

CANADA / JUDGMENT

R. v. Shaver

2022 BCSC 525

COURT

Supreme Court of British Columbia

DECIDED

20 January 2022

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

2022 BCSC 525 R. v. Shaver

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Shaver,

2022 BCSC 525

Date: 20220120

Docket: 32594-1-W

Registry: Vancouver

Regina

v.

Mark Timothy Shaver

Restriction on Publication: A publication ban has been imposed under ss. 517(1)

and 525(6) of the Criminal Code

Before: The Honourable Madam Justice Ker

(appearing via videoconference)

On judicial review from: Provincial Court of British Columbia, September 22, 2021 (R. v. Shaver, Kelowna Docket No. 96248-1-K)

Oral Reasons for Judgment

at s. 525 Detention Review Hearing

Counsel for the Crown

appearing via videoconference:

J.N. Saris

Counsel for the Accused

appearing via videoconference:

M.A. Patterson

Place and Date of Trial/Hearing:

Kelowna, B.C.

January 19, 2022

Place and Date of Judgment:

Kelowna, B.C.

January 20, 2022

Table of Contents

Introduction.. 3

Background.. 3

Governing Legal Principles. 8

Parties' Positions. 9

Analysis. 10

Conclusion.. 16

[1] These Reasons for Judgment were delivered as oral reasons. They have since been edited for distribution.

Introduction

[2] The accused, Mark Timothy Shaver, is before the Court for a detention review hearing pursuant to s. 525 of the Criminal Code, R.S.C. 1985, c. C-46 [Code] because he has been detained in custody in excess of 90 days and the trial of the indictable offences with which he is charged has not yet commenced.

[3] Mr. Shaver is charged on Indictment 96248-2 with one count of unlawful confinement of Marian Tutuarima, contrary to s. 279(2) of the Code; one count of assault with a weapon of Ms. Tutuarima, contrary to s. 267(a) of the Code; and one count of uttering threats to Ms. Tutuarima, contrary to s. 264.1(1) of the Code.

Background

- [4] The circumstances relied on by the Crown at this detention review hearing were outlined at the initial bail hearing. In brief, in the summer of 2021, specifically between August 16, 2021 and September 8, 2021, the complainant and the accused, who at the time had been in a relationship for approximately two years, went to a remote camping location known as Boulderfields Park, off a forest services road south of Kelowna, B.C. The parties had moved there from their previous location at Willow Creek campground in Kelowna, where they had been living in a camper.
- [5] On September 8, 2021 at approximately 7:30 p.m., Ms. Tutuarima sent a text message to a friend/former co-worker saying that she needed help, had no cellphone service, was in an abusive relationship, and that "he is going to kill me." In another text to the same friend, she provided her location. The recipient of the text messages was not familiar with the phone number for the incoming messages from the complainant. Nevertheless, the recipient contacted the police.
- [6] At approximately 8:30 p.m., Kelowna RCMP officers attended the campsite area, located Mr. Shaver and Ms. Tutuarima, and obtained a statement from Ms. Tutuarima. In her statement, she advised the attending officers that Mr. Shaver had held her captive for the preceding two weeks, and had threatened to kill her and their dog. As part of the threats, she alleged that Mr. Shaver had held a running chainsaw near her head and threatened to cut her up. In addition, she told the police that Mr. Shaver made her sleep in the vehicle, which he had alarmed to prevent her from leaving. Ms. Tutuarima also advised that, on September 8, when she was inside the camper, Mr. Shaver threw gasoline on it and threatened to set it on fire.
- [7] Ms. Tutuarima also told the police that Mr. Shaver had picked out a location in the mountains near Boulderfields Park where he planned to kill her and their dog. She further told the police that, on August 16, 2021, Mr. Shaver had assaulted her by hitting her in the head with an unknown object. She showed the police a photograph of her forehead that depicted a cut near her scalp line, with blood running down her forehead. At the campsite, police observed a chainsaw and a gas can.
- [8] Ms. Tutuarima further advised the police that Mr. Shaver told her that, if she did not do what he wanted her to do, he would make her watch him cut up their dog with a machete and then kill her.
- [9] Ms. Tutuarima's allegations are detailed, specific, and, if true, very disturbing.
- [10] The police arrested Mr. Shaver at the campsite. His bail hearing was conducted before the Honourable Judge Heinrichs of the Provincial Court in Kelowna on September 22, 2021. In addition to Mr. Shaver's criminal record, Heinrichs P.C.J. was provided a copy of a handwritten letter from Ms. Tutuarima. Judge Heinrichs referred to the letter in her reasons for detention, stating at paras. 14, 15, and 45:

