

CANADA / JUDGMENT

R. v. Morin

2022 BCSC 2401

COURT

Supreme Court of British Columbia

DECIDED

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2022 BCSC 2401 R. v. Morin

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Morin,

2022 BCSC 2401

Date: 20221014

Docket: 33496W

Registry: Vancouver

Rex

v.

Christian Morin

Before: The Honourable Madam Justice Girn

On judicial review from: Provincial Court of British Columbia, March 25, 2022

(R. v. Morin, Richmond Docket No. 66048-1B, 66257-1 & 66444-1

and Surrey Docket No. 246073-2C & 247732-1)

Oral Reasons for Judgment

at s. 525 Detention Review Hearing

Counsel for the Crown:

N.M.D. Reithmeier

Counsel for the Accused:

M.S. Lowe

Place and Date of Hearing:

New Westminster, B.C.

September 23, 2022

Place and Date of Judgment:

New Westminster, B.C.

October 14, 2022

[1] THE COURT: These are my oral reasons for judgment and I reserve the right to edit them for grammar, errors, citations, and context as necessary, provided such changes do not affect the final disposition.

Introduction

- [2] Mr. Morin is before the court for a detention review hearing pursuant to s. 525 of the Criminal Code. He was detained pursuant to the order of the Honourable Judge Gill of the Provincial Court of British Columbia at Richmond on March 25, 2022. Mr. Morin was detained on both the primary and secondary grounds, as set out in s. 515(10)(a) and 515(10)(b) of the Code.
- [3] He is also before the court on two new sets of charges for which he has not had a bail hearing in the first instance.
- [4] He is in custody on several sets of charges, including five files out of Richmond Provincial Court and two out of Surrey Provincial Court. They are as follows:
- a. Surrey Information 246073-2C, sworn on November 26, 2021;
 - b. Surrey Information 247732, sworn February 6, 2022;
 - c. Richmond Information 66048-1B, sworn on October 10, 2021;
 - d. Richmond Information 66444, sworn on March 15, 2022; and
 - e. Richmond Information 66257-1, sworn on December 26, 2021.
- [5] As I have indicated, there are also two informations before the court that were not before Judge Gill in Provincial court when Mr. Morin was detained. Since his detention, the Crown has laid additional charges for which Mr. Morin has not had bail hearings.

- [6] In *R. v. Myers*, 2019 SCC 18, the court explicitly stated that if there was no initial bail hearing, the s. 525 judge is responsible for conducting one, taking into account the time the accused has already spent in pretrial custody. Both Crown counsel and counsel for Mr. Morin agree that this s. 525 detention review hearing can function as the bail hearing in the first instance in relation to the following Informations:
- a. Richmond, Information 66523-1, sworn on April 25, 2022; and
 - b. Richmond Information 66518-1, sworn on April 21, 2022.
- [7] Despite Mr. Morin having been in custody for over six months, to date none of these seven outstanding matters have been set down for trial or disposition. This, of course, is a concern for the court. As Justice Riley pointed out in *R. v. Frederickson*, 2022 BCSC 1598, it is concerning, "both in terms of supervising an accused's custodial status under s. 525 and more generally in terms of seeing that criminal proceedings are dealt with expeditiously as possible." I will address this issue later in my judgment.

The alleged offences

- [8] The facts were outlined by the Crown for each of the files before the court on this review. It is important to note that Mr. Morin is presumed innocent and the facts outlined below are merely allegations outlined by the Crown. They have not been proven in court thus far.

Information 246073-2-C, Surrey

- [9] These charges relate to events that occurred on August 20, 2021, at the Elements Casino in Surrey, B.C. Mr. Morin is alleged to have been in possession of counterfeit money. Mr. Morin was recognized by the casino staff as an individual who was associated to an incident involving counterfeit money at a Richmond casino a few weeks prior to this incident. Police were able to locate Mr. Morin as he left the Elements Casino. At that time, Mr. Morin identified himself as Jean-Francois Linteau (Mr. Linteau). Upon incidental to his arrest, police were able to positively identify Mr. Morin, (also known as Mr. Linteau), as the same person who had attempted to use counterfeit money at the Richmond casino previously.
- [10] I should note that Mr. Morin was not arrested on this earlier incident in Richmond as he had left the casino before police arrived on scene. Mr. Morin, however, was captured on video surveillance.
- [11] When police arrested Mr. Morin on the Surrey incident, they located inside a backpack numerous pieces of identity documents belonging to other persons. As well, police located a number of instruments capable of breaking and entering into a place, namely vehicle keys, a park tool, a grinder and charger, a wire stripper, wrenches, screwdrivers, pliers, Exacto blades, and walkie-talkies.

