

CANADA / JUDGMENT

R. v. Houle

2024 BCSC 2638

COURT

Supreme Court of British Columbia

DECIDED

28 November 2024

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Houle,

2024 BCSC 2638

Date: 20241128

Docket: 36999-1-W

Registry: Vancouver

Rex

v.

Tyler William Houle

Before: The Honourable Madam Justice Laurie

Oral Reasons for Judgment re: s. 525 Detention Review Hearing

Counsel for the Crown:

A.N. Linthorne

Counsel for the Defence:

K.K. Chase

Place and Date of Hearing:

Kelowna, B.C.

November 21, 2024

Place and Date of Judgment:

Kelowna, B.C.

November 28, 2024

- [1] THE COURT: The accused, Tyler William Houle, is before this Court on a detention review hearing pursuant to s. 525 of the Criminal Code, R.S.C. 1985, c. C-46. On June 25, 2024, the Honourable Judge Merrick of the Provincial Court ordered Mr. Houle's detention on Penticton Information numbers 50415-1, 50878-1, 50879-1 and Indictment 50882-2C.
- [2] Also before the court is Information 50955-1, which was sworn on June 28 after the date of the detention order. Based on the Record of Proceedings, the warrant for Mr. Houle was deemed executed on July 10, 2024. Mr. Houle has consented to remain in custody on this matter and has not had a bail hearing.
- [3] Mr. Houle is entitled to a s. 525 detention review as he has been detained in custody in these matters in excess of 90 days and his trial on these charges has not commenced.
- [4] I heard submissions from counsel on November 21, 2024 and reserved my decision to today. These are my oral reasons for judgment on the 525 detention review.

Circumstances of the Alleged Offences

- [5] I will summarize the allegations against Mr. Houle in chronological order.

Information 50415-1

- [6] With respect to Information 50415-1, Mr. Houle is charged with offences under the Motor Vehicle Act, R.S.B.C. 1996, c. 318 and the Criminal Code related to driving while prohibited, driving while suspended, and failing to stop while being pursued by a peace officer arising from September 11, 2023.
- [7] On that day, at about one o'clock in the morning, Cst. Ballarin attempted a traffic stop of a black Dodge Ram travelling on Highway 97 in Penticton for having a blocked licence plate. The officer tried to pull the vehicle over. However, the vehicle made no attempt to stop. Instead it made a 180-degree turn and drove towards the officer's vehicle at which point Cst. Ballarin was able to see and recognize the driver as Mr. Houle, whom he was familiar with. Mr. Houle drove on the highway at a high rate of speed, swerving onto oncoming traffic. Cst. Ballarin pursued the vehicle for a short period of time and then gave up the chase.
- [8] Cst. Ballarin and Cst. Harrison subsequently located the vehicle. At that time a female, later identified to be the co-accused was driving and Mr. Houle was in the passenger seat. The vehicle did not immediately stop when the police attempted to apprehend the occupants. When it did and Cst. Ballarin approached the front passenger seat where Mr. Houle was seated, he observed a black handgun at the feet of Mr. Houle. Cst. Ballarin attempted to pull Mr. Houle out of the vehicle to arrest him but Mr. Houle resisted and it was only with some assistance from Cst. Harrison that the police were able to pull Mr. Houle out of the vehicle and subsequently place him under arrest.

- [9] The police later confirmed that Mr. Houle was prohibited from driving on that occasion.
- [10] I note that although there was a handgun found on this date, Mr. Houle was not charged in relation to that handgun.
- [11] Mr. Houle was released on an undertaking following this incident.

Information 50878-1

- [12] With respect to Information 50878-1, Mr. Houle was charged with firearms offences under s. 86(1), s. 91(1), and s. 94(1) of the Criminal Code based on his possession of a loaded .22 calibre rifle in a motor vehicle on March 21, 2024.
- [13] On that day, the same Cst. Ballarin, while conducted patrols in Penticton, observed Mr. Houle in the driver's seat of a Honda Ridgeline. Cst. Ballarin was aware that that particular vehicle had been involved on the previous day in a flight from police in Keremeos. In response to Cst. Ballarin's request for assistance, Cst. Harrison attended. They approached the vehicle that Mr. Houle was in. Cst. Harrison observed a rifle in plain view in the front passenger seat area, which he immediately removed from the vehicle. The firearm .22 calibre rifle with a hunting scope.
- [14] Mr. Houle was arrested and later released on an undertaking with respect to these charges.