- [14] Crown counsel has also provided a letter from Ms. Tutuarima dated September 16, 2021, about a week after the information was sworn, and in that letter she is explaining that the attendance of the police at the campsite met her objective, which was just to prevent any physical -- I am just looking for her language -- physicality between the parties and she said that now that the police have arrived and that she is not at the campsite, essentially everything is all fine and good.
- [15] She says that they have already got services -- information on services that are specific to their individual and relationship needs. Because there is no physical harm that happened -- I take from her letter that -- there is no need for further involvement of the police or the courts.
- [. . .]
- [45] With respect to her letter, it is not uncommon that people attempt to change or withdraw the involvement of the police later, when they have had some time to consider it. That is all part of or can be part of the cycle of abuse, and that is particularly why these decisions are not up to the complainant, and that is why I started my reasons by saying that this is not a civil matter between Mr. Shaver and Ms. Tutuarima.
- [11] Judge Heinrichs was troubled by the disturbing allegations outlined by the Crown and the lack of any cohesive bail plan by Mr. Shaver. Notwithstanding Ms. Tutuarima's letter outlining that she wanted to withdraw her statement to the police, Heinrichs P.C.J. ordered Mr. Shaver's detention on both the secondary and tertiary grounds, pursuant to s. 515(10) of the Code.
- [12] At the detention review hearing, the Court was presented with Ms. Tutuarima's letter (marked Exhibit 1 at the bail hearing) and a November 4, 2021 email by Ms. Tutuarima to Mr. Shaver's counsel showing that she had resubmitted her September 20, 2021 letter to the Crown on or about October 18, 2021. These items were marked as Exhibit 1 at this detention review hearing.
- [13] As I have already noted, Ms. Tutuarima's September 20, 2021 letter was before Heinrichs P.C.J. at the original bail hearing. While the complainant appears to suggest in the letter that this is really a private matter between herself and Mr. Shaver, I agree with Heinrichs P.C.J.'s assessment of the letter in her reasons, wherein she stated:
- [35] In the context today of the situation that women find themselves in, when there is abuse going on within an intimate relationship, it becomes not a private matter but a public matter, and that means that this is not a civil action between parties, where a person who files a civil claim against one person can choose to withdraw that claim at their will or settle the claim at their will.
- [36] This is an alleged violation of a public law against the public peace, and it is part of a larger picture about the frequency and degree of violence against women by intimate partners. In the context of knowing that most women who are either attempting to leave a relationship

are at the greatest risk of physical harm, and statistics showing that in most cases where women are assaulted it is as a result of an assault by an intimate partner -- knowing the context of that, and the statistics and the problem that we have in society, I need to consider this hearing in that light.

[. . .]

[45] With respect to her letter, it is not uncommon that people attempt to change or withdraw the involvement of the police later, when they have had some time to consider it. That is all part of or can be part of the cycle of abuse, and that is particularly why these decisions are not up to the complainant, and that is why I started my reasons by saying that this is not a civil matter between Mr. Shaver and Ms. Tutuarima.

[14] I adopt Heinrichs P.C.J.'s observation that, in cases of intimate partner violence, complainants change their minds. This is part of the cycle of abuse that is all too often before the courts. I will note, however, that the complainant's September 20, 2021 letter does not recant the allegations. In her November 4, 2021 email, the complainant writes:

Just to maintain professionalism I am sending you the cover letter for the letter I sent by fax to crown counsel stating I am recanting my statement that I did not make under oath and why Mark is being detained in custody. I am sending it to you to show some sort of proof that it was sent on the date shown as I know crown hasn't disclosed of the letter as of yet. Crown and Rcnp have threatened to charge me with [perjury] and told me they would not accept and other testimony from me other than what was said at the police station the date of Marks arrest. They have also completely misinterpreted what I stated and have falsified the statement that is seeing him charged with unlawful confinement. That's all I will say for now as I don't want to contaminate/ruin any representation Mark has from you in this case.