- [12] Mr. Morin was originally charged under his alias, Jean Francois Linteau. In November 2021, the police subsequently learned of his true identity and a C information was sworn, which included charges of obstruction of justice, as well as five counts of breach of a probation order made by the Honourable Judge Shaw on March 9, 2021.
- [13] Mr. Morin was initially released by the police on an undertaking. However, once they were able to ascertain his true identity, a new warrant was issued and executed on December 11, 2021, and was released on bail once again.
- [14] Since March 20, 2022, there have been 14 appearances in Provincial Court on this matter and with no dates scheduled.

Information 66048-1-B

- [15] This is a breach of probation arising out of an incident from October 9, 2021, when Mr. Morin was found in possession of identity documents not in his name. The details of this are outlined below on Information 66518. It appears that Mr. Morin was released on bail on this charge on October 10, 2021.
- [16] The record of proceedings reflects one instance where Mr. Morin failed to appear in court. Mr. Morin has made 21 court appearances in Provincial Court on this matter and no dates have been set. This is of great concern for the court, given that this matter is not complex.

Information 247732

- [17] These charges relate to events that occurred on February 6, 2022, while Mr. Morin was on bail for Surrey File 246073 and Richmond File 66048-1-B. Police responded to a complaint in the early hours of February 6, 2022, in relation to an attempted break and enter into a business premise in Richmond. When police attended, they were able to locate Mr. Morin in close proximity. Police discovered that he was under a probation order to not possess any break and enter tools. Mr. Morin's duffel bag was searched incidental to his arrest and multiple tools were located, including a grinder and prybar.
- [18] On February 18, 2022, Mr. Morin was granted bail on this file and on Surrey File 246073. He perfected bail and was released on March 8, 2022, to reside at New Vision Supportive Housing Society for residential substance abuse treatment. He left that facility that same day. A warrant was issued and executed on March 20, 2022. Since then, he has made 14 appearances in Provincial Court with no dates scheduled.

Information 66444

- [19] These charges relate to events that occurred on December 26, 2021. Richmond RCMP responded to a report of a break and enter at a residential apartment building located on Blundell Road. Based on a description provided by the property manager, Mr. Morin and his co-accused were located walking from the apartment building towards a parked vehicle and his co-accused was observed placing something inside the trunk. Both men were arrested

and searched incidental to arrest. Police located numerous personal identification cards, multiple keys and fobs, and \$1,050 in cash was located on Mr. Morin.

- [20] It appears that Mr. Morin was released pending further investigation by the police which revealed, through security footage, that Mr. Morin and his co-accused broke into the property manager's office and stole mailbox keys and building key fobs and other building keys. Both are captured on video breaking into the building and loading various items into a bag which was ultimately located inside the trunk of the vehicle.
- [21] He was eventually charged on March 15, 2022, and on March 25, Judge Gill detained Mr. Morin on this information.
- [22] Mr. Morin has made 14 appearances in Provincial Court on this matter and no dates have been scheduled on this matter.

Information 66257

- [23] These allegations relate to breach of probation of Judge Shaw's order from March 2021, arising out of the December 26, 2021, break and enter charges. Mr. Morin has made 20 appearances in Provincial Court and no dates have been scheduled. Again, this is deeply concerning to the court because these are relatively simple matters that could have been scheduled far earlier.

Information 66518-1

- [24] Mr. Morin has not had a bail hearing on this file. Although these charges relate to events that occurred on August 11, 2021, and October 9, 2021, the Crown did not approve charges until April 21, 2022. The facts relating to the August 2021 incident involve allegations that Mr. Morin attempted to use a counterfeit \$50 US bill at the River Rock Casino in Richmond. Mr. Morin was questioned by security and provided them with a false name and phone number.
- [25] Police were called, but Mr. Morin left the premises before the police arrived. The \$50 bill was sent for analysis, which was ultimately confirmed to be counterfeit. Through security video footage, police were also able to subsequently confirm that Mr. Morin was the same individual who was involved in the Surrey casino incident that I have referred to earlier.
- [26] It should be noted that the police were still under the impression that Mr. Morin was Jean Francois Linteau.
- [27] The facts in relation to the October 2021 charge involve an allegation that Mr. Morin was in possession of an identity document that was not in his name. On October 9, 2021, police responded to a call from hotel staff in regards to a suspicious person who had checked into the Hampton Inn on Bridgeport Road in Richmond using a fraudulent name. The phone number provided to the hotel was associated to Mr. Morin's alias, Jean-Francois Linteau. Police also learned that there was an outstanding endorsed warrant relating to the August 2021 incident.

