

Citation: *R. v. McGinty*, 2006 YKTC 95

Date: 20060825  
Docket: T.C. 06-11054  
Registry: Whitehorse

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

**REGINA**

v.

**GORDON RICHARD CHARLES MCGINTY**

**Publication of information that could disclose the identity of the complainant or witness has been prohibited by Court Order pursuant to s. 486(3) of the *Criminal Code*.**

Appearances:  
Jennifer Grandy  
Jennifer Reid

Counsel for Crown  
Counsel for Defence

**REASONS FOR JUDGMENT**

[1] HARVEY J.P.T.C. (Oral): There are three considerations that I have to address at this hearing. First is primary grounds. Whether or not Mr. McGinty would show up for court does not appear to be a concern. Mr. McGinty has no prior failing to attend court convictions and so the primary grounds are not of concern.

[2] There is the secondary grounds, which would be that I have to be reasonably assured that Mr. McGinty will behave himself if released and not get in further trouble. The tertiary grounds also have to be considered. Tertiary grounds are not of great

concern, they are of minor concern, based on the nature of the more serious outstanding charges.

[3] The secondary grounds are of significant concern. Mr. McGinty does have a horrific record for a young man. He has 19 prior process related convictions. That means he has 19 convictions in the past of failing to abide by court ordered conditions. The suggestion is that he can be released on court ordered conditions. I certainly do not have any faith that Mr. McGinty is in a position where he would abide by any court ordered conditions any better now than he has in the past.

[4] On top of that, he is facing a significantly serious outstanding charge alleging violence. His record has eight prior convictions that allege violence or threats thereof. Clearly, Mr. McGinty is capable of being a violent individual. I recognize that Mr. McGinty has had ongoing substance abuse issues and I have no idea where those are at. The simple fact that he now has in place a plan to go to school certainly does not address those issues. My concerns are that Mr. McGinty, as much as it is unfortunate that he has this fabulous opportunity now and it may slip through his fingers, is not a good risk to release him on conditions. I cannot believe that Mr. McGinty will in fact abide by conditions imposed on him by the Court. It would be required that he do so in order to maintain his good behaviour.

[5] His detention is on the secondary grounds pursuant to s. 524. The outstanding process is revoked and the detention is on all matters before the Court.

[6] MS. REID: Your Worship, when is the next Pelly circuit?

[7] THE CLERK: The next Pelly circuit is August 29<sup>th</sup>.

[8] MS. REID: Next week. He will not have retained counsel by then. And the one after that is when?

[9] THE CLERK: The one after that is October 17<sup>th</sup>.

[10] MS. REID: If this could come in on the 30<sup>th</sup> of August just to get things moving, he needs to get a hold of Legal Aid right away to let them know.

[11] THE COURT: August 30<sup>th</sup> and 9:30 for election and plea.

[12] MS. GRANDY: Your Worship, under the circumstances, I would, at this time, make application under s. 515(12) for an order prohibiting contact with the complainant and also for a publication ban on the identification of the complainant under s. 486.

[13] THE COURT: Pursuant to s. 486 there will be a ban on publication and any evidence that might identify the complainant. Pursuant to s. 515(12), Mr. McGinty is to have no contact direct or indirect or communicate in any way with H.S.

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HARVEY J.P.T.C.