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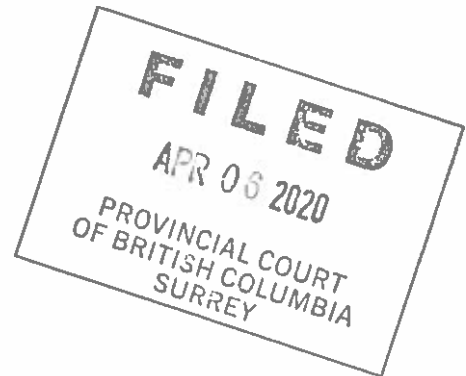
Date: ☀
File No: 236955-1
Registry: Surrey

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
Criminal Court

REGINA

v.

**SERGIO IVAN COTA GARCIA, ALAN JESUS HERNANDEZ CEDILLO,
XAVIER EDUARDO HERNANDEZ CEDILLO and
ROBERTO RENTERIA MALDONADO**



**ORAL REASONS FOR JUDGMENT
OF THE
HONOURABLE JUDGE M. JETTÉ**

Counsel for the Crown:	D. Novakovic - Public Prosecution Service of Canada
Counsel for the Accused:	D. Karp for A. Cedillo and X. Cedillo
Counsel for the Accused:	D. Ferguson for C. Garcia and R. Moldonado
Place of Hearing:	Surrey, B.C.
Date of Hearing:	March 31, 2020
Date of Judgment:	April 3, 2020

Introduction

[1] The four accused are charged with importing and possession for the purpose of trafficking ("PPT") a little over 100 kilos of Methamphetamine, contrary to sections 6(1) and 5(2) of the *CDSA*. The drugs were imported into Canada on 25 January 2020. All four were arrested on 25 February 2020. They now seek their release on bail. Crown counsel seeks their detention on the primary and tertiary grounds.

[2] The accused are Mexican nationals. Alan Jesus and Xavier Eduardo Hernandez are brothers. The Hernandez brothers and Mr. Cota Garcia arrived in Canada on February 6th 2020 and can lawfully remain in the country as visitors for six months. Mr. Renteria Moldonado entered Canada on June 6, 2019; his six-month visitor visa expired on December 6, 2019. None of the four have family in Canada. I am advised by his counsel that Mr. Renteria Moldonado worked as a labourer doing demolition work after his arrival in Canada, and that he has a friend named Enrique Flores who lives in Abbotsford.

[3] Each of the accused are in a reverse onus by operation of s. 516(6)(b) of the *Criminal Code*. The reverse onus applies here because they are charged with indictable offences and are not ordinarily residents of Canada, and because they are charged with offences which carry a maximum sentence of life imprisonment. This means that each of them must demonstrate on a balance of probabilities that their detention is not required.

[4] I will note here as well, that as three of the accused lack any connection to the community, section 515(2)(e) of the *Code* is triggered in the event of a release order. That section states that where a person is not ordinarily resident in the Province or does not reside within 200 kilometres of the court registry where the Information has been sworn, that person will be required to deposit an amount of money or other valuable security as a condition of his release. I have been told that Mr. Renteria Moldonado has been living and working in this Province, but nothing else about where he has been residing during that time.

[5] All four accused are currently subject to an immigration hold, and will have an immigration detention hearing once this matter has been decided.

The Allegations

[6] A shipping container from Monterey, Mexico arrived at Surrey docks on 25 January 2020. The goods were described as quarry stone. The importer was a company with a listed address on West 16th Avenue in Vancouver. A contact name for the company was associated with the importer as well as a phone number, 203-808-4723. The named person is not one of the accused, but police were later able to determine that the phone number is a pre-paid phone registered in the name of Roberto Renteria.

[7] Canada Border Services ("CBSA") agents inspected the shipment of 20 pallets, each of which contained 50 quarry blocks. Using an x-ray machine, they detected anomalies in some of the blocks. CBSA officers broke open one of them and found a clear package containing a hard white substance, which was later analyzed as Methamphetamine. A total of 54 bags of this substance with a total weight of 106 kilos was located inside the blocks. They had been stored according in a pattern which was followed for the 18 pallets where illicit substances were located.

[8] I have been told that the value of this load, if sold at the kilogram level, would be approximately \$1 million.

[9] Police placed two samples of the Methamphetamine back into two of the blocks. Tracking devices were installed, and the blocks were reconstructed.

[10] The container was moved to a transport company in Mission on February 20, 2020. On February 25th, the pallets were loaded onto a truck and transported to a warehouse on 132A Street in Surrey. Police commenced surveillance at that location.