- [28] Police conducted a door knock at the unit in which the suspicious male was staying and it was confirmed to be Mr. Morin. Mr. Morin was arrested on the outstanding warrant. Mr. Morin presented the police with a Nexus card in another person's name which did not match his appearance and he was arrested for that offence as well.
- [29] The arresting officer determined that Mr. Morin's alias was not his true name and provided an obstruction of justice warning to Mr. Morin. Mr. Morin then admitted that his true name was Christian Morin, and queries by the police revealed that he was on probation with a condition that he not possess any identity documents that were not in his name. He was arrested for breach of probation as well.
- [30] These are the facts that give rise to the breach of probation on Information 66048-1-B.
- [31] As I have indicated, Mr. Morin was not charged with the substantive offences until April 21, 2022. He was already detained when these charges were approved. Since then, he has made 10 appearances in Provincial Court and no dates have been scheduled.

Information 66523

- [32] No bail hearing has been held on this file either. Although the allegations go back to October 2021, the Crown did not approve charges until April 25, 2022, when Mr. Morin had already been detained by Judge Gill.
- [33] The Crown alleges a number of incidents involving break and enters into residential apartments in Richmond during the month of October 2021. They are as follows:
- Count 1: RCMP attended a number of residential apartment buildings in Richmond that had been burgled in the early hours of October 13, 2021. In relation to one specific address police observed, on video surveillance, Mr. Morin using a prying tool to gain entry into the building. The management office door on the main floor was damaged and a DVR was missing.
 - Count 2: on October 14, 2021, Richmond RCMP responded to a report of theft of mail from mailboxes at a residential apartment building. The building's video surveillance recorded Mr. Morin successfully prying open mailboxes, removing the mail, and placing them into a backpack.
 - Counts 3 and 4: These charges are related and are the most serious allegations before the court. On October 24, 2021, Mr. Morin and another individual are alleged to have broken into a residential apartment building by forcing open a side door of the building, and then forced entry into the concierge room and storage rooms. The concierge room was ransacked, with two master keys and master fobs being stolen. More alarming, spare keys to three units were also stolen. As well, a number of parcels were taken from the concierge room.
 - Further footage from the video surveillance revealed that after leaving the concierge room, Mr. Morin entered one of the units for which keys were stolen. This entry was done while the resident was asleep in the unit. Mr. Morin is alleged to have stolen a number of credit cards and personal identification of the residents of this unit, along with \$300 cash.

· Later that morning, Mr. Morin is captured on video at a gas station in Richmond using one of the stolen credit cards. As well, an online purchase was attempted using this same credit card, but the payment was declined because the resident had already reported the credit card being stolen.

[34] On each of the allegations on this information, Mr. Morin was identified by officers who had investigated him on previous investigations described above. This was done through a system called Help Richmond Identify. A series of photo stills from the various apartments' video surveillance were disseminated to other RCMP detachments which allowed these officers to positively identify Mr. Morin as the suspect in the break and enters on this information. These photo compilations were also tendered during this bail hearing.

Criminal record

[35] Remarkably, Mr. Morin does not have a lengthy criminal record. He has related criminal convictions arising from the same offence date for theft of mail, possessing counterfeit money, and possessing counterfeit instrument.

[36] He received a jail sentence of time served plus one day and 12 months probation, which included a number of conditions, including that he not possess identification not in his name and not possess break and enter tools.

Mr. Morin's background

[37] Mr. Morin is 39 years old. He was born and raised in LaSalle, Quebec, and has resided in B.C. for the past three years. Mr. Morin has previously worked in the logging industry, but was on social assistance prior to his detention.

[38] His counsel says that Mr. Morin's criminality is due to his substance abuse issues. He is addicted to methamphetamine, and the time spent in pretrial custody has allowed him to detox and be in a better position to seek treatment. He says that he is seriously motivated in relation to recovery.

