

ONTARIO
SUPERIOR COURT OF JUSTICE

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B E T W E E N :

HER MAJESTY THE QUEEN

- and -

THOMAS DAVID CRAWFORD

D E T E N T I O N R E V I E W
(Decision)

BEFORE THE HONOURABLE JUSTICE WEIN
on August 17, 2007, at BRAMPTON, Ontario

APPEARANCES:

John Kingdon

Counsel for the Crown

Stephen J. Ford

Counsel for Mr. Crawford

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Transcript Ordered.....August 24, 2007
Transcript Prepared.....August 27, 2007
Parties Notified.....August 28, 2007

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Detention Review (Decision)
WEIN J. (Orally)

August 17, 2007

D E C I S I O N

WEIN J (Orally) :

This is an application for release of Thomas Crawford who has been detained now for some months. Mr. Crawford is charged with serious offences involving others. The Crown has very fairly conceded on this review application that errors were made by the Justice of the Peace in the original detention hearing. Those errors, as the Crown has acknowledged, justify a full review at this stage.

In particular, the Crown acknowledges that it was an error in principle, having been referred to the decision of the Supreme Court of Canada in *Regina and Gladue* not to refer further and make a determination based on those principles, which as the other cases referred to by Mr. Ford in his argument at that stage clearly indicate that the

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principles applicable to aboriginal offenders apply throughout the proceedings, including at the bail stage.

In addition, in my view, and perhaps interrelated with that error, the Justice of the Peace erred in indicating that in these circumstances the amount of money offered by the surety was not adequate. A careful consideration of the circumstances of the mother, the proposed surety, would have led the Justice of the Peace to the conclusion that that was an adequate amount in these circumstances.

On the review hearing I heard further evidence from Mrs. Crawford. She has been described by Mr. Ford as having been a perhaps overly nervous witness at the original hearing and efforts were made by the Crown and defence, as well as by the Court, to ensure that she was more comfortable in her testimony here. I am satisfied on the basis of her additional testimony that she could be an appropriate supervisor for her son at this stage.

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In addition, on questioning by both counsel and the Court, Mrs. Crawford has indicated that there may be both high school and skills trades training available to her son pending the court matters. However, no specific efforts have been made pending this hearing to provide detailed information to the Court about what would be actually available to Mr. Crawford. It is said that there is a high school available in Brantford. Mrs. Crawford is prepared to drive her son to and from the high school. Her daughter also attends that high school.

As well, there is an enterprise known as Grand River Enterprises, which is a skills trade school, on the reserve. Mrs. Crawford indicates there is no waiting list and she believes that her son could receive training in both high school credits as well as welding or ironwork, both of which he is interested in.

I hesitate because of the absence of specific

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5 information concerning whether or not Mr. Crawford would be accepted in either of those training programmes, or otherwise.

10 In the grounds for the application, defence counsel indicated that the learned Justice of the Peace erred in detaining Mr. Crawford given that a release with appropriate conditions could have been structured to meet any concerns on the secondary ground. I agree that on a better foundation a release with appropriate conditions could be structured, however I am not satisfied that such a release programme has been affirmatively put forward in these circumstances. In my view, to meet that requirement which the seriousness of the offences and other aspects of Mr. Crawford's young life require, the defence must put forward a specific programme to which Mr. Crawford can and will be admitted on release.

30 Simply sitting at home under house arrest in the circumstances previously put forward before the Justice of the Peace runs significant risks on

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the secondary grounds.

5 Accordingly, I have endorsed the record as follows:

10 The application is dismissed for oral reasons given, but subject to the right to reapply with confirmed information with respect to the availability to schooling or training programmes. Further application
15 may be made in less than 30 days.

20 It would be my recommendation to the defence that, although I may not be the judge on any rehearing, if there is a rehearing, that the Court would be assisted by a letter from whatever programme is chosen and available, and by an
25 affidavit from Mrs. Crawford indicating her willingness to drive her son to and from that programme, and/or his own confirmed willingness to attend such retraining, which will amount to a
30 turn-around in his life.

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I'm sure the Crown will take into account my
comments in any further review. Thank you both.

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R. v. Thomas Crawford
CERTIFICATION

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FORM 2 - Certificate of Transcript

Evidence Act, Subsection 5(2)

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I, Christopher A. Charles, CVR-CM, certify that this document is
a true and accurate transcript of the recording of R. v. Thomas
Crawford, in the Superior Court of Justice, held at 7755
Hurontario Street, Brampton, Ontario, taken from Recording No.
301/2007, which has been certified in Form 1.

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Sept 12/07

20 Date



Christopher A. Charles, CVR-CM

Certified Verbatim Reporter.

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