

CANADA / JUDGMENT

R. v. Gilliland

2020 BCSC 2123

COURT

Supreme Court of British Columbia

DECIDED

8 October 2020

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2020 BCSC 2123 R. v. Gilliland IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Gilliland, 2020 BCSC 2123 Date: 20201008 Dockets: 69065; 70726; 70727 Registry: Chilliwack Regina v. Raymond Frederick Gilliland Before: The Honourable Mr. Justice Williams On appeal from: An order of the Provincial Court of British Columbia, dated August 19, 2020 (R. v. Gilliland, Abbotsford File No. 89194-1, 89194-5-A, 89194-6-A, 90096-1, 91378-1) Oral Reasons for Judgment Re Detention Review Hearing Counsel for the Crown: S. Gill Counsel for the Accused: J. Doyle Place and Date of Hearing: Chilliwack, B.C. October 8, 2020 Place and Date of Judgment: Chilliwack, B.C. October 8, 2020

- [1] THE COURT: Okay. These are oral reasons. In the event a transcript is required, I will reserve the right to make editorial corrections.
- [2] Raymond Gilliland applies, pursuant to s. 520(1) of the Criminal Code, R.S.C. 1985, c. C-46, for a review of the detention order made by a Provincial Court judge on August 19, 2020. He advances two bases. First, he alleges an error of law. He says that the learned Provincial Court judge made an error in law in failing to consider the impact of potential breaches of Mr. Gilliland's Charter rights in the context of determining whether it was appropriate to detain him. Secondly, he alleges that there has been a material change of circumstances. The Crown stands opposed to the application.
- [3] I will deal with the first ground briefly. I have reviewed the transcript of proceedings of the show cause hearing, including the ruling of the Provincial Court judge, and considered those in conjunction with the submissions of Mr. Gilliland's counsel today.
- [4] I am not persuaded that there was an error of law as alleged. When I consider the applicant's submissions in the context of the circumstances outlined at the show cause hearing and further take into account the defendant's antecedents, including his criminal record and his recent history of compliance with bail orders, recognizing that he stands in a reverse onus position, I am fully satisfied that the making of the detention order below was warranted. No basis has been made out to find error in the Provincial Court's ruling.

- [5] The second basis upon which release is sought is a change of circumstances, that is, a viable plan for release. I note that prior release plans involving release to treatment centres have not been successful.
- [6] Today, Mr. Gilliland advances a plan to live with and be supervised by a friend living in the community, Mr. Biddlecome. I note that Mr. Biddlecome testified today on this hearing.
- [7] With respect to this aspect of the application, there are a number of points to be noted.
- [8] Mr. Gilliland describes himself in his affidavit as an Indigenous man suffering from mental health problems and addiction. He says that he has been diagnosed with pre or post-traumatic stress disorder and anxiety disorder.
- [9] I make a second observation, and that is with respect to Mr. Gilliland's criminal record. It runs from 1997 through current. There are a great many convictions, including offences of property, drugs, Criminal Code motor vehicle offences, number of offences with respect to resisting and flight from peace officer, assault peace officer, obstruct peace officer, and being unlawfully at large.
- [10] My third observation: my sense is that Mr. Gilliland is, at this point in his life, angry and oppositional. He has substantial difficulty with authority.
- [11] My final observation: he is what I would characterize as an active, verging-on-prolific, operator in the drug-dealing scene in the Abbotsford area.
- [12] The problem for him is that he has made himself, I would think, a figure of prominence in that community; and that, of course, has attracted further enforcement attention.
- [13] I want to say this: I was impressed by the sincerity of Mr. Biddlecome. He is someone who has known real difficulties in his life. He has had substance issues; he has had a criminal history, and he has overcome those. He wants to help his friend. His proposal is not perfect but it has some viability.
- [14] All that said, I elected, at the end of submissions this morning, to review the materials and reflect over the noon break.
- [15] Before closing court, Mr. Gilliland, attending by video from Surrey Pre-Trial Centre, began to speak. Mr. Gilliland, in making the observation that follows, I mean you no disrespect. Mr. Gilliland launched into a, what I would call, a raging rant reflecting, I am sure, his great frustration, and I expect his mental health problems. But the effect of that left me deeply concerned that a release such as proposed, however well intentioned Mr. Biddlecome is, is almost certain to fail.
- [16] I am not a medical practitioner nor mental health professional, but Mr. Gilliland is exhibiting behaviour that brings into serious doubt any prospect that he will be able to function in the community without a high risk of further criminal offending. As a result, I am unable to accede to the release proposal. The application, therefore, stands dismissed.

[17] Before concluding, I offer certain comments:

1. The suggestion that Mr. Gilliland is arranging to see a psychologist should be heartily encouraged. Any steps that can be taken in that regard are to be promoted.
 2. 90 days from today, Mr. Gilliland will be entitled to a s. 525 review. I would be hopeful that he will be able, between now and then, to get himself into a position where his release may be more viable.
 3. I want to express my genuine appreciation to and respect for Mr. Biddlecome. Like a true friend, he was here today to help. There is nothing in it for him. It reflects what I consider to be a genuine decency and that is admirable. I was impressed by him, and I hope the circumstances may change and that he will be able to assist Mr. Gilliland at some point in the future. "Williams J."
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