Provincial Court Judge's Reasons

[39] In brief oral reasons for judgment given directly after the hearing, Judge Gill noted that Mr. Morin was proposing identical release conditions that he quickly demonstrated he could not follow. The learned judge was also concerned that Mr. Morin did not even give the treatment facility a chance and that he continued to breach court orders, knowing that it was his last chance. Consequently, Mr. Morin was detained on both the primary and secondary grounds.

Procedural history

[40] I wish to make some comments in relation to the procedural history on the matters before me.

- [41] Mr. Morin was detained on March 25, 2022, in Provincial Court. There have been no concerns in terms of the Crown not providing disclosure in a timely manner. I share the same concerns that were expressed by Justice Riley in *Frederickson* about the delays in setting of dates for these matters.
- [42] At the time this hearing was before me, no dates had been set on any of the seven matters before the court. Some of the offences go back to August 2021, with the proceedings commencing in October 2021 in Provincial Court. Mr. Morin has appeared multiple times on these files. In fact, on the two files involving breach of probation, he has appeared over 20 times. At the last appearance, the matter was adjourned because of the s. 525 detention review hearing. This is unacceptable.
- [43] I agree with Justice Riley's comments at para. 28 of *Frederickson*:
- [28] . . . Since no trial dates have been set, this court is not in a position to know, with certainty at least, how long Mr. *Frederickson* would be in custody before his trial takes place. The practice of adjourning a fix date to accommodate a s. 525 bail review is, with respect, counterproductive and ought not to be encouraged.
- [44] It must not be forgotten that the purpose of s. 525 detention review hearings is to prevent accused persons from languishing in custody. While I am not critical of how the Provincial Court has handled Mr. Morin's files, it is imperative that all participants in the criminal justice system be mindful that matters move expeditiously through the courts, especially for those that are in custody, and in my view, Mr. Morin is languishing in custody.
- [45] For the most recent charges, Mr. Morin has been in custody for five months without having had a bail hearing. This is also unacceptable. Crown says the court ought to exercise its power under s. 525(4) to expedite Mr. Morin's trial dates or disposition dates. I will address this later on.

Legal principles

- [46] Justice Riley outlined several of the key principles governing a s. 525 review in *R. v. Leppington*, 2020 BCSC 546 at paras. 18-23, which I adopt:
- [18] The purpose of the 90-day bail review provision in s. 525 of the Criminal Code is to prevent accused persons from languishing in custody pending trial and to ensure matters are tried promptly . . .
- [19] The reviewing judge is expected to show deference to any findings of fact made by the first instance decision maker unless there is some demonstrated basis for reconsidering them . . .

- [20] The overarching question for the reviewing judge under s. 525 of the Criminal Code is whether the continued detention of the accused is justified having regard to the grounds set out in s. 515(10) . . . Section 515(10) sets out three different grounds for detention, which I would briefly summarize as: (1) to ensure attendance at trial . . . (2) to protect safety of the public as contemplated in s. 515(10)(b), and (3) to maintain confidence in the justice system per s. 515(10)(c).
- [21] In considering the question of judicial interim release, the court must bear in mind that throughout the process the accused is presumed innocent unless and until there has been a trial leading to a finding of guilt based on proof beyond a reasonable doubt, or a guilty plea . . .
- [22] The default position is that the accused should be released at the earliest opportunity and on the least onerous terms available in the circumstances . . . Detention in custody is the exception and should be regarded as the option of last resort . . .
- [23] In deciding the overarching question of whether continued detention is justified under the grounds set out in s. 515(10), the reviewing judge should consider (a) any new evidence or change in circumstance, (b) impact of the passage of time and any unreasonable delay on the proportionality of detention, and (c) the rationale offered for the initial detention . . .

