



Court of Appeal
2425 Victoria Avenue
Regina, Saskatchewan
S4P 4W6

THE QUEEN v. Patron, Travis

File#: CACR3476

Begin 2021-12-02 09:54 AM

Panel: Caldwell, Schwann and Kalmakoff, JJ.A.

Court Clerk: Daina Haniak

Mr. Travis Patron, the Appellant

Mr. Andrew Davis, for the Respondent

2021-12-02 10:00:56	Caldwell, J.A.	Addresses Mr. Patron and asks if he has had an opportunity to review the crown's factum
2021-12-02 10:01:31	Mr. Travis Patron	Argument
2021-12-02 10:10:04	Caldwell, J.A.	Confirms submission that there was no jurisdiction
2021-12-02 10:10:28	Mr. Patron	Argument
2021-12-02 10:14:47	Caldwell, J.A.	Discussion of most recent conviction
2021-12-02 10:15:09	Mr. Patron	Argument
2021-12-02 10:18:45	Caldwell, J.A.	Explains the process and asks if he has any questions
2021-12-02 10:19:57	Mr. Patron	No questions and nothing further
2021-12-02 10:19:59	Mr. Andrew Davis	Argument
2021-12-02 10:25:02	Schwann, J.A.	Can you clarify what happened in Provincial Court and does this affect this matter
2021-12-02 10:25:28	Mr. Davis	Argument
2021-12-02 10:28:43	Mr. Patron	Reply
2021-12-02 10:31:51	Caldwell, J.A.	The Court will rise to see if a decision can be made today
2021-12-02 10:33:55	Court Rises	
2021-12-02 11:05:50	Court Returns	
2021-12-02 11:05:53	Caldwell, J.A., for the Court	Oral Decision of the Court

Appeal Hearing
Result: Oral Decision w/o Reasons
Result Date: 2021-12-02
Disposition: Dismissed

Mr. Patron, you have alleged that the Provincial Court judge committed jurisdictional error when he denied you bail by applying a reverse onus and that the Queen's Bench judge erred by failing to address that question in your application to that Court. At the heart of your argument, you ask this Court to recognize that the Crown has lost jurisdiction over you and that the charges in respect of which you are being detained were made after the Crown had lost jurisdiction and therefore could not be used to support your continued detention.

You raised these matters and the jurisdiction of Provincial Court before Judge Hinds and before Justice Richardson, when those judges were respectively addressing your detention and reviewing the denial of bail. You also challenged the reverse onus aspect of a pre-trial detention, and you raise that issue again in this appeal.

As the Crown has indicated, there is no right to appeal against a decision made s. 520 of the *Criminal Code* reviewing the denial of bail. This is because s. 520(8) provides that, if the reviewing judge dismisses the review application, the applicant may apply again 30 days later or even earlier if leave is granted.

In light of the resolution of some of the charges against you yesterday, Mr. Patron, you may want to consider making a fresh application under s. 520 of the *Criminal Code*. However, given that that option is available to you, we must dismiss your appeal against the Queen's Bench bail review decision, as we lack jurisdiction to hear it. We will, however, say that, as the Queen's Bench judge correctly stated in his reasons, the constitutionality of the reverse onus aspect of a bail application has been settled by the Supreme Court of Canada in 1992.

As to those aspects of your appeal that engaged with the denial of your application for a writ of *habeas corpus*, we have reviewed the decision of the Provincial Court judge who initially denied

you bail, and we have considered the Queen's Bench judge's review of that decision. We have also read the court record that underpins these decisions. As I explained on Monday, the Saskatchewan Court of Appeal is a Court of review for error. This means that an appeal is an inquiry to what in the court below has done to make sure that no reversible errors were committed.

At its most basic, a writ of *habeas corpus* is only available where the continued detention is found to be unlawful. In your case, the Queen's Bench judge dismissed your *habeas corpus* application because he found your continued detention was lawful and was justified in the circumstances. In reaching these conclusions, the Queen's Bench judge properly took into consideration your record of arrests, the charges against you, the fact that you had breached conditions several times and what he described as your escalating criminal behavior. We see no error in those assessments of those facts.

Further, we have reviewed the Queen's Bench judge's decision for an error of law, and we find none. He correctly identified the law and there was no error in his application of the law in the circumstances. It is of course fair to say that the Queen's Bench judge did not delve into the quasi-jurisdictional arguments you raised but, as the Crown observed, they are unknown in Canadian law. Finally, as the Crown observed as well, the Queen's Bench judge dismissed your *habeas corpus* application in the alternative because a writ of *habeas corpus* is an extraordinary remedy that will not be granted if there is an available, alternative remedy and, as we have discussed already, in your circumstances there is a bail review available under s. 520 of the *Criminal Code*. As such, the Queen's Bench judge's alternative reason for dismissing your application was also correct and it is a complete answer to your appeal as it relates to *habeas corpus*.

In the result, as we lack jurisdiction to hear an appeal against the bail review and as we find no error in the Queen's Bench decision on *habeas corpus*, we must dismiss your appeal.