

CANADA / JUDGMENT

R. v. Hakwik

2017 BCCA 345

COURT

British Columbia Court of Appeal

DECIDED

4 October 2017

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2017 BCCA 345 R. v. Hakwik COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Hakwik, 2017 BCCA 345 Date: 20171004 Docket: CA43945 Between: Regina Respondent And Levi Hakwik Appellant Before: The Honourable Madam Justice Bennett The Honourable Mr. Justice Harris The Honourable Mr. Justice Savage On appeal from: an order of the Provincial Court of British Columbia, dated April 15, 2015 (conviction) and April 14, 2016 (sentence) (R. v. Hakwik, Campbell River Docket No. 39085) Oral Reasons for Judgment Counsel for the Appellant: B. Movassaghi (via teleconference) Counsel for the Respondent: J.R.W. Caldwell Place and Date of Hearing: Vancouver, British Columbia October 4, 2017 Place and Date of Judgment: Vancouver, British Columbia October 4, 2017 Summary: The appellant seeks to appeal from his conviction and sentence for aggravated assault on the ground of ineffective assistance of trial counsel. Held: Appeals dismissed. The appellant has repudiated the jurisdiction of this Court. Save in exceptional circumstances, this Court will not entertain an appeal from an appellant who is in breach of the terms of his release, especially where a warrant is outstanding for his arrest. The Court is not aware of any exceptional circumstances in this case, and accordingly the appeal is dismissed.

- [1] BENNETT J.A.: Levi Hakwik was convicted of aggravated assault on April 15, 2015. On April 14, 2016, he was sentenced to 33 months in prison. He filed a notice of appeal against conviction and an application for leave to appeal sentence. He was released on bail pending appeal on October 17, 2016.
- [2] On appeal, Mr. Hakwik alleges ineffective assistance of trial counsel. There have been a number of delays in advancing these proceedings, and Mr. Hakwik's appeal bail was renewed twice. The terms of his release included that he reside with his mother, who was also his surety, and that he abide by a curfew and report to a probation officer.
- [3] On July 19, 2017, a warrant was issued for the arrest of Mr. Hakwik for failing to abide by his curfew. That same day, a warrant for his arrest was also issued by this Court. Shortly after this occurred, his mother applied to be relieved of her obligation as his surety. On the render application, his mother reported that Mr. Hakwik had moved for a job. A render warrant was also issued. Recently, Mr. Hakwik's probation officer has reported that he failed to report as directed and another warrant has issued.

- [4] In the result there are four warrants in total outstanding for Mr. Hakwik's arrest: he was charged with breach of his bail conditions for the two alleged breaches of failing to abide by curfew, and for failing to report as directed. Eleven weeks have passed since the first warrant was issued, and he has not been arrested.
- [5] The appeal has not been perfected as required by this Court's Criminal Appeal Rules.
- [6] I am satisfied that Mr. Hakwik has repudiated the jurisdiction of the Court. Save in exceptional circumstances, this Court will not hear an appeal by an appellant who is in breach of their terms of release, and where a warrant is outstanding for their arrest as a result of the breach: *R. v. Carpenter*, 2011 BCCA 301 at para. 5.
- [7] There are no circumstances that I am aware of that would justify hearing this appeal in light of Mr. Hakwik's several breaches of bail, the render warrant and the arrest of warrant.
- [8] I would dismiss the appeal and application for leave to appeal as abandoned.
- [9] HARRIS J.A.: I agree.
- [10] SAVAGE J.A.: I agree. "The Honourable Madam Justice Bennett"

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