[11] The four accused were observed for the first time at a Tim Horton's and then at a liquor store which were located in the vicinity of the warehouse. They were then observed in and out of the area of Unit 119 of the warehouse, where the pallets were

located; two of the males were overheard speaking Spanish. At about 1622 hours, police overheard an unidentified male say in Spanish "start dealing with this half of the pallets." At 1956 hours, police heard noises consistent with the blocks being struck with an object. A short time later, the four accused were observed leaving the scene on foot. Police stopped and arrested three of the four; Mr. Cota Garcia turned himself in about one hour later. All four accused had dust or dirt on their clothing which might be consistent with debris created by breaking up the quarry blocks.

[12] Police seized the passports of the Hernandez brothers and Mr. Cota Garcia. At the hearing of this matter, counsel for Mr. Renteria Maldonado agreed to make inquiries with respect to the location of his client's passport.

[13] When police searched the area where the pallets were located they found a blue Canucks baseball hat, similar to the type worn by one of the four accused during surveillance that day; three miniature sledge hammers and a sales receipt from Home Depot indicating they were purchased that day; an unopened bottle of tequila purchased that day; two pairs of work gloves; Tim Horton's coffee cups; and four large nylon suitcases.

Backgrounds of the Accused

[14] **Mr. Cota Garcia** is 34 years old. He was born and raised in Guadalajara, Mexico. His mother and father remain married and raised him along with his three younger siblings. Growing up, his mother stayed at home to care for the children while his father operated a business selling tires for motor vehicles in the city. He advises that he has a wife and three children of his own who reside in Mexico. Mr. Cota Garcia advises counsel that he completed high school and has a degree in Business Administration from University Especialidades in Guadalajara. He states that following university he has been continually employed throughout his adult life. He has assisted with his father's business but has also worked in call centres and organized amateur soccer tournaments. He has also worked as a promoter for events and concerts. Mr. Cota Garcia does not report any mental or physical health issues. He states that he was on holiday in Canada when he was arrested.

[15] **Mr. Renteria Moldonado** is 35 years old. He was born in Manzanillo, Mexico, and raised in Cihutlán. He has a wife, Veronica, and a daughter who live in Mexico. He advises that he completed high school and completed a degree in Tourism and Hospitality from the University of Guadalajara. When he finished his degree, he worked for the government in the office of tourism and sport for 12 years. He later moved on to work in the tourism industry in Mexico as an outdoor sports instructor. In this role, he organized tourist camps for outdoor sports. He came to Canada last June and was working labour jobs doing demolition. He speaks minimal English from working in the tourist industry in Mexico and that assisted him with gaining employment in Canada. He does not report any mental or physical health issues, although he has struggled with some depression given his current circumstances.

[16] **Mr. Alan Jesus Hernandez Cedillo** is 25 years old and was born and raised in Guadalajara, Mexico. He has lived there his entire life and has four siblings. He grew up in a middle-class family with his parents operating multiple restaurants and a bar in the city. Throughout his life, he has assisted his parents with running the family business. He runs a clothing store as well. He has a daughter that is three years old. He is the sole parent for his daughter as his daughter's mother left. His parents are currently caring for his daughter. He advises that he has no criminal record. He states that he was visiting Canada on holiday when he was arrested.

[17] **Mr. Xavier Eduardo Hernandez Cedillo** is 27 years old and is the older brother of Mr. Alan Jesus Hernandez Cedillo. Like his brother, he grew up in Guadalajara, Mexico, with four siblings. He also assisted with the family restaurants and bars throughout his life. He has studied business administration at college and has intentions to complete his education when he returns to Mexico. He is currently single and has no children. He advises he has no criminal record. He states that he was in Canada on holiday when he was arrested.

[18] None of the four accused have a criminal history in Canada prior to their arrests for these offences. I have no information with respect to their history in Mexico beyond

their own assertions, through counsel, that they do not have criminal records in that country.

Legal Principles

[19] Since *R. v. Morales*, [1992] 3 S.C.R. 711 and *R. v. Pearson*, (1992) 17 C.R. (4th) 1 (S.C.C.), and over a series of more recent decisions dealing with different aspects of bail including *R. v. St-Cloud*, 2015 SCC 27, *R. v. Antic*, 2017 SCC 27, and most recently *R. v. Myers*, 2019 SCC 18, the Supreme Court of Canada has reminded courts of first instance of the basic entitlement to reasonable bail enshrined in s. 11(e) of the *Charter*, and that in Canadian law, pre-trial release of accused persons is the cardinal rule and detention the exception: *R. v. St-Cloud*, *supra*, at para. 70.