Indictment 50882-2C

- [15] Indictment 50882-2-C involves charges related to assaulting a police officer, dangerous driving, failing to stop while being pursued by a peace officer, failing to stop at the scene of an accident, driving while prohibited and obstructing a peace officer in the execution of their duty, all arising from May 12, 2024.
- [16] It is alleged that on that day, a citizen called the police to check on two people that appeared to be sleeping in a white Ford truck that was on the boat launch ramp in Osoyoos, with the engine on. Cst. Eikanger attended and spoke to the driver who was Mr. Houle. The officer asked Mr. Houle for licence and registration. Mr. Houle responded that it may be in the back of the truck which was piled high with various household items. He told the officer that the truck belonged to his father and provided a false name.
- [17] Cst. Eikanger was aware that the same make and model of truck had recently been stolen. She asked Mr. Houle to turn off the engine and give her the keys to the truck. Mr. Houle turned off the engine but claimed that he did not have the keys. The officer told both occupants to remain in the vehicle.
- [18] Cst. Eikanger went to her police car to run some queries. As she was doing that, she heard the engine of the truck come on, and fearing that Mr. Houle was about to ram her with the truck, she pulled her car closer towards the back of the truck, as the truck was positioned with its front towards the lake.

- [19] Mr. Houle reversed the truck and rammed the front of the police vehicle. He then pulled towards the lake, and then rammed the police car again. He did this several times. At this point, the truck was partly submerged in the lake and got stuck in the mud. Cst. Eikanger then got out of her vehicle, pointed her firearm at Mr. Houle, and told him to stop and get out of the truck as he was under arrest.
- [20] The female passenger and her dog got out of the truck. Mr. Houle was able to free the truck and tried to drive away. He got stuck in the mud a second time. Cst. Eikanger saw the tires of the truck spinning. She got in front of the police vehicle and she expected Mr. Houle to flee on foot. She again attempted to arrest him.
- [21] However, at that point Mr. Houle was able to free the truck and he struck the police car again, pushing it sideways and forcing Cst. Eikanger to run out of the path to avoid being hit. Mr. Houle then drove wildly away from the scene, striking a parked trailer in the process.
- [22] The female passenger provided Mr. Houle's name to Cst. Eikanger, who then pulled up the photo of Mr. Houle from the police database and confirmed from that photo that the person she was dealing with was Mr. Houle.
- [23] The truck was later confirmed to be stolen.

Information 50955-1

- [24] On Information 50955-1, Mr. Houle is charged with offences relating to driving while prohibited under the Criminal Code and Motor Vehicle Act arising from May 16, 2024.
- [25] The allegations are that on that day, two police officers observed a Ford F-350 truck driving on Government Street in Penticton without a front bumper. As the truck passed the police vehicle, one of the officers recognized the driver as Mr. Houle, and the officer was aware that there was an arrest warrant for him and that he was a prohibited driver. Police turned their vehicle around in an attempt to apprehend Mr. Houle. However, Mr. Houle made a sharp right turn and was lost to the officers shortly after that.

Information 50879-1

- [26] Information 50879-1 is a single count Information charging Mr. Houle with possession of a stolen F-350 truck with a value less than \$5,000 arising from the events of May 17, 2024.
- [27] It was alleged that on that day, police officers observed Mr. Houle driving a white Ford F-350 truck with no front bumper travelling on Green Mountain Road in Penticton. There was another male in the truck. The police suspected that Mr. Houle may be involved in a hit and run involving a similar truck. When they queried the licence plate from the back of truck, it came back as expired. They pursued the truck and subsequently observed it parked in a parking lot, unoccupied. Later Mr. Houle and the other male came out of a parked travel trailer nearby and attempted to run.

[28] Mr. Houle was arrested for possession of stolen property as the truck was determined to be stolen. Further, he was violating a term of previous release order prohibiting him from occupying the driver's seat of a motor vehicle.

[29] These are the allegations against Mr. Houle on these matters.

Prior Criminal Record

[30] Mr. Houle has a long and sustained criminal history commencing in 2000. His criminal record contains over 60 convictions in British Columbia, as well as Alberta, including for offences relating to driving while prohibited or disqualified, dangerous driving, firearms, possession of stolen property, flight from police, and breaches of court orders including a breach of a conditional sentence order in 2018.

The Decision of the Provincial Court Judge

[31] On June 25, 2024, Mr. Houle was before a Provincial Court judge on these matters (except for Information 50955) for a bail hearing. In revoking Mr. Houle's bail on Information 50415-1 and issuing a detention order on 50878-1, 50879-1, and Indictment 50882-2, the judge stated that he was not satisfied that the imposition of conditions including electronic monitoring could reduce the risk posed by Mr. Houle to an acceptable level.

[32] In particular, the judge noted that the circumstances of Indictment 50882-2C demonstrated a wanton disregard for authority.

