

C A N A D A

COUR: DU QUÉBEC
(Chambre Criminelle)

PROVINCE DE QUÉBEC

DISTRICT: ABITIBI

VILLE: [REDACTED]

CAUSE NO: [REDACTED]

ÉTAPE: ENQUÊTE SUR CAUTIONNEMENT

SOUS LA PRÉSIDENCE DE:

L'HONORABLE JUGE [REDACTED]

NOM DES PARTIES:

LA REINE,

Plaignante,

- c. -

[REDACTED]

Accusé,

NOMS DES PROCUREURS:

[REDACTED]

PROCUREURE DE LA COURONNE

[REDACTED]

PROCUREUR DE LA DEFENSE

DATE D'AUDITION:

[REDACTED]

2016

Nadia Szaniszlo, o.c.r.

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IDENTIFICATION DE LA CAUSE ET DES PROCUREURS
L'ACCUSÉ EST PRÉSENT ET DÉTENU

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PRÉLIMINAIRES

BY Me ██████████ ██████████

ATTORNEY FOR THE CROWN:

So, we are ready to proceed for the bail hearing in the file ██████████. Mr. ██████████ is detained for fifteen (15) days as of up to now. The onus is on the Accused under Section 515(6)c). So I'm going to file the evidence that was sent previously to the Court, copy to my confrère, under EC-1, en liasse. I'll give a copy to... to the Clerk here, in ██████████, after the hearing. That closes the evidence for the Crown.

BY THE COURT (THE HON. ██████████ ██████████ J.C.Q.):

Maître ██████████?

BY Me ██████████ ██████████

ATTORNEY FOR THE DEFENCE:

Yes, as per the Defence, Your Honour, the evidence produced today will be throughout the testimony of Mr. ██████████. So, mister, if you can please stand up.

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Me ██████████ (EXAMINATION)
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Born █████ █████

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ASSERMENTÉ

EXAMINED BY Me ██████████ ██████████

ATTORNEY FOR THE DEFENCE:

Q- Yes. So, Mr. ██████████, I'll be asking you a few questions. If at any time you have difficulty understanding me, please ask me to repeat the question, okay? I really don't want you to rush any of your answer, okay?

A- Okay.

Q- Okay. So, are you currently employed, Mr. ██████████?

A- Yes.

Q- Where do you work?

A- ██████████ ██████████ .

Q- Okay.

A- ██████████ ██████████ ██████████

Q- Okay. And what... what do you do over there?

A- ██████████ ██████████ ██████████

Q- Okay. What is your job description, exactly?

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Q- Okay. And is it a full-time job? Part-time job? 1

A- Part-time right now. 2

Q- Okay. Usually, what does your schedule look like? 3

A- It's like... normally, it's like three (3) to four 4
(4) days as... as a [REDACTED], when they need 5
[REDACTED]. 6

Q- Okay. And at what time do you start, and what time 7
do you finish? 8

A- Eight (8) to four (4). Eight (8) in the morning... 9

Q- Okay. 10

A- ... till four (4) evening. 11

Q- Okay. And do... for how long have you been working 12
there? 13

A- Since I was seventeen (17). It's about eight (8) 14
years now. 15

Q- Okay. And do you have any guarantee that you'll be 16
able to go back to that job? 17

A- When I talked to my boss last time, he said they 18
really wanted me, but I was detained. 19

Q- Okay. And if the Court decide to release you, 20
where exactly would you be staying? 21

A- At my girlfriend's. 22

Q- Okay. Do you have her house number? 23

A- [REDACTED] 24

Q- Okay. How many people are living inside that 25

house?

A- Just me and her.

Q- Okay. And is there any alcohol inside the house?

A- No.

Q- Okay. Are people allowed to drink inside the house?

A- No.

Q- Okay. Do you have any children, Mr. [REDACTED]?

A- Yes. [REDACTED] [REDACTED] [REDACTED]

Q- Oh, okay. And is your girlfriend, is she currently working?

A- Now she's not because she's pregnant and she have a due date [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Q- Okay. So do I understand that you're the main provider for the family right now?

A- Yes.

Q- Okay. Also, do you provide for any other member of your family or community?

A- Yes. My *anaana*. My family, my grand... I usually help my grandmother and my grandfather. They always need something in the fridge. So I always trying to work and...

