

CANADA / JUDGMENT

R. v. Pandher

2021 BCSC 2725

COURT

Supreme Court of British Columbia

DECIDED

2 December 2021

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2021 BCSC 2725 R. v. Pandher

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Pandher,

2021 BCSC 2725

Date: 20211202

Docket: 32500W

Registry: Vancouver

Regina

v.

Fatehvir Singh Pandher

Before: The Honourable Mr. Justice Ball

Oral Reasons for Judgment

at s. 525 Detention Review Hearing

Counsel for the Crown:

N. Reithmeier

Counsel for the Accused:

B. Movassaghi

Place and Date of Hearing

New Westminster, B.C.

December 2, 2021

Place and Date of Judgment:

New Westminster, B.C.

December 2, 2021

- [1] THE COURT: These are reasons respond to an application pursuant to s. 525 of the Criminal Code, R.S.C. 1985, c. C-46 ("Criminal Code"), for review of a detention order made on September 2, 2021.
- [2] Mr. Pandher was originally charged with offences involving violence at a gas station store in Surrey on August 8, 2021. On that date, he reported a problem with his car to the gas station attendant. The gas station attendant offered him a phone number to call for assistance to address the problem. For reasons that are unexplained, this offer apparently enraged the accused, who threatened to shoot the attendant. At 1:00 a.m. when this threat was alleged to have been uttered, the gas station attendant would have experienced genuine grave fear on hearing that threat.
- [3] The accused then rattled the cage occupied by the attendant with such force that the cage broke open, and there was some physical contact between the two men. A phone message was relayed from the attendant to the owner of the gas station, who then arrived at the station. The owner asked the accused to leave the station. The accused threatened the owner and suggested he would "blow up" the gas station.
- [4] The police were then called and arrived. The belligerence by the accused continued towards the police officers, where deplorable language was allegedly used by the accused to refer to the police officers and other persons present, including racist comments. The accused was then arrested.
- [5] Police observed that Mr. Pandher's car door had been left open. Through the open door, police observed a sledgehammer in the driver's footwell and also the handle of a handgun visible underneath the floormat there. The handgun, a .22 calibre weapon, was removed from the car and was of particular interest to the police, because there had been four drive-by shootings earlier that same evening and morning. .22-calibre shell casings were located in the car and at two of the four of the shooting scenes.
- [6] At that time, the accused had only been charged with the counts related to activities at the gas station and, as a result of those activities, the accused had been originally detained in the Provincial Court as noted above.
- [7] After forensic analysis of that handgun, it was: (a) determined that it was a restricted firearm, as defined in the Criminal Code; and (b) the shell casings and bullets recovered from the drive-by shooting sites and left in the accused's vehicle were, in fact, fired from that gun, located in the accused's vehicle.

- [8] The handgun was analyzed to show that a modification kit had been used to convert a toy gun into a restricted firearm and documents found in the cellphone, seized from the accused, showed websites selling laser sighting mechanisms for a handgun and other handgun parts.
- [9] The accused was interviewed and told the police he possessed three or four guns or "straps", as he called them, and he told the police about four drive-by shootings. He told the police he did one drive-by shooting. The number does not particularly matter in this hearing, given that these are very dangerous situations.
- [10] As noted, the accused was detained originally on the gas station counts alone. The plan for release was a modest cash bail, together with living with members of his family. His grandfather has been in court today and that is an important sign of support from the family of the accused.
- [11] However, there was no error claimed against the original detention order and I can find no basis to disturb that order, insofar as its propriety is concerned. It was appropriate in all the circumstances of this case and an order properly made.
- [12] The offences using a firearm now charged under s. 244.2(3)(b) carry a minimum sentence of four years. These involved shooting bullets. These situations involved shooting bullets into homes and motor vehicles without apparent motive, and without any warning to any of the occupants of those homes, who were highly vulnerable. The shootings are alleged to have occurred in the middle of the night or early morning. Having someone fire bullets into a person's home is a very serious situation indeed for which residents would have absolutely no protection. That is what is alleged here.
- [13] The present plan for release is to a treatment centre with a \$2,000 cash bail. That does not provide any level of confidence in light of the ongoing safety concerns to the public.
- [14] Crown counsel also sought detention on the tertiary ground. I am satisfied here that the secondary ground has been met, and that the release plan offered did not address the secondary-ground concerns..
- [15] To determine if the criteria on the tertiary grounds are met, the court is obliged to consider the four criteria set forth in s. 515(10) as outlined clearly in *R. v. St-Cloud*, 2015 SCC 27, [2015] 2 S.C.R. 328. Those four criteria are as follows:
- (a) One, the strength of the Crown's case. The Crown's case here, with a combination of real evidence, statements by the accused, and other circumstances, is a very strong case. It was acknowledged by defence counsel to be a strong case.
 - (b) Criteria 2 and 4 involve the gravity of the offences. As I said, the offences involved shooting bullets into people's homes, which is highly dangerous and are very serious offences. They are very serious offences and carry long minimum sentences, which have already been found to be constitutional.

(c) The third criteria, involves, among other things, the use of a weapon or firearm. In this case, as I have said already, a firearm was allegedly used in circumstances of the commission of offences alleged in Counts 1, 2, 3, 4, 12, 13, 14, 15, 16, and 17. I find the conditions required for detention on the tertiary grounds have therefore been met and order the detention of this accused on the tertiary ground as well.

[16] So while I was willing to take on the consideration of how it is that reverse-onus provisions apply to s. 525 applications, I have decided it is unnecessary in these circumstances. I therefore strike the date of December 18, 2021, when the parties were going to argue about the reverse-onus provisions.

[17] So the accused is detained on both indictments.

"Ball J."

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Prepared on 26 October 2026 · Esheria