[33] Detention was ordered on the secondary ground.

Trial Dates

[34] Trial dates have been set for all of these matters as follows:

- For Information 50879-1 on January 6, 2025;
- For Information 50415-1 on March 3 and 4, 2025;
- For Information 50955-1 on March 5, 2025;
- For Information 50878-1 on March 18, 2025; and
- For Indictment 50882-2, a five-day trial has been set on the assize on the week of July 14, 2025.

[35] I am told that all of these trial have been set in accordance with the defence calendar.

Personal Circumstances of the Accused

[36] Mr. Houle is 44 years old. At the review hearing, defence counsel filed a 2018 Gladue report that was prepared in connection with a previous sentencing of Mr. Houle. The report was described Mr. Houle's personal history and family background.

- [37] Based on the information contained in the report, Mr. Houle has had a difficult life. His mother, Faith Houle, now deceased, struggled with chronic substance use and had introduced Mr. Houle to heroin use when he was 13 years old. Not surprisingly, Mr. Houle has also struggled with substance use for most of his life. Mr. Houle also reported experiencing physical abuse as a child at the hands of people who took care of him.
- [38] Mr. Houle reported that he has two sisters who also struggled with addiction and criminality.
- [39] Mr. Houle never knew his biological father. When his mother was pregnant with him, she became involved with Andrew Jamieson, who Mr. Houle called his father. The Gladue report described Mr. Jamieson as a man purported Ojibwe lineage. He used the word "purported" is because the writer did not have sufficient information to confirm this.
- [40] Mr. Houle reported to the writer that he was raised without any awareness of his Indigenous origins or cultural background. However, in the years prior to the report, Mr. Houle had self-identified as Indigenous based on the belief that Mr. Jamieson was of Indigenous descent.
- [41] Based on Mr. Jamieson's report of Ms. Houle's in-utero consumption of alcohol and drugs throughout her pregnancy with Mr. Houle, the writer of the report stated that Mr. Houle may be suffering from an undiagnosed fetal alcohol spectrum disorder. The report suggested that further assessments be conducted in this connection.
- [42] Despite the many challengers in his early life, Mr. Houle was able to graduate from high school. Shortly after his graduation in 1999, he began a five-year relationship with Ms. Amber Gallamore. They had four children between 2001 and 2004. Based on the report, Mr. Houle has had no contact with his children since 2004.

Positions of the Parties

- [43] The Crown submits that Mr. Houle continues to be in a reverse onus situation. Further, his detention continues to be justified on the secondary ground. It submits that there is no reason to interfere with the Provincial Court judge's decision and his findings of fact are entitled to deference. The Crown emphasized the judge's comment that Mr. Houle's conduct showed wanton disregard for authority.
- [44] The Crown submits that these are serious offences and if convicted, Mr. Houle can be expected to serve a significant jail sentence. Therefore, his time in custody is not disproportionate to the sentence that he is likely to receive if convicted.
- [45] The Crown also says that there has not been unreasonable delay on these matters.

- [46] The defence proposes a new release plan that involves Mr. Houle residing at Bridges to New Life, a safe house in Kelowna. Additional proposed terms include electronic monitoring, a curfew, not to possess weapons, not to be in the driver's seat of a motor vehicle, and not to be in a motor vehicle without permission of the registered owner or without the registered owner being present.
- [47] The defence has filed a letter from Bridges to New Life. The letter confirms that Mr. Houle has been accepted at Bridges to New Life, although he is currently wait-listed. The defence proposal is that once there is a spot for Mr. Houle, he would be transported by his stepfather, John McKnight, to Bridges to New Life.
- [48] I am told that this facility has 24-hour staffing and a staff member would immediately notify the RCMP if Mr. Houle left the site. Noncompliance with Bridges to New Life's rules will result in eviction. One of their conditions for staying at Bridges to New Life is for Mr. Houle to seek and maintain full-time employment.
- [49] Defence counsel submits that there has been a change in Mr. Houle's circumstances since his bail hearing in Provincial Court, and that is the birth of his son last month.
- [50] Defence counsel also made submissions on alleged weaknesses in the Crown's case. With respect to Information 50415, they say that the female who was with Mr. Houle was in the driver's seat upon arrest. In addition, there was delay in providing Mr. Houle with his s. 10(b) Charter rights. With respect to 50878, it is submitted that Mr. Houle was not the registered owner of the truck and it is possible that the loaded rifle in the front passenger area was already there when Mr. Houle entered the truck. With respect to 50955, Mr. Houle was not arrested on that day, therefore identification will be an issue at trial. With respect to 50879, there is a 10(b) Charter issue as well.
- [51] In reply, the Crown submitted that electronic monitoring had been proposed and rejected by the court below. In addition, the anticipated birth of Mr. Houle's child was also before the court below.