Q- How exactly do you help them?

A- Like, reaction... by reaction. Like, they always need help. I cannot say it English, but I can...

- Q- Okay. Let's say financial-wise, money-wise... 1
- A- Yeah. 2
- Q- ... do you help them with money? 3
- A- Yes. We always need something in the fridge, so I 4
always try to work. So we always need food, and I 5
always... 6
- Q- Okay. 7
- A- ... help them. 8
- Q- Okay. So you talked to us about the food and 9
everything. Do you do some hunting, Mr. [REDACTED]? 10
- A- Yes. I always... when I have time to go hunting, 11
when I don't work, I go camping to get country 12
food. 13
- Q- Okay. And how many times per month would you say 14
you go for that activity? 15
- A- It's usually six (6) times per month. It's over 16
that. 17
- Q- And can you talk to us a little bit about the 18
situation of your grandfather, Mr. [REDACTED]? 19
- A- Yes. He's... I mean, he's really old now. He's 20
about... he's almost eighty (80), and he's staying 21
in the hospital. They (*inaudible*)... 22
- Q- For how long has he been in the hospital? 23
- A- It's... he's been there over three (3) months now, 24
since [REDACTED], I think. He's... he's in the hospital 25

for quite a while now, and doctor said he... he have a... I mean, he don't have a long time to live now.

Q- Okay. And how exactly does this affect you, Mr. [REDACTED]?

BY THE COURT:

I understand it affects you?

BY THE DEFENCE:

Q- Okay. Take your time, okay, Mr. [REDACTED]. Now, I'll go to an easier question, okay, Mr. [REDACTED]? As for the guarantees that you'd be able to give to the Court right now, if the Court release you with very strict conditions, would you be able to respect those conditions?

A- Yes, I would.

Q- Okay. Would you also be able to provide the money bail, Mr. [REDACTED]?

A- Yes, I could.

Q- Okay.

BY THE COURT:

Me, I'm thinking..

BY THE DEFENCE:

Q- How much...

BY THE COURT:

Me, I'm thinking more about guarantees to protect

the Plaintiff [REDACTED]

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BY THE DEFENCE:

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Yes, yes, yes. I will come up to that, but I'm just starting with the money bail that he's going to be able to (*inaudible*), but we have guarantees for that as well, Your Honour.

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BY THE COURT:

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Okay.

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BY THE DEFENCE:

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Okay.

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Q- So, how much would you be able to provide as... for money bail, Mr. [REDACTED] ?

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A- Seven fifty (750).

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Q- Okay. You do understand that if at any time between now and the end of the legal process, you breach one (1) of your condition, the Court will be able to seize that money?

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A- Yes.

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Q- Okay. If the Court ask you to respect a very strict curfew at night, would you be able to respect such curfew?

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A- Yes.

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Q- Okay. If the Court will release you with the prohibition to consume any alcohol or drug, is it a condition that you can respect?

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- A- Yes. 1
- Q- Okay. Is there any AA meeting in your town? 2
- A- Yes, they do. 3
- Q- Okay. Would you be inclined to go to those AA meeting? 4
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- A- Yes. 6
- Q- Okay. If the Court forbid you to be in contact with the alleged victim, is it a condition that you can respect? 7
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- A- Yes. 10
- Q- Okay. What is your relation with the alleged victim, [REDACTED], in that file? 11
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- A- I don't really know... 13
- Q- Is she close to you? Is she family? 14
- A- She's... she's not really close to me. 15
- Q- Okay. Would you also be inclined to go to Social Services in order to overcome any problem that you have with alcohol? 16
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- A- Yes. 19
- Q- Okay. Is there anything else that you would like to add, Mr. [REDACTED]? 20
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- A- I really want to help my family, and my girlfriend's pregnant and she have a due date on the... next month. I really want to be there. 22
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██████████ (EXAMINATION)
██████████ 2016

BY THE COURT:

Yeah, but me, I want to protect █████, the Plaintiff. Is she living close to you? How far she lives from your place?

A- She... she's... I think she's from █████. She's not in my hometown.

Q- Okay. So you say that she would be in █████ right now?

A- I think so.

Q- You think so?

BY THE DEFENCE:

Q- How often exactly do you see her in one (1) year usually?

A- I don't really see her, about twice a year or something like that.