The parties' position

- [47] Mr. Morin says that his continued detention is not justified as there is a change in circumstance; namely, a new release plan. The release plan offered by Mr. Morin is essentially the same as the one presented to Judge Gill at the initial bail hearing, with an additional component, electronic monitoring. Counsel provided a letter from New Vision Supportive Housing Society which confirms that they are willing to give Mr. Morin another chance to reside there and address his substance abuse issues.
- [48] A technical suitability was ordered by me. However, this facility has previously been approved as suitable for electronic monitoring. I have no concerns in this regard.
- [49] Mr. Morin's counsel submits that electronic monitoring will mitigate the secondary-ground concerns expressed by the Crown. If released, it will also allow him to attend and participate in meaningful counselling. It was submitted by Mr. Morin's counsel that his detention is not necessary, because the danger to the public safety expressed by the Crown can be addressed with the imposition of electronic monitoring.
- [50] Mr. Morin submits that because of the uncertainty of when his trial dates will be scheduled, the time in custody could be disproportionate to the sentence he will ultimately receive if convicted after trial. Mr. Morin's counsel points out that despite the serious nature of the alleged offences, there is a presumption of innocence and Mr. Morin ought not be denied reasonable bail without just cause.

- [51] Counsel for Mr. Morin also submits that there are triable issues in each of the matters that are before the court. In particular, on the serious offences involving break and enter, counsel for Mr. Morin says that identification and recognition evidence will be at issue at trial.
- [52] The Crown points out that the court can look at the photographs and compare them with Mr. Morin: see *R. v. Nikolovski*, [1996] 3 SCR 1197.
- [53] I am mindful of my limited role in a bail hearing; however, I agree that these photographs are clear and do match Mr. Morin's description, not to mention the officers who identified him are the same officers that dealt with him previously.
- [54] Crown argues that Mr. Morin's continued detention is necessary on the sets of charges that were before Judge Gill in the initial bail hearing. As well, Crown submits that Mr. Morin has not shown cause on the new sets of charges and that his detention is warranted on the secondary ground.
- [55] Crown maintains that there is a risk that Mr. Morin will commit further offences and the risk is of such magnitude that it amounts to a substantial likelihood, and that there is a need to protect the public at large from Mr. Morin. Crown also takes the position that Mr. Morin was in a reverse-onus in the Provincial Court and continues to be so in this court.
- [56] Crown says Mr. Morin is now saying "I would like to go to a recovery house." The Crown submit this should not be a get-out-of-free card for Mr. Morin.

Analysis

Is the continued detention of Mr. Morin justified?

- [57] I am guided by *Myers*, in which the court reiterated that the purpose of s. 525 is to prevent accused persons from languishing in custody pending trial and to assure a prompt trial.
- [58] In this review hearing, I am required to address three important considerations. They are:
- a) any new evidence or change in circumstances since the original hearing;
 - b) the impact of the passage of time and any unreasonable delay on the proportionality of detention; and
 - c) the rationale offered for the initial detention.

[57] I will address each factor.

New evidence or change in circumstances

- [59] I am mindful that Mr. Morin has now spent over six months in custody. His counsel says that this period of time has allowed him to detox and become sober. The time in pretrial custody has seriously motivated him about recovery.

- [60] Counsel for Mr. Morin submits that in terms of new evidence, in addition to the lengthy period of sobriety, Mr. Morin has a new release plan to address his substance abuse issues. She points out that the additional proposed condition of electronic monitoring will amount to house arrest and he would not be able to leave the treatment facility without a staff member. She points out this is a change in circumstance that favours Mr. Morin's release.

Impact of the passage of time and any unreasonable delay on the proportionality of detention

- [61] As I have pointed out, Mr. Morin has been in custody for over six months. I have reviewed the record of proceedings for each of the seven files before this court. Each of them has stalled at the fix-date stage with no arraignment or dates set. Matters in Provincial Court should be setting dates within 90 days, especially when an accused is in custody. I am told if a trial is expected to last more than three days, pretrial conferences are required in Provincial Court which can delay the setting of trial dates. However, some of Mr. Morin's matters are straightforward and the Crown is proceeding summarily. It is only the more serious charges where a pretrial conference might be required. Nonetheless, the delay here is far too long when dealing with an accused person who is in custody.
- [62] I have not heard that the Crown is responsible for the delay, nor the court.
- [63] Counsel for Mr. Morin has not provided any reason why these matters have not been set down.
- [64] The Crown has expressed concerns in regards to the delay in setting down dates and has asked that I exercise my power under s. 525(4)(a) to expedite the matters.
- [65] In regards to proportionality of detention, the six months that Mr. Morin has spent in custody will be equivalent to approximately nine months jail sentence. I have not been told how long the time period will be between the fix-date and trial dates for in-custody accused persons. However, it is my understanding that generally it could be anywhere from three to four months.
- [66] I am in agreement with Crown that in regards to the more serious charges Mr. Morin faces will likely attract lengthy sentences. I have been told that one of the matters attracts a maximum sentence of life imprisonment. In particular, the matter in which he is alleged to have entered the dwelling home where the resident was present will likely attract a lengthy sentence.
- [67] I am satisfied that Mr. Morin's continued detention would not be disproportionate to any sentence that he is likely to receive if convicted, especially given his previous related convictions.