[15] Crown counsel is aware of this email, having received it the day before this detention review hearing.

[16] Of significance, the Crown submits the following:

- a) The complainant has not received nor reviewed her statement to the police. Her statement was tape-recorded and had not been transcribed, let alone reviewed, at the time of the email. Accordingly, her suggestion in the November 4 email that her statement had been misinterpreted and falsified does not accord with these circumstances. She has not yet seen the transcript of her tape-recorded statement.
- b) On September 16, 2021, before the bail hearing, the complainant contacted Corporal Fazan, the investigating officer, and said she wanted to "withdraw her statement." The complainant sounded upset and Cpl. Fazan, reasonably, wanted to obtain another statement from her. I infer that the complainant and the officer did not meet face-to-face on this date.

- c) After the complainant's September 20, 2021 letter was received by Cpl. Fazan, he attempted to meet with the complainant to take another statement. On September 28, 2021, the complainant told him that she felt sick and would reach out when she felt better. On December 18, 2021, the complainant emailed Cpl. Fazan, advising that she would contact him to set up an interview.
- d) As of December 22, 2021, Cpl. Fazan still had not heard from the complainant. Accordingly, she has not yet provided another statement to police.

[17] The complainant has not yet been interviewed by the Crown. Significantly, however, the complainant has not recanted her statement. While she may well be oscillating back and forth between co-operating and not co-operating with the police and Crown, she has not taken the step of actually recanting her statement. Her conduct aligns with that of women who have been subjected to intimate partner violence. Complainants in these situations do change their minds, likely because they are afraid and experiencing a variety of other psychological and/or emotional stressors.

[18] Counsel for Mr. Shaver argues that Judge Heinrichs's concerns as expressed in para. 44 of the reasons for detention are perhaps a bit "maternalistic" (as akin to paternalistic). I respectfully disagree. At para. 44, Judge Heinrichs states:

I would not consider it safe to release Mr. Shaver on anything less than cash bail or surety, and releasing him on electronic monitoring is not going to address the concerns that Crown expressed, that Ms. Tutuarima and Mr. Shaver may continue that relationship, despite any court orders to the contrary, which immediately puts Ms. Tutuarima at risk.

[19] This comment by Judge Heinrichs is entirely consistent with what the Provincial Court and this Court frequently observe in respect of bail conditions and the dynamics of abusive relationships and intimate partner violence.

Governing Legal Principles

[20] There is no issue about the test to be applied on this review. According to the decision of the Supreme Court of Canada in *R. v. Myers*, 2019 SCC 18 at para. 63, the question is whether the accused's detention is still justified on one or more of the grounds in s. 515(10) of the Code. Determining this involves considering the rationale for the original decision, any additional credible and trustworthy information that was not before the hearing judge, the impact of the passage of time on the appropriateness of the detention, and the effect of any unreasonable delay that has occurred. A frequent example of additional information relied on to support release on a detention review is a more robust or comprehensive plan for release of the accused than was available at the original bail hearing.

[21] The question before me is whether Mr. Shaver's continued detention is justified within the meaning of s. 515(10) of the Code.

- [22] On September 22, 2021, Heinrichs P.C.J. ordered Mr. Shaver be detained on the secondary and tertiary grounds as set out in s. 515(10) of the Code, which provides:
- (10) For the purposes of this section, the detention of an accused in custody is justified only on one or more of the following grounds:
- (a) where the detention is necessary to ensure his or her attendance in court in order to be dealt with according to law;
 - (b) where the detention is necessary for the protection or safety of the public, including any victim of or witness to the offence, or any person under the age of 18 years, having regard to all the circumstances including any substantial likelihood that the accused will, if released from custody, commit a criminal offence or interfere with the administration of justice; and
 - (c) if the detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including
 - (i) the apparent strength of the prosecution's case,
 - (ii) the gravity of the offence,
 - (iii) the circumstances surrounding the commission of the offence, including whether a firearm was used, and
 - (iv) the fact that the accused is liable, on conviction, for a potentially lengthy term of imprisonment or, in the case of an offence that involves, or whose subject-matter is, a firearm, a minimum punishment of imprisonment for a term of three years or more.