Q- Okay. And how come you think that she's in █████? Do you know if she has a job over there? How come you know that she's in █████?

A- She's... she lived there.

Q- Okay. I have no further question, Your Honour.

BY THE COURT:

Maître █████

BY THE CROWN:

Thank you.

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██████████ (CROSS-EXAMINATION)
██████████ 2016

CROSS-EXAMINED BY Me ██████████ ██████████

ATTORNEY FOR THE CROWN:

Q- Good morning, Mr. ██████████. I'll have a few questions for you. If you don't understand, you let me know, okay?

A- Yeah.

Q- You say that there is no alcohol at your house?

A- Yes. There's no...

Q- Okay. And you're not usually a drinker?

A- Not often.

Q- Not often. Okay. What do you drink? Usually when you drink alcohol, what is it?

A- It's mostly beer.

Q- Mostly beer? Okay. How many times per week?

A- I always try to help my family. It's like... it's not always per week. It's mostly twice a month, three (3) times a month.

Q- Twice a month only? Okay. So I believe alcohol for you is not really a problem, right?

A- Yes.

Q- You don't need alcohol in your daily... on a daily basis, right?

A- I don't need.

Q- You don't need, eh? So why would you go to a AA meeting then?

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A- I... you guys asked me to go there, I could go there and help my situation.

Q- But you don't need alcohol treatment.

A- I... I... (*inaudible*)

Q- Okay. Are you today saying yes to everything just to be released?

A- No.

Q- No? Okay. Remember, sir, you have a prior conviction of sexual assault back in two thousand and twelve (2012), right?

A- Yeah.

Q- You received a sentence of six (6) month, correct?

A- Yes.

Q- Okay. Who was the victim at that time?

A- [REDACTED]

Q- [REDACTED]? Who is she to you?

A- One of my cousin.

Q- A cousin. Okay. And do you know, sir, you have a pending file for sexual assault on [REDACTED], remember that?

A- Yeah.

Q- Okay. Who is [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] who is she to you?

A- How can I say? (*Inuktitut*). I cannot say it in English. She's...

Q- Is she a member of your family? 1

A- Yes. 2

Q- Yes? Is she a cousin? 3

A- Yeah. 4

Q- She's... okay. So ██████████ ██████████, she's your 5
cousin. Okay. So, sir, if I say to you that your 6
main problem is sexual, do you agree with me? 7

A- No. 8

Q- What did you do after you were sentenced in two 9
thousand and twelve (2012) to help yourself? 10

A- Repeat that again? 11

Q- Okay. Two thousand twelve (2012), you receive a 12
sentence for sexual assault. What did you do after 13
your sentence to help yourself concerning sexual 14
assault? For you not to do it again, did you do 15
something? 16

A- *(inaudible)* how can I say that? Yeah. 17

Q- Well, maybe begin by yes or no. 18

A- No. 19

Q- You didn't do nothing? 20

A- Yes. 21

Q- Okay. And when you received your charges for the 22
sexual assault on ██████████ that was in April, what did 23
you? 24

A- I had to step up. 25

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██████████ (CROSS-EXAMINATION)
██████████ 2016

Q- I'm sorry?

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A- I have to step up.

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Q- What do you mean by that?

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A- I have to realize what I did.

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Q- Uh-huh. So that's step number 1. Do you realizing what happened?

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BY THE COURT:

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Oh, I think that you're asking question regarding the event.

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BY THE CROWN:

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No. I'm talking about ██████████

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BY THE COURT:

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Well, I'm not sure that's what he understands. So the Crown...

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BY THE CROWN:

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Okay.

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BY THE COURT:

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... is not allowed to ask any question regarding the events.

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BY THE CROWN:

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Q- Mr. ██████████, I'm talking about ██████████, okay? When you learned that you have a charge, did you do something to help yourself?

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BY THE COURT:

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Did you go... did you go have treatment after

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April? Treatment for alcohol? Did you seek any help after April?

A- I was detained during April till July.

Q- So you were detained from April to July?

A- Yes.

Q- And from July, you were released?

A- Yes.

Q- And from July until you were arrested... so from April to July you were in detention, and when did you go back to detention? So you've been in for fifteen (15) days?

A- Since... yeah, I think it's about fifteen (15) days now, eh?

Q- August what?

