

CANADA / JUDGMENT

R. v. Hammerstrom

2012 BCCA 307

COURT

British Columbia Court of Appeal

DECIDED

12 July 2012

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2012 BCCA 307 R. v. Hammerstrom COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Hammerstrom, 2012 BCCA 307 Date: 20120712 Docket: CA039879 Between: Regina Respondent And Jamie Hammerstrom Applicant Direction of the Chief Justice on an Application for Review Pursuant to Section 680 of the Criminal Code Counsel for the Applicant: In Person Counsel for the Respondent: W.J. Scott Bell Written Submissions of the Applicant filed: April 25th, May 1st & June 26th, 2012 Written Submissions of the Respondent filed: May 29th, 2012 Place and Date of Judgment: Vancouver, British Columbia July 12th, 2012 Reasons for Judgment of the Honourable Chief Justice Finch:

[1] The accused, Mr. Hammerstrom, acting in person applies in writing for a review by this Court pursuant to s. 680 of the Criminal Code, of a Provincial Court order denying him judicial interim release.

[2] Section 680 reads as follows:

680. (1) A decision made by a judge under section 522 or subsection 524(4) or (5) or a decision made by a judge of the court of appeal under section 261 or 679 may, on the direction of the chief justice or acting chief justice of the court of appeal, be reviewed by that court and that court may, if it does not confirm the decision,

(a) vary the decision; or

(b) substitute such other decision as, in its opinion, should have been made.

(2) On consent of the parties, the powers of the court of appeal under subsection (1) may be exercised by a judge of that court.

(3) A decision as varied or substituted under this section shall have effect and may be enforced in all respects as though it were the decision originally made.

[3] Section 680 does not permit a review of all orders granting or denying bail. As set out in s. (1), it only applies to reviews of certain types of judicial interim release orders: either those made by a judge of the court of appeal under ss. 261 or 279 (which this order clearly is not); or those made under ss. 522, 524(4) or 524(5).

- [4] A judge may only make an order for interim release under s. 522 in cases where the accused is charged with an offence listed in s. 469. These include murder, bribery of a judge, and a variety of other less common offences.
- [5] Subsections 524(4) and (5) apply even more narrowly. A judge may make an order under one of these provisions only where an accused has been re-arrested after having been released from custody pursuant to s. 522(3). It would not be possible, therefore, for a judge to make an order pursuant to subsections 524(4) or (5) in respect of an accused who had not been charged with an offence listed in s. 469.
- [6] Neither the bail judge's order nor his reasons for judgment have been filed in this Court. It is therefore not possible to ascertain directly which Criminal Code provision the judge relied upon in ordering that the accused be denied judicial interim release. However, based on the three informations setting out the charges against the accused, it is evident that the bail order could not have been made under ss. 522, 524(4), or 524(5), since none of the offences he is charged with is listed in s. 469.
- [7] As a result, I have no jurisdiction under s. 680 to direct a review of the order.
- [8] I would therefore dismiss the application. "The Honourable Chief Justice Finch"

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