Parties' Positions

- [23] Counsel for Mr. Shaver contends that Mr. Shaver can and should be released, given the seemingly collapsing nature of the Crown's case and that any concerns on the secondary or tertiary grounds can be addressed with the imposition of the stringent terms of release that he has proposed.
- [24] At the initial bail hearing, counsel for Mr. Shaver (not the same counsel as on this review), provided a few details about Mr. Shaver's personal history, but little in the way of any sort of viable bail plan, apart from offering \$500 to \$1,000 cash and to reside with a "friend" in Vancouver, who turned out to have a significant criminal record.
- [25] Counsel for Mr. Shaver argues that there is now a better bail plan in place, which I will address momentarily, and that the Crown's case has been effectively "gutted" by the complainant's September 20, 2021 letter, November 4, 2021 email, and Ms. Tutuarima's failure to follow up with Cpl. Fazan's efforts to obtain a second statement from her.

- [26] Mr. Shaver's proposed bail plan is to deposit up to \$2,000 cash and reside in Clearwater, B.C., at the home of his friends, Kena and Michael England. He suggests a curfew and a number of conditions for release, including a Rogers Order with respect to his medication, counselling as directed by the bail supervisor, and related conditions all directed to address the secondary ground concerns.
- [27] Mr. Shaver advises that he has employment with a company named McStrong Safety, working as a flagging person for roadwork in connection with the building of one of the pipelines through the province.
- [28] Counsel for Mr. Shaver advises that the Englands are aware of Mr. Shaver's charges and are still prepared to have him live in their home.
- [29] The Crown, on the other hand, contends the bail plan is essentially the same plan as before Heinrichs P.C.J., albeit with a different location for residence.
- [30] Accordingly, the Crown contends that Mr. Shaver's detention continues to be justified on both the secondary and tertiary ground as nothing has changed significantly since the original bail hearing and detention order.

Analysis

- [31] Mr. Shaver is 31 years old and has a Grade 11 education. He was raised in foster care in Ontario and suffered significant physical and emotional abuse. Thus, Mr. Shaver has unresolved childhood trauma which requires counselling that he is prepared to engage in.
- [32] Although the complainant suggests in her September 20, 2021 letter to the Crown that Mr. Shaver has been diagnosed with a variety of mental health issues, including bipolar disorders I and II, complex post-traumatic stress disorder, and antisocial personality disorder, as well as anger and aggression issues, counsel for Mr. Shaver advises he has been unable to locate any documentation confirming any of these diagnoses.
- [33] Significantly, however, at the time of the alleged offences, Mr. Shaver was addicted to methamphetamine and had been using that substance for about one year prior to his arrest on September 8, 2021.
- [34] Since his detention on these charges, Mr. Shaver has undertaken counselling and has voluntarily participated in the Essential Skills to Success modules for anger management, respectful relationships, and substance abuse. In the last two weeks, Mr. Shaver has also been prescribed and started taking Mirtazapine, an antidepressant which he finds helpful. Furthermore, Mr. Shaver has been seeing the drug and alcohol counsellor at Okanagan Correctional Centre, mainly for general counselling.