A- I don't remember the date.

Q- So the end of August?

A- Yes.

Q- Okay. So from July to August, did you seek any help to have help for your drinking problem?

A- I always (*inaudible*) that... I always talked with... you know, I'm... elders. I was always...

Q- Where did you stay from July to August?

A- With my... with my grandmother and my girlfriend.

BY THE COURT:

Maître ██████████, sorry.

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██████████ (CROSS-EXAMINATION)
██████████ 2016

BY THE CROWN:

It's okay. I'm done with my questions.

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BY THE COURT:

Okay. Maybe I have a question. How come a file...
a Plaintiff from two thousand and eleven (2011),
that's five (5) years ago?

BY THE CROWN:

Because...

BY THE COURT:

But there was a rape test?

BY THE CROWN:

... we received the...

BY THE COURT:

There was a rape...

BY THE CROWN:

Yes, and the file was authorized when we received
a match from a DNA in the vagina of ██████████ with his
sperm.

BY THE COURT:

That takes five (5) years? Because I don't have
much information in that file.

BY THE CROWN:

I know, but that's what the Court asked to Maître
██████████ to provide as information when we do...

BY THE COURT:

M'hm.

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BY THE CROWN:

... apparently the evidence. So this is why there was a DNA match.

BY THE COURT:

Yeah, I understand that, but it's... it is an event that would have happened on the third (3rd) of April two thousand and eleven (2011). Okay? I understand there was a rape kit that was made and the DNA came...

BY THE CROWN:

M'hm.

BY THE COURT:

... came out positive, but that does not take five (5) years.

BY THE CROWN:

Right.

BY THE COURT:

And the charge was laid, as you said, on the ██████████
██████████ ██████████ ██████████ ██████████ ██████████ ██████████ (2016),
and that's exactly five (5) years after the events.

BY THE CROWN:

Well, it's because the police officer, in January of this year, put pressure on the laboratory, and he received on the eighteenth (18th) of January,

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an email with the report saying that there is a
match.

BY THE COURT:

Okay. That's your evidence?

BY THE DEFENCE:

Yes, I have no further evidence to tender, Your
Honour.

BY THE COURT:

I'm listening to you.

BY THE DEFENCE:

Yes. As for my comments, I'll try to be brief. It
is true, Your Honour, that we are dealing with
someone that has accumulated priors in his life. I
cannot deny this. You have the record in front of
you. There's not much prior, but unfortunately, it
seems to be that there's some relating with the
same type of infraction that we have in front of
us right now. But that does not mean that every
time mister is (*inaudible*) and should necessarily
put in behind bar. You have to understand that as
for the guarantee, mister is proposing a big
amount of money bail, which is seven hundred and
fifty dollars (\$750.00). And also, we have to
understand that as for the guarantee, mister is
proposing also very strict plan of release in

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which he has never proposed in the past when going
for bail. He will have a strict curfew. He'll be
in another house. And from what we can understand
from the testimony of mister, the alleged victim
is now residing in another town in ██████████, and he
does not see her more than one (1) or two (2)
times a year.

Therefore, I do think that will limit the
risk of re-offending toward the Accused to the
minimum in that part, since they are living in two
(2) separate town... at two (2) separate town in
which it won't... can only be accessible through
plane, Your Honour.

As for the pending case, Your Honour, I
think that you raised some question regarding the
delay. Indeed, I do think that the police officer
up north are the best person to gauge the
dangerousity (*sic*) of a person, and they did not
arrest mister up to five (5) years. I do
understand that they were (*inaudible*) waiting for
a... for the rape kit to come back, but they
received it in... (*inaudible*) taken only a couple
of months after an arrest would have been made. We
have to understand that as for the dangerousity
(*sic*) of the... of the Accused, it's not that

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high, otherwise, the police officer would have
arrested him immediately.

And you have to understand that there's also
humanitarian aspect that we need to take into
account. First of all, regarding the grandfather.
The grandfather has been in the hospital for the
past month, does not have a long time to live as
we can understand from the testimony. Most likely,
if you deny him bail, it's... you deny him a last
chance of seeing his grandfather. As for the
consequences toward the family, it also would have
a big impact considering that he's the only
provider and that the girlfriend is pregnant and
that the due date is within a few weeks, Your
Honour.