Legal Framework

- [52] The overarching question for me is whether the continued detention of the accused is justified within the meaning of s. 515(10) of the Criminal Code.
- [53] The test to be applied is set out in *R. v. Myers*, 2019 SCC 18, at para. 63 as follows:
- [63] [] In determining whether the detention of the accused is still justified, the reviewing judge may consider any new evidence or change in the circumstances of the accused, the impact of the passage of time and any unreasonable delay on the proportionality of the detention, and the rationale offered for the original detention order, if one was made. . . . Ultimately, s. 525 requires a reviewing judge to provide accused persons with reasons why their continued detention is -- or is not --justified. []

Discussion

- [54] As a preliminary matter, I note that on Information 50955, even though Mr. Houle has not had a bail hearing, he is entitled to a s. 525 hearing on that matter and I have jurisdiction to hear it: Myers, at paras. 42-43; R. v. Simpson, 2019 ONSC 7349 at para. 20.
- [55] The onus on a detention review hearing generally lies with the party that had the onus at the original bail hearing: R. v. Fredrickson, 2022 BCSC 1598 at para. 35. In this case, I agree with the Crown that Mr. Houle has the onus of demonstrating that his continued detention is not justified.
- [56] I am also cognizant that Mr. Houle is presumed to be innocent of all these charges and he has a right to reasonable bail.
- [57] I have given considerable thought to the release plan proposed on behalf of Mr. Houle, especially in light of the recent birth of his son. However, in the end, I am not persuaded the release plan is sufficient to reduce the risks posed by Mr. Houle to the community to an acceptable level. Therefore, I find that his continued detention is justified on the secondary ground.
- [58] I start by noting that there was no error in Judge Merrick's reasons for ordering detention, and none were alleged by counsel. I agree in particular with the judge's observation that the allegations arising from May 12, 2024 demonstrate a "wanton disregard" of authority, and I would add, a blatantly defiant attitude towards law enforcement, which is extremely concerning. I share Judge Merrick's concern that in these circumstances, it seems unlikely that electronic monitoring would be sufficient to restrain Mr. Houle.
- [59] Further, the alleged offences before the court are not isolated incidents. Mr. Houle's criminal record shows that these offences form part of a larger pattern and a long history of driving while prohibited or disqualified, dangerous driving, flight from police, obstruction, firearms offences, as well as breach of court orders.
- [60] Although defence counsel submitted that there was a break in Mr. Houle's offending after his last set of convictions in 2021, I note that as of June 2021, he still had 539 days to serve on his sentence. Therefore, there would not have been much of a break between his release from custody and September 2023 when the circumstances of Information 50415 arose.
- [61] While it was submitted on behalf of Mr. Houle that he has had a long-standing drug addiction, which I accept, there were no submissions made as to the role that this played in the current alleged offences, nor was it submitted that he would receive treatment for his drug dependency at the proposed safe house, Bridges to New Life.
- [62] In any event, I have significant concerns about Mr. Houle's ability to comply with the terms of residing at Bridges to New Life, including that he seek and maintain full-time employment. No submissions were made as to how Mr. Houle plans to meet this requirement and what types of jobs he plans to apply for. In the 2018 Gladue report that I

was provided, it appears Mr. Houle has had some experience in construction trades. However, he reported that due to having sustained certain injuries, he would not be able to return to working in construction.

[63] I have also considered the defence submissions on the alleged weaknesses in the Crown's case on these outstanding matters. They do not materially affect my analysis on this detention review.

[64] Considering all of the circumstances, I conclude that Mr. Houle's continued detention is justified.

[65] As a final note, I do wish to add that I am concerned about the anticipated delay in light of the July 2025 trial dates on Indictment 50882-2C. Mr. Houle would have been in custody for approximately 14 months by then. To be clear, I do not conclude that this exceeds the sentence that Mr. Houle could be expected to receive for these matters, if convicted, however, it seems to me that much earlier dates for a five-day trial on an in-custody basis could have been obtained.

[66] I understand that these dates were set in accordance with defence counsel's calendar and, at this point, I do not know if earlier dates could be offered. I also do not want to potentially impinge on Mr. Houle's right to counsel of choice by directing that an earlier date be obtained. However, I will, pursuant to s. 525(4)(a) of the Criminal Code, direct the parties to make their best efforts at securing an earlier trial date for Indictment 50882-2C, if at all possible.

[67] That concludes my decision on the detention review.

"Laurie J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/24/26/2024BCSC2638.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-houle-2024>

Prepared on 26 October 2026 · Esheria