- [35] While the complainant's letter to the Crown and her failure to respond to Cpl. Fazan's efforts to obtain a second statement are of concern to the Court, when viewed through the lens of intimate partner violence, they are not surprising. I do not interpret that the materials provided constitute a recantation of the events in Boulderfields Park which ground the indictment. The allegations are extremely serious and occur in the context of intimate partner violence.
- [36] I am also mindful that Mr. Shaver is clothed with the presumption of innocence and that, in the circumstances as addressed by both counsel, there are significant triable issues with respect to the indictment.
- [37] However, as mandated by s. 515(3)(b) of the Code, Mr. Shaver's criminal record must also be addressed in the overall circumstances. To that end, Mr. Shaver has a dated criminal record which includes youth dispositions for uttering threats, dangerous driving, possession for the purpose of trafficking, failure to comply with court orders, and administering a noxious thing with intent.
- [38] His adult criminal record spans the period of December 2009 through September 2014, with a variety of convictions, including two different assaults at different times; two different instances of uttering threats at different times; break and enter; possession of a controlled substance; and two further failures to comply with court orders at different times.
- [39] Mr. Shaver's record could thus be described as demonstrating that he is a versatile offender. While Mr. Shaver's criminal record does not show entries after 2014, this gap is not entirely accurate.
- [40] At the bail hearing before Heinrichs P.C.J., the Provincial Court was advised that Mr. Shaver arrived in B.C. in or about 2016, and that the Police Records Information Management Environment ("PRIME") files with the police in the Okanagan establish approximately 30 interactions between Mr. Shaver and the police since that time. While these files did not result in charges, they certainly indicated threatening behaviours between Mr. Shaver and others, including an ex-girlfriend. I caution myself that Mr. Shaver is presumed innocent of these allegations and that no charges appear to have been laid nor convictions entered. Nevertheless, that history suggests that the seven- to eight-year gap in his criminal record does not equate to a true gap with no interactions or dealing with the police.
- [41] I am mindful of the Supreme Court of Canada's repeated direction that pretrial release is the rule and detention is a last resort. Moreover, this principle of restraint has been codified in s. 493.1 of the Code, which provides:

493.1 In making a decision under this Part, a peace officer, justice or judge shall give primary consideration to the release of the accused at the earliest reasonable opportunity and on the least onerous conditions that are appropriate in the circumstances, including conditions that are reasonably practicable for the accused to comply with, while taking into account the grounds referred to in subsection 498(1.1) or 515(10), as the case may be.

[42] In the context of this case, the Court must also consider s. 515(3)(a) of the Code, which provides:

515 (3) In making an order under this section, the justice shall consider any relevant factors, including,

(a) whether the accused is charged with an offence in the commission of which violence was used, threatened or attempted against their intimate partner . . .

[43] This section was added to the Code in 2019 when Bill C-75 received royal assent and came into force. It is statutory recognition of Parliament and society's concerns about intimate partner violence.

[44] To this end, Heinrichs P.C.J. was absolutely correct to note that these charges are not a private matter as between the complainant and Mr. Shaver. They are a very public matter and cause significant concern with respect to the length of the complainant's alleged confinement, the type of threats allegedly made to the complainant, and Mr. Shaver's alleged assaultive behaviour against the complainant.

[45] I acknowledge that there is no evidence that connects Mr. Shaver to the complainant's letters at Exhibit 1 and that Mr. Shaver says he has no intention of contacting the complainant. Unfortunately, the dynamics of intimate partner violence are a very complicated and all too common societal problem. It is hard to predict where their relationship might go should the parties re-establish contact.

[46] Mr. Shaver's prior convictions for uttering threats and failing to abide by court orders do not instil confidence in the Court that he does not pose a risk to the public and, particularly, the complainant or any other woman he might become involved with in an intimate relationship.

[47] The unpredictable and dangerous nature of intimate private violence and its public dimension was addressed many years ago by Justice Lambert in a decision dismissing a sentence appeal. In *R. v. Stanley*, [1986] B.C.J. No. 695 (C.A.), the appellant argued that the consecutive sentences for two different domestic assaults ought to have been concurrent. The sentence appeal was dismissed. In the course of dismissing the sentence appeal, Lambert J.A., speaking for the Court, stated:

[8] I wish to say particularly in this case that society has a deep interest in this kind of conduct. It is not a private matter between the parties to the relationship nor a matter that goes away if there is forgiveness within the relationship. This kind of conduct endangers and imperils society. In addition the guardians of the social interest, the people involved in social work and the police who are called out and into these situations, must have the protection of the law and the understanding that these offences will not be ignored by society or that forgiveness by one spouse will not put an end to the offence. Other people are at risk. Children are at risk and the neighbours are at risk. The nature of the assaults can escalate to the point where they are completely unbearable . . .

