

CANADA / JUDGMENT

United States v. Randhawa

2014 BCSC 1317

COURT

Supreme Court of British Columbia

DECIDED

20 May 2014

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2014 BCSC 1317 United States v. Randhawa IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: United States v. Randhawa, 2014 BCSC 1317 Date: 20140520 Docket: 26540 Registry:

Vancouver In the Matter of the Extradition Act, S.C. 1999, c. 18, as amended and In the Matter of the Attorney General of Canada on behalf of The United States of America and Alvin Randhawa, a.k.a. Junior, and Patrick Bacon a.k.a. Joe the Welder, Michael Pembroke, Mike Braden, Johnny English Before: The Honourable Madam Justice Kloeckman Oral Ruling on Judicial Interim

Release re Alvin Randhawa In Chambers Counsel for Attorney General of Canada on behalf of the Requesting State: D.B. Majzub Counsel for Person Sought, Randhawa: M.R. Jetté Counsel for Person Sought, Bacon: M.P. Klein Place and Date of Trial/Hearing: Vancouver, B.C. May 20, 2014 Place and Date of Judgment: Vancouver, B.C. May 20, 2014

- [1] THE COURT: The accused, Mr. Alvin Randhawa, is the subject of extradition proceedings at the request of the United States, which wishes him to stand trial for offences equivalent to the offence in our Controlled Drugs and Substances Act known as conspiracy to traffic, particularly in cocaine and marihuana.
- [2] Mr. Randhawa applies for judicial interim release. The onus is on him to show that his detention is not necessary on any of the primary, secondary, or tertiary grounds set out in s. 515(10) of the Canadian Criminal Code. Mr. Randhawa argues that the case against him is not strong and primarily rests on photo ID in unknown circumstances. He says he is not a flight risk because he has lived in the Lower Mainland all his life, has a supportive family, girlfriend of five years, and a community of friends who have filed glowing written character references. Mr. Randhawa has no criminal record and a stable employment history.
- [3] Mr. Randhawa submits that he is not a risk to public safety and that he is not likely to reoffend or interfere with the administration of justice. He has no criminal history. His parents will supervise and post security to guarantee his appearance in court.
- [4] Finally, Mr. Randhawa's counsel submits that the tertiary ground is to be used in rare circumstances only and this is not one of those.

- [5] Crown argues that special considerations apply in international drug trafficking cases because sophisticated wealthy organizations can assist an accused to flee the jurisdiction and can result in the continuation of offences during the bail period. Crown submits that the evidence is strong for committal for extradition, if not for conviction of the underlying offences.
- [6] Crown concedes the weakness of the photographic evidence but says that a witness used Mr. Randhawa's full name. Crown says Mr. Randhawa could be detained even on the rarer tertiary ground.
- [7] I am satisfied that Mr. Randhawa has met the onus of proof on him to show me I do not need to detain him on any of the grounds in s. 510. Simply put, his lack of criminal record, his strong family ties and support, his consistent and promising employment history, the age of the alleged offences, the imprisonment and unavailability of the other alleged co-conspirators to assist him, and the questionable reliability of the double hearsay, hearsay, and weak identification evidence garnered against him to date, all lead me to conclude it would be wrong to detain Mr. Randhawa, who is to be considered innocent until proven guilty.
- [8] I am cognizant that it is the likelihood of extradition that I am to take into account, not the likelihood of conviction for the conspiracy. Nonetheless, I am acceding to the submissions of counsel in this regard.
- [9] Any lingering concerns I may have can be met by the imposition of the conditions suggested by counsel for Mr. Randhawa, which are: \$250,000 surety to be posted by the father and mother; that Mr. Randhawa reside with his parents and not change residence without notice; that he surrender his passport; that he does not leave the Province of British Columbia; that he report to a bail supervisor immediately upon release and one time per week in person after that date; that he not be in possession of any of the weapons described by counsel; and that he not have contact with the other alleged co-conspirators. I would just ask counsel to give Madam Registrar those names so they can properly be put in the conditions. I believe it is the same names that were used for Mr. Bacon. Is that correct?
- [10] MR. MAJZUB: Yes.
- [11] THE COURT: Yes. All right.
- [12] THE CLERK: Sorry, My Lady, to report to the address, what address is he to report to?
- [13] THE COURT: The same one as --
- [14] THE CLERK: The same one?
- [15] THE COURT: Yes, for Mr. Bacon, if you have still got that list of conditions.
- [16] THE CLERK : Yes, I do, My Lady.

- [17] MR. MAJZUB: If the address is in relation to the bail supervisor's office, My Lady, it would be a different address.
- [18] THE COURT: Is it different? Oh, I thought it was in Surrey.
- [19] MR. MAJZUB: It would be -- I understand that Mr. --
- [20] THE COURT: Oh, Richmond.
- [21] MR. MAJZUB: -- Randhawa resides in Richmond. And the address of the bail supervisor in Richmond is 210 - 7577 Elmbridge Way, E-l-m-b-r-i-d-g-e, Richmond, B.C.
- [22] THE COURT: Thank you.
- [23] MR. MAJZUB: I may have missed it, My Lady, but did you also add a no passports and travel documents condition?
- [24] THE COURT: Yes. Yes.
- [25] MR. MAJZUB: Thank you.
- [26] THE COURT: That they be surrendered. "Kloegman J."
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