Once again, I always like to stress out and
enlight (*sic*) the Court about the different Gladue
and Ipeelee consideration, which need to take in
consideration about the overpopulation of
Aboriginal people in detention; and especially, I
do think it has a very high impact at that stage
of the bail hearing, when deprivation of the
liberty is at the maximum, Your Honour. So I do
think that with the plan that we're proposing,
will limit the risk of re-offending to a minimum,

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and we should release mister considering all those
factor, Your Honour.

BY THE COURT:

Maître

BY THE CROWN:

Yes, as you can see, Mr. is a molester.
He has one (1) prior, one (1) pending file, and
there... there is a third file. There is a DNA
match in pending file, the evidence is strong.
It's only an hypothesis from the Defence counsel
that he was not arrested because he's not
dangerous. There's no evidence whatsoever of that.
We charge people when we have evidence. So, delays
here, pre... (*inaudible*) that is not a big deal.

So, he re-offend on this young victim. She's
a teenager, as you can see in the evidence. She
says it happens in and , both
places, for many years. So she cannot be secure
nor in peace when she's at home, neither when
she's in . And she has her right to travel
to . She's a teenager, maybe she's going
to school. She's not the one that should stay home
because maybe she could be sexual... sexually
assaulted by her cousin.

It's the third different victim for

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Mr. ██████████. By releasing him, not only ██████████, all
women and girls are in danger because he's a
sexual molester and he didn't do anything for
helping himself. AA is not a big deal. He's not a
heavy drinker. He doesn't need a therapy. So his
problem is a sexual problem and nothing was done
about it.

So there's no evidence, as well, that this
is the first time he provides these condition to
Court. He's already bound by the condition to keep
the peace. Keep the peace, like, it's not to
commit new offences. I'm not speaking about
breaches. Now, he commit a new crime, a sexual
assault on this young girl that was suicidal and
gave a statement in ██████████. And when she went
back home, she gave another statement saying the
exact precise thing. So her intention are clear.
She's charging Mr. ██████████ and she's going
through.

So if I go see the law, because mainly,
Mr. ██████████ is blaming the Court because of human
reason, but the law is the law. And under Section
515, he has to show case, and he didn't... and he
failed to do so today. So, if we follow the law,
he should remain detained.

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BY THE COURT:

Okay. So, Mr. ██████████ ██████████ is charged of
sexual-related files, one in two thousand and
eleven (2011), and the other one on the ██████████
██████████ ██████████ ██████████ ██████████ ██████████ ██████████ (2016).
So in the file of two thousand and sixteen (2016),
he's charged for sexual assault on ██████████,
confinement on ██████████ on the same date, and also he
was at large under an undertaking in the other
file, which is the file with ██████████ Is that it?

BY THE CROWN:

Yes, it is.

BY THE COURT:

Okay. And ██████████ is a person under the age of
sixteen (16), he's charged under Section 155...
151(a). So the Crown is objecting under Section
515(10)c). The Defence suggests condition for his
release, the deposit of guarantee of seven hundred
and fifty dollars (\$750.00) bail money; engagement
of no alcohol. An address, he will stay at his
girlfriend that is now pregnant. He has a job and
he testified that the Plaintiff ██████████ would be in
██████████. He also offer engagement regarding a
curfew. The burden is on the Defence. The
objective gravity of the infraction, Section 271,

fourteen (14) years... fourteen (14) years maximum sentence, and Section 151(a) is fourteen (14) years also, maximum, but there's also a minimum of one (1) year of custody if found guilty.

So, if I look at the evidence, there's some... there's some facts that troubles me in... in the statement. The Plaintiff described a sexual assault, and after the sexual assault, she would have stayed there, slept... fell asleep, and she didn't try... she didn't try to leave at that... well, at the first... on the first part, she tried to leave, but she was... she said that she could not leave, but he was using force. But after that, he fell asleep, both fell asleep at that place, and she slept until the... until the morning and when she woke up, the... the Accused was not there. So she was very intoxicated too. So, I'm always troubled with those... with those charges because how... what was her behaviour when she was intoxicated? When she woke up the next morning, of course she... she relies what happened and she... she wanted to make a complaint, but it's always important to check what was... what was her attitude, the... well, she was under sixteen (16) though, eh?

██████████
██████████
██████████
BY THE CROWN:

Yeah.

