

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *R v. Patterson*, 2020 NSSC 137

**Date:** 20200326

**Docket:** Syd No.

**Registry:** Sydney

**Between:**

Phillip Patterson

*Applicant*

v.

Her Majesty the Queen

**Judge:** The Honourable Justice Patrick J. Murray

**Heard:** March 25, 2020, in Sydney, Nova Scotia

**Oral Decision:** March 26 , 2020

**Counsel:** Allison Aho for the Applicant, Phillip Patterson  
Darcy MacPherson for the Crown

**By the Court:**

**Overview**

[1] The Court has received a request from the Applicant, Phillip Patterson, to review his bail on an urgent basis.

[2] Primarily, Ms. Aho argues on behalf of Mr. Patterson that the outbreak of Covid 19 creates a threat to him while incarcerated and that his release should be considered by the Court if it can be done safely. This, he says, constitutes a change in his circumstances.

[3] In addition, it is argued that taking into account his remand time to date, with normal credit, that Mr. Patterson could spend more time in custody than is warranted in the event of conviction and sentence. Ms. Aho referred to this time as “dead” time.

[4] The Crown submits that the charges involving Mr. Patterson are numerous and serious. They include breaches, several charges of mischief, assault, uttering a threat, and an alleged attempt to choke, suffocate, or strangle the alleged victim. The breaches alleged involve a failure to obey a curfew, and a failure to comply with a no contact provision regarding the victim. In short, the Crown submits Mr. Patterson cannot be released safely.

[5] I have considered the submissions of the Applicant and the Crown, as well as Mr. Patterson’s circumstances. This includes the fact that his trial will now be adjourned from April 9 to July, 2020. There is also the fact, he has had a full bail hearing in December, 2019, and has been on remand for approximately 90 days since that time.

[6] This is not a s. 525 application, although I accept the rationale that the time frame would entitle Mr. Patterson to such a review. The fact remains however, that the statutory review has not been initiated.

[7] Having weighed and considered Mr. Patterson’s circumstances in totality, I find that while reducing the remanded population moderates or lessens to some degree the threat of the virus, the existence of that factor alone, in these circumstances, is not sufficient to warrant a change.

[8] Secondly, with respect to the submission on remand time, it is difficult for the Court to assess the ultimate sentence without knowing whether Mr. Patterson will be convicted on all, some, or none of the charges and still again, what an appropriate sentence will be.

[9] I am satisfied and have been persuaded that Mr. Patterson is charged with numerous and serious offences under the *Criminal Code*. While he is presumed innocent of each of these charges they are a relevant consideration in any release plan or any prospect of release. Further considerations include the safety of an alleged victim and the potential harm to society, in general.

[10] I accept, as the Crown has stated, that if convicted, the likelihood is that Mr. Patterson will continue to remain in custody for a time to be determined at the time of disposition and sentence.

[11] In these circumstances, the Covid 19 crisis should not outweigh public safety. Overall, I see very little difference between this case and the considerations in the case of ***R v. Dimmock***, very recently decided by Justice Campbell. As here, the Defendant there had a recent bail hearing in which release from custody was denied.

[12] In conclusion, Mr. Patterson's application is dismissed. In my view, his overall circumstances do not amount to an emergency situation. This concludes my decision.

Murray, J.