Okay, no attendance at his home or any other private address where you know him to be and no taking of photographs of Mr. Hartland during the period of the bond.

The bond will be for a period of one year.

And, as I've indicated before, \$500 no deposit, no surety. It is a judge's order. You're required to sign it under legal penalty. It means that you have a legal

obligation. It's a criminal offence not to endorse this bond.

MS. VACHON: Excuse me, Your Honour.

THE COURT: And I'm –

MS. VACHON: I'm sorry for interrupting. Does that mean I have a criminal record when I sign that?

THE COURT: No, it does not. It's not a conviction and it doesn't imply any admission of liability or your part or any criminal liability.

What it does involve, though, is the potential for criminal liability if the terms of the bonds are breached because – or the bond is breached because not only can you be liable for the sum that's involved but you can also be prosecuted for breaking a judicial order.

So obviously you want to do everything not to find yourself in that position.

So staff will now prepare the bond for your signature.

[9] I conclude that the record shows that Ms. Vachon was aware of the complaint, consented to the peace bond, and signed it voluntarily. She was represented by counsel at all times.

[10] I am satisfied that Ms. Vachon, who now represents herself, was informed of the test required to set aside her consent in *R. v. Wong*, 2016 BCCA 416, at para. 24. In my view, her consent was voluntary, unequivocal, and informed with respect to the allegations and the consequences of the peace bond. It was clear in her submissions before me that Ms. Vachon has no misunderstanding of the peace bond, and she advises that she is complying with it in any event.

Peace Bond Procedure

[11] Ms. Vachon relied on the judgment in *Bergeron v. Vaneltsi*, 2012 YKSC 19, which sets out the required procedure on a peace bond hearing where the matter is contested. Evidence is heard under oath and witnesses can be cross-examined. This

trial-like procedure was not required here, as Ms. Vachon voluntarily consented to enter into the peace bond.

[12] This answers the procedural aspects raised in appeal by Ms. Vachon.

DISPOSITION

[13] I am satisfied that there has been no miscarriage of justice that would be require Ms. Vachon's consent be set aside under ss. 822 or 686(1)(a)(iii).

[14] The terms of the peace bond set out above remain in effect for one year commencing July 20, 2017.

[15] The appeal is dismissed.

VEALE J.