

**IN THE PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR**

**JUDICIAL DISTRICT OF GRAND BANK**

**Citation: JIR Hoskins, 2017 NLPC 0817A00184**  
**Date: NOVEMBER 2, 2017**  
**Docket: 0817A00184**

**Between: HER MAJESTY THE QUEEN**

**- and -**

**ANTHONY MICHAEL HOSKINS**

Before: THE HONOURABLE JUDGE H.J.PORTER

**Date of hearing: NOVEMBER 1, 2017**

**Appearances:**

**A. MANNING - for THE CROWN**

**M. EVANS, Q.C. - for THE ACCUSED**

**Cases considered: R. v. Morales (1992), 77 C.C.C. (3d) 91, R. v. St-Cloud, 2015 SCC 27, R. v. Antic, 2017 SCC 27, R. v. Hillier 2015 NLTD(G) 95**

**Legislation cited: Criminal Code (R.S.C., 1985, c. C-46)**

**Article Considered: Judge W. Gorman, “*The Impact of the Supreme Court of Canada on the Law of Bail*”, published in the American Judges’ Journal, Court Review, volume 53, Issue 3, page 94.**

**Porter, P.C.J.**

**Introduction**

[1] The following reasons explain why the accused is denied judicial interim release.

**THE LAW**

[2] Judicial interim release is presumed in Canadian Criminal Law. In **R. v. Morales** (1992), 77 C.C.C. (3d) 91, the Supreme Court of Canada said, at para 29, that bail "is not denied for all individuals who pose a risk of committing an offence or interfering with the administration of justice while on bail. Bail is denied only for those who pose a 'substantial risk' of committing an offence or interfering with the administration of justice, and only where this 'substantial likelihood' endangers 'the protection or safety of the public'".

[3] There are only three reasons why judicial interim release can be denied. These are set out in s. 515(10) of the **Criminal Code**, and may be summarized as follows:

1. Risk of failing to attend court;
2. Risk of commission of another offence, including interfering with witnesses; and
3. Risk of loss of public confidence in the justice system.

[4] The accused should be denied judicial interim release, for all three reasons, as I will here explain. Before doing so, I will here acknowledge the very helpful article by Judge Gorman, "*The Impact of the Supreme Court of Canada on the Law of Bail*", published in the American Judges' Journal, Court Review, volume 53, Issue 3, page 94.

[5] The primary ground: there are already outstanding warrants for the arrest for the accused for breach of probation and for failing to attend court in Alberta.

[6] The secondary ground: the accused lives in a small town, and all of the witnesses also live in the area. It would require more than house arrest to avoid contact with the witnesses. Here I note the remarks by Handrigan J. in **R. v. Hillier** 2015 NLTD(G) 95, at para 36 about the refusal of witnesses to cooperate in the police investigations of allegations of offences committed by the proposed surety, including assault, uttering threats, and intimidation of witnesses.

[7] The tertiary ground: public confidence in the administration of justice and **R. v. St-Cloud**, 2015 SCC 27. The complainant is in hospital undergoing reconstructive surgery to his face. A reasonable member of the public would have to wonder how it was that the accused, (who has outstanding warrants for his arrest in Alberta) would be released on judicial interim release. In relation to the tertiary ground, there were apparently a large number of witnesses who told the police that the accused struck the complainant in the face with a liquor bottle, which allegedly exploded on impact. The probability of conviction appears high, and with it, a concomitant likelihood of a substantial period of incarceration.

[8] All of these grounds must be considered in the context of the proposed bail plan, which includes him continuing to live with his mother and step-father in Fortune.

[9] His step-father, who is proposed as a surety, is on parole for a federal sentence for a large number of offences. These include possession of drugs for the purpose of trafficking, trafficking, unauthorized possession of firearms, careless use of a firearm, resisting a peace officer, and breach of recognizance. He has a lengthy criminal history, extending over two decades here in this jurisdiction. Mr. Hillier was also convicted on the

French Islands of Saint Pierre et Miquelon, in 1995 of importing and transporting a narcotic into the islands, as well as importing prohibited goods and smuggled drugs, for which he received sentences of six years' and one year imprisonment to be served consecutively and a fine of 98,000 Francs.

[10] His mother also has been convicted of a number of drug related offences, (including cocaine) as has the step-father's mother, Ms. LeTournel (possession of cocaine and morphine).

[11] None of the proposed sureties are in a position to deposit any more than a thousand dollars as cash deposit for judicial interim release. Having said that, and noting **R. v. Antic**, 2017 SCC 27, it should be clear that a cash deposit is not decisive here.

[12] The circumstances of the proposed surety and his wife do not appear to be much different than described by Handrigan J. in **R. v. Hillier** 2015 NLTD(G) 95, when they were themselves denied judicial interim release.

[13] It appears that the accused at Bar left Newfoundland at around the same time that his parents were arrested for drug dealing in 2015, and went to Alberta. He said, without much precision as to dates, that he was in Alberta for "a couple of years", but then corrected it to say that he had returned to Newfoundland in time to attend the 2016-2017 high school year. As indicated above, while he was in Alberta, he stole a car, and was put on probation for it, and then was charged with a breach of probation. He says that the breach was for holding his friend's beer while he was on probation with an abstinence condition. He also said that the failure to attend court charge came from him being late for court. He did not speak to the court staff about his having been late, he did not arrange

to appear in court on another date, and he did not make arrangements to have either the charge or the probation order transferred to Newfoundland.

[14] There was some apparent contradiction in the evidence about the failing to attend court and the timing of the accused's return to Newfoundland. The accused said that he left Alberta after having missed the court date and came home to Newfoundland. His step-father, however, said that he and his wife had paid to fly the accused home to Newfoundland from British Columbia, where, according to the step-father, the accused had been working in construction.

[15] It is difficult to understand how the accused said that he was late for court in Alberta when he was actually working in British Columbia. But for the present purposes, it is not particularly important.

[16] Judicial interim release is denied, and the accused remanded into custody pending trial. While he is in custody, he is prohibited, by operation of s. 515(12) of the **Criminal Code**, from contact or communication, direct or otherwise, with the following persons:

- 1) Kyle Patten;
- 2) Thomas Smith;
- 3) Marcus Snow;
- 4) Hunter Douglas;
- 5) Jordan Tibbo;
- 6) Zach Billard;
- 7) Blaine Noseworthy;
- 8) Curtis Chaulk;

9) Tina Saunders; and

10) Jonathan Poirier

**Conclusion**

[17] The accused is denied judicial interim release. The clerk will ensure that the warrant of remand is endorsed pursuant to s. 515(12).

Porter, P.C.J.