

CANADA / JUDGMENT

R. v. Hancock

2004 BCCA 479

COURT

British Columbia Court of Appeal

DECIDED

22 September 2004

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2004 BCCA 479 R. v. Hancock COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Hancock, 2004 BCCA 479 Date: 20040922 Docket: CA031762 Between: Regina Respondent And Peter John Hancock Applicant Before: The Honourable Madam Justice Saunders (In Chambers) P. Hancock Applicant in person by way of written submissions J. Duncan Submitting Respondent's Memorandum of Argument Place and Date of Judgment: Vancouver, British Columbia September 22, 2004 Reasons for Judgment of the Honourable Madam Justice Saunders:

- [1] On July 20, 2004 Madam Justice Ryan issued reasons for judgment in which she refused an order for interim release pending Mr. Hancock's appeal of conviction on May 25, 2004 of two counts of assault with a weapon and two counts of assault.
- [2] In her reasons for judgment she said:
- [3] Mr. Hancock has been unable to provide the reasons for judgment of the trial judge. The Court of Appeal Registry has ordered the reasons, but they are, as yet unavailable.
- [7] The pre-sentence report prepared before Mr. Hancock was sentenced on these offences sets out his criminal record as a young offender and as an adult. Counsel for the Crown points out in her written submissions that Mr. Hancock, who is 23 years of age, has a lengthy criminal record for a person of his age. Since 1994 Mr. Hancock has been convicted of 46 offences on 25 occasions. Mr. Hancock's record includes escaping lawful custody, obstruction of a police officer, uttering threats, assault with a weapon, breach of probation, breach of a recognizance, and a number of property crimes. His last conviction was in April of 2003 for assault.
- [8] On the strength of the record alone I would dismiss the application for release at this time.
- [9] While bail is denied at this time, it seems appropriate that this order be reviewed once the reasons for judgment are received by the Registry.
- [10] There will be a further order that Mr. Hancock's application for release be placed before the sitting Court of Appeal Chambers Judge for a final review of the application once the reasons are received. I am not seized of this application.

- [3] The reasons for judgment have now been received by the Registry and placed before me for review as directed by Ryan J.A. The purpose of reviewing the reasons for judgment is to better assess whether the appellant has established that the appeal is not frivolous.
- [4] Mr. Hancock indicates that his appeal is based upon: (1) his failure to receive a trial by jury; (2) issues surrounding eyewitness identification evidence and the photographic line-up conducted in this case; and (3) questions about the police investigation. The reasons for judgment shed light on only the eyewitness and photographic identification evidence issue; and, of course, I do not have the transcript or exhibits before me that may support the grounds of appeal. Mr. Hancock, to succeed on the identification issue, will need to overcome those reasons for judgment now received. They appear to discuss with some detail the frailties of the eyewitness and photographic line-up identification evidence.
- [5] While I do not say at this stage that the appeal is frivolous, the reasons for judgment of the trial judge do not persuade me that Mr. Hancock's conviction appeal is so strong as to overcome the concerns expressed by Madam Justice Ryan about the extent of Mr. Hancock's criminal record and issues of the public interest. I note further that it is now nearly four months since Mr. Hancock was sentenced to six months incarceration.
- [6] It follows that I confirm the dismissal of Mr. Hancock's application. "The Honourable Madam Justice Saunders"

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Prepared on 29 October 2026 · Esheria