BY THE COURT:

So there was violence, of course, it's a sexual assault file. There was no implication of firearm. Seemed that he was alone. The... the Accused is... twenty-seven (27) years old?

A- Yes.

BY THE COURT:

He's a young Inuit from ██████████. He has a wife, he has children. He has a prior in a similar matter in which he got six (6) month of jail. His lifestyle, well, he's working. He's a provider for his family. He was... he was under condition, under... under an undertaking. Have to take into consideration also that ██████████ is a vulnerable person.

If I apply *Rondeau*, and I look at the nature of the crime, two (2), one on a person under sixteen, another one of two thousand and eleven (2011) that I don't have much reason why it took so long, especially if the evidence is available. If there was a rape kit that was made, well, that evidence was available and it would be... it is not a reason to wait five (5) years to get... to

get the result of the reports. And I agree with
Maître [REDACTED], the police from [REDACTED] even
though when they had the... the result, they never
proceed to his arrest. No, it'd be precede by a
warrant, but I don't know when in April, when they
had the evidence. But for all that period of time,
they waited.

So, if found guilty, he's looking at a long
jail sentence, especially on count number 1.
There's a minimum... count number 4, there's a
minimum of one (1) year. In both file, it's degree
of... of... it seems that he always alone with...
with the Plaintiff. There's some similarity
because it's cousins in the file, and also in his
prior. If I look at the profile of the Accused, he
has a job, he's a young Inuit man that lives with
his girlfriend that is pregnant. He has prior,
seen worse, he has a few. He has one (1) in a
similar manner. I don't have any evidence that he
would have tried to communicate with the
Plaintiff. So I have to evaluate with the evidence
that I have in front of me, what danger does he
represent for the community of [REDACTED] if I
release him.

I have also to take into consideration

██████████
██████████
██████████

Gladue and Ipeelee. There's too many Inuit waiting
in... there are too many Inuit that are detained.
So... so you were... you were released a month and
there is another event that happened after not
even a month. So I will deny your bail, and you
will remain in detention until the end of the
procedures. That's my decision.

So, when is the next court date?

BY THE COURT CLERK:

The next court date for detainee, it's ██████████
██████████ ██████████, but it's closed and...

BY THE COURT:

No, no, next court date, he's detained. So, Maître
██████████... we can't hear you, Maître ██████████.

There's no sound.

BY THE DEFENCE:

Can you hear me?

BY THE COURT:

Now, I do.

BY THE DEFENCE:

Okay. Sorry. So, yes, indeed, it's ██████████
██████████ ██████████, the next court date. We would like to
postpone that file on ██████████ ██████████ ██████████, Your
Honour.

██████████
██████████
██████████
BY THE COURT:

Is your presence required?

BY THE CROWN:

And for the...

BY THE DEFENCE:

Sorry, I did not understand?

BY THE COURT:

Maître ██████ said something?

BY THE CROWN:

Yes, I'm sorry to interrupt. Just on the two (2) other files that were on the docket, I would ask an order under Section 524 paragraph a), to revoke his undertaking and summons so that mister will be detained in the three (3) files.

BY THE DEFENCE:

No comments for that.

BY THE COURT:

520a)... 4. Any other application?

BY THE CROWN:

57... 515 paragraph 12, first in the file 14729 regarding ██████ Same application in file 14251 for ██████, please.

BY THE COURT:

Okay. 515(12), what is it?

██████████
██████████
██████████

BY THE CROWN:

For him...

BY THE COURT:

Not to...

BY THE CROWN:

... not to communicate during his detention with
the Plaintiffs.

BY THE COURT:

Okay. So you're not allowed, when you're detained,
to communicate with the two (2) Plaintiffs. So
your file is adjourned to ██████████ ██████████
██████████ in ██████████. I'll be there.

SUSPENSION DE L'AUDIENCE

(FIN DE LA TRANSCRIPTION)

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I, the undersigned, **NADIA SZANISZLO**, Official
Court Reporter number **3343235**, hereby certify under
my oath of office that the foregoing pages are and
contain a true and faithful transcript of the
words collected as mechanically recorded outside
my presence and control, according to the quality
of said recording. The whole in manner and form
as required by Law. And I have signed:



NADIA SZANISZLO, o.c.r. 3343235

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