- [9] There must be support for the social interest in preventing those kinds of assault and in the interests, of the guardians of the peace in feeling that when they investigate this kind of matter the whole issue will not be ignored by the courts. . . .
- [48] These general comments by Lambert J.A. in *Stanley* on this point are equally apposite to the circumstances in this case.
- [49] Nonetheless, the Supreme Court of Canada's repeated direction that release is the default position at bail hearings informs my assessment of the current application. An important consideration on the s. 525 detention review hearing is the amount of delay before trial. I am told that the trial in this matter is currently set for four days in the B.C. Supreme Court in Kelowna, commencing August 15, 2022, which means that, if Mr. Shaver is not released, he will have been in custody for approximately 11 months by the end of his trial.
- [50] I am satisfied that there has not been any unreasonable delay in getting this matter to trial. Notwithstanding the lack of delay, I must also consider the proportionality of the time in pre-trial custody when compared with any sentence Mr. Shaver might receive if convicted. The Crown's initial sentencing position on the file is that the Crown would seek a sentence of at least one year imprisonment. I expect that, if the matter went to trial and Mr. Shaver was convicted, and the trial judge found facts in line with what the complainant outlined in her September 8, 2021 statement to the police, a significantly higher sentence would not be outside the realm of probable outcomes, particularly in light of the fact that Mr. Shaver has a disposition as a youth for uttering threats and two convictions as an adult for uttering threats.
- [51] Counsel for Mr. Shaver reminded the Court of the test for assessing the secondary ground under s. 515(10)(b) of the Code. Justice Halfyard's decision in *R. v. Abdel-Rahman*, 2010 BCSC 189, at paras. 21-23, continues to be the guiding framework for 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).
- [52] I am not satisfied that Mr. Shaver's proposed terms of release mitigate the risk presented to public safety and, particularly, the complainant or any other woman that Mr. Shaver might become involved with in an intimate relationship. In all the circumstances, I find that Mr. Shaver's continued detention pending trial is justified on the secondary ground under s. 515(10)(b) of the Code.
- [53] While I do not consider that Mr. Shaver's continued detention until the end of his trial in August would be disproportionate, or that there has been undue delay accruing on this file, I have some lingering concerns about the strength of the Crown's case and the potential that the complainant may not attend at this trial given the contents of Exhibit 1 in these proceedings and her seeming lack of contact with Cpl. Fazan, notwithstanding the officer's efforts to obtain a second statement from her between September 16 and mid-December 2021. However, in my view, those concerns can be alleviated through a direction pursuant to s. 525(4) of the Code.
- [54] THE COURT: Mr. Patterson, I can either direct that there be a further hearing under 525(b) within 90 days or another period that the Court considers appropriate, or that the trial be expedited as per s. 525(4)(a). However, it appears by the language of s. 525(4) that I cannot order both. The preferred option from your perspective, a review within 90 or an order for an expedited trial?
- [55] CNSL M. PATTERSON: Thank you, Madam Justice. I would ask for an expedited trial in this matter.

[56] THE COURT: All right.

[57] CNSL M. PATTERSON: Given the substantive reasons for the Court's decision that detention is continuing to be justified, it will be an Herculean effort to overcome those reasons.

[58] THE COURT: All right.

[59] CNSL M. PATTERSON: So I would ask for a trial in a speedy time.

[60] THE COURT: All right, I will make an order that the trial be expedited, and probably what should be done is the file should be called ahead to the fix-date list in Kelowna as soon as possible. I will advise Scheduling that I have made this order and I believe a form will be sent to me to sign. I believe there is some time at the start -- towards the middle or end of May, but I will let you canvass that with the Scheduler. I will add that Ms. Saris, the Crown with conduct of this prosecution, and the investigating officer would be well advised to make every conceivable effort to interview the complainant and determine what her intentions are with respect to the prosecution of these charges, and so that is something that you should take under advisement.

Conclusion

[61] Overall, I conclude Mr. Shaver presents a high risk for further offences, particularly as against intimate partners. Notwithstanding the able submissions of his counsel, I conclude that Mr. Shaver's detention remains justified under the secondary ground. For these reasons given, the detention order is upheld. Pursuant to s. 525(4)(a) of the Code I order that the trial be expedited in this case. The actual indictment file is not before the Court, so I think you will have to requisition it to be added to the fix-date list, but Mr. Patterson, I know that you will be able to do that very quickly, or Ms. Saris, you can do that either for next Monday or the Monday after, and you can have discussions with Scheduling regarding where this file is to go. Thank you.

"Ker 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/22/05/2022BCSC0525.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-shaver-2022>

Prepared on 29 October 2026 · Esheria