The rationale offered for the initial detention

- [68] I have not heard counsel for Mr. Morin argue that the Provincial Court judge's initial decision to detain was in error. Although brief, I am satisfied that Judge Gill provided adequate reasons for detaining Mr. Morin on the secondary and primary grounds.
- [69] I have given careful consideration to Mr. Morin's release plan given that it involves supervised treatment for his substance abuse issues. I have also considered that this release plan may also help address the root causes of Mr. Morin's criminal behaviour and reduce the likelihood of future criminal conduct.
- [70] When I consider all of these factors and counsel's submissions, I am not convinced that this new release plan, which is substantively the same as the one proposed in the initial bail hearing, with the addition of electronic monitoring, would mitigate the secondary ground concerns expressed by Judge Gill. I have not been shown how electronic monitoring will mitigate the concerns that were also referred to by Judge Gill.
- [71] A relevant consideration is the accused's repeated failure to follow court-imposed conditions: see *R. v. Belcourt*, 2020 BCSC 925. Mr. Morin has ignored court orders over and over again.
- [72] Despite repeated breaches, Mr. Morin was given a last chance when he was released to reside at a treatment facility. He chose to leave shortly after he arrived. I am in agreement with Judge Gill and I, too, have no confidence that Mr. Morin would abide by any conditions imposed on him, and this includes prohibiting him from possessing break and enter tools, given that he was already on similar conditions. He has shown a complete disregard for these conditions by committing further offences.

Bail hearing for Information 66523 and Information 66518

- [73] Mr. Morin has not had a full Provincial court bail hearing with respect to these two sets of charges. In *Myers*, the court specifically outlined the responsibility of a s. 525 judge in this situation. I will quote directly from para. 56 of *Myers*:

Hearing Where There Has Been No Initial Bail Decision

- [56] Since s. 525 calls upon the judge to review the detention itself, the existence of an initial decision is not required in order to achieve the core objective of a s. 525 review. As I mentioned above, there may be . . . anomalous situations in which an accused person who appears before a judge under s. 525 did not undergo a full initial bail hearing at the time of his or her arrest. To give proper effect to s. 525 in such situations, the judge is required to conduct the full bail hearing "from the ground up" in accordance with the ladder principle articulated in *Antic*, taking into account the time the accused has already spent in pre-trial custody. I wish to mention here that it has been suggested that allowing a full bail hearing to proceed before a superior court judge at the s. 525 stage would encourage "judge shopping"

or would afford the accused some kind of procedural advantage that would for him or her justify spending three months in custody. In my view, this argument strains credulity. To quote O'Neill J. in McCormack, "I am not at all sure that many jailed accused would ever resort to paying the 90 day price for that strategy": para. 26.

- [74] With this in mind, I will do just that as it relates to these two new sets of charges.
- [75] Case law has established that the onus of proof at the detention review falls on the party that had the onus at the original bail hearing: *R. v. Khan*, 2021 BCSC 2668 at para. 12, citing *R. v. Tunnillie*, 2020 NUCJ 26 at paras. 53 to 56.
- [76] So, in respect of these two new sets of charges, Mr. Morin is a reverse-onus situation.
- [77] Again, I am mindful that Mr. Morin has a presumption of innocence and that he is entitled to reasonable bail.
- [78] In *R. v. Abdel-Rahman*, 2010 BCSC 189, Justice Halfyard provides useful guidance on assessing whether detention is necessary on the secondary ground:
- [21] The limits within which detention on the secondary ground may be justified were described by Chief Justice Lamer in *R. v. Morales*, [1992] 3 S.C.R. 711 (at para. 39) in the following words:
- . . . Bail is not denied for all individuals who pose a risk of committing an offence or interfering with the administration of justice while on bail. Bail is denied only for those who pose a "substantial likelihood" of committing an offence or interfering with the administration of justice, and only where this "substantial likelihood" endangers "the protection or safety of the public". Moreover, detention is justified only when it is "necessary" for public safety. It is not justified where detention would merely be convenient or advantageous. . . .
- [22] In *R. v. Wilcox* 2005 B.C.S.C 1785, Mr. Justice Barrow (at para. 22) further clarified the limits of the secondary ground by stating that bail should not be denied unless "that risk cannot be adequately addressed by the imposition of appropriate terms of release." I take this statement to refer to the "necessity" of detention, and to mean that even significant risks can be addressed by strict bail conditions, provided the risk to public safety does not amount to a "substantial likelihood."
- [23] In my opinion, the decisions that a judge must necessarily make in order to reach the conclusion that detention is justified on the secondary ground, are the following:
- a) First, that there is a risk that the accused will either commit an offence, or will interfere with the administration of justice, if he is released;
 - b) Second, that this risk is of such magnitude that it amounts to a "substantial likelihood;"
 - c) Third, that the said risk would constitute a danger to public safety (in general, or to a specific victim or witness) if the accused is released; and

- d) Fourth, that the detention of the accused is "necessary," because the identified danger to public safety cannot be prevented or reduced to an acceptable level by bail conditions (such as reporting to authorities, curfew, no-contact, mobility restrictions, sureties or cash bail).
- [79] In considering all of the above-noted factors, I conclude that the release plan will not mitigate the substantial risk presented to the safety of the community. I have arrived at this conclusion, given the nature of the offences currently before the court.
- [80] The allegations against Mr. Morin are very serious. Mr. Morin embarked on a crime spree beginning in August 2021 until February 2022, and in particular in October 2021. The breadth of criminality is why the Crown is seeking detention on the secondary ground. Breaking into multiple residential apartments and stealing mail packages and keys is alarming. In particular, the charges relating to breaking into someone's home while they are asleep goes to the very heart of society's expectation they should be safe in their homes.
- [81] The Crown is proceeding by indictment and it carries a maximum sentence of life imprisonment. On the more serious charges, Crown is also proceeding by indictment.
- [82] Mr. Morin was placed on probation by Judge Shaw in March 2021 for the one conviction on his criminal record. In the span of six months, he amassed nine breach charges resulting from this one probation order. As well, he was on bail on information 246073 when he is alleged to have committed these new offences. There appears to be a complete disregard for court orders by Mr. Morin.
- [83] Given his non-compliance with the terms of the probation and bail orders, I do not have any confidence that, if released, he would abide by any bail restrictions imposed on him, regardless of how restrictive they may be. If released, there is a substantial likelihood that Mr. Morin will commit further offences.
- [84] Mr. Morin's detention is necessary because the identified danger to public safety cannot be prevented or reduced to an acceptable level by any bail conditions, including electronic monitoring. Therefore, he is detained on the secondary ground on Information 66523 and Information 66518.

Direction for expedited trials

- [85] As a s. 525 judge, I also have a supervisory role to ensure that Mr. Morin be tried promptly. Based on the history of the court appearances on all of the files before me, I am of the view that this requires the court to intervene and make a direction for expedited trials pursuant to s. 525(4).
- [86] Mr. Morin has been in custody for over six months on these files and, as the Crown has pointed out, given that there are seven files, it may be difficult to obtain early trial dates for all of them. However, I note that some of the charges are simple breaches of probation which should not require lengthy court time to complete.

[87] Consequently, I will follow Justice Riley's direction in *Frederickson*, and also make a direction under s. 525(4)(a) that if a trial date or disposition of some kind has not been scheduled in Provincial Court by November 17, 2022, on all of these matters, then arrangements are to be made to have this matter brought back before me at 9:00 a.m. on a date when I am available to hear it for possible future directions or more specific directions under s. 525(4)(a).

Conclusion

[88] Overall, for the matters before me on review pursuant to s. 525, I conclude that there is substantial likelihood that Mr. Morin will commit further offences if released, in particular in relation to break and entering. I also conclude that the safety of the community is at risk and that Mr. Morin's detention remains justified under the secondary ground for the five matters that were before Judge Gill in Provincial Court, and the detention order is upheld.

[89] As well, I conclude that Mr. Morin must be detained on the secondary ground for the two matters for which he has had his initial bail hearing before me.

[90] Pursuant to s. 525(4)(a) of the Criminal Code, I order the trials of all these matters be expedited in Provincial Court.

"Girn J."

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