[20] In *R. v. Myers*, the Court expressed these principles in this way at the very outset of its reasons:

The right to liberty, and the presumption of innocence are fundamental tenets of our criminal justice system. In the pre-trial context, release -- at the earliest opportunity and in the least onerous manner -- in the default presumption in Canadian criminal law. Pre-trial detention is the exception, not the rule.

R. v. Myers, 2019 SCC 18 at para. 1.

[21] The court must consider what level of supervision is necessary to address all the relevant bail risks, and the accused must be released on the least onerous terms that will achieve that result. It is only where those risks cannot be properly managed by some bail arrangement short of detention that the accused's detention in custody is justified: *Antic* at para. 44; *Myers* at para. 56.

[22] Since this trilogy, Parliament has seen fit to amend the bail provisions of the *Criminal Code*. Those amendments include language in section 493.1, which tracks that of the Supreme Court of Canada in *Myers*, *Antic* and *St-Cloud*.

i. Primary Ground

[23] There is no history here of failing to appear in court or failure to comply with court orders, which is frequently the focus where the primary ground is concerned. Here, the issue is the risk of flight from the jurisdiction to avoid conviction and a potentially lengthy jail term. The court may infer that an accused facing a negative outcome might be motivated to flee: *R v. McCreery*, (1996), 110 C.C.C. (3d) 561 (BCSC). I find that this concern is amplified where the accused, as is the case here, have arrived as visitors to this country, and lack any roots or attachments here.

[24] Even where the accused lack roots in the community and the case for conviction is strong, I accept that it would be an error in principle were I to jump directly to a conclusion that detention is required if bail conditions are available which significantly reduce the risk of flight from the jurisdiction.

[25] I also accept that the court may take into consideration the conduct of an accused at the time of apprehension, in particular attempted flight from police, although I must be careful to consider other innocent explanations for the accused's conduct. At the opposite pole, I may also take into account an accused's cooperation with police: *R. v Parsons*, 2007 BCSC 48; *R. v. Boudreau*, (1978), 43 C.C.C. (2d) 255 (BCSC); *R. v. Brotherston*, 2009 BCCA 431.

ii. Tertiary Ground

[26] The Supreme Court of Canada in *R. v. St-Cloud*, 2015 SCC 27, provided guidance for the correct application of the factors applicable to the tertiary ground in s. 515(10)(c) of the *Code*, which I have set out here:

515(10)(c) if the detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including

- (i) the apparent strength of the prosecution's case,
- (ii) the gravity of the offence,
- (iii) the circumstances surrounding the commission of the offence, including whether a firearm was used, and

(iv) the fact that the accused is liable, on conviction, for a potentially lengthy term of imprisonment or, in the case of an offence that involves, or whose subject-matter is, a firearm, a minimum punishment of imprisonment for a term of three years or more.

[27] The court in *St-Cloud* emphasized that a justice at the application for release on bail is to consider the combined effect of all the circumstances to determine whether detention is justified under this heading.

[28] There are two critically important aspects to this inquiry.

[29] The first is that while the four listed circumstances in s. 515(10)(c) are a particular focus, a court must not order detention automatically where the court finds that all four have been established: *St-Cloud, supra*, at paras. 68-69, 87.

[30] The second is that the court, in deciding the question of bail under this ground, must adopt the perspective of the public described by the Court in this way at para 87:

...a reasonable person who is properly informed about the philosophy of the legislative provisions, *Charter* values and the actual circumstances of the case. However, this person is not a legal expert and is not able to appreciate the subtleties of the various defences that are available to the accused.

[31] As a corollary to this second aspect, the court cautioned that the reasonable person's confidence in the administration of justice may be undermined not only where a court declines to order detention where detention is justified, but also if it orders detention where detention is not justified: *St-Cloud, supra*, at para. 87.

[32] *R. v. Pereira*, 2019 BCSC 634, is a recent decision of Madam Justice DeWitt-Van Oosten as she then was. As is the case before me, Mr. Pereira was in a reverse onus. Her ladyship found that the release plan suggested by counsel was sufficient to reduce the secondary ground concerns to an acceptable level, then turned to consider and apply the tertiary ground.

[33] After reviewing the principles set down in *R. v. St-Cloud* and *R. v. Myers*, DeWitt-Van Oosten J. found that the four factors in s. 515(10)(c) had been made out; she commented that if these were the only factors for consideration under this heading, she would have ordered Mr. Pereira's detention (see at para. 85).

[34] Her ladyship then went on to consider circumstances beyond the four factors enumerated in s. 515(10)(c), including the release plan, which incorporated sureties and electronic monitoring,

[35] With respect to the relevance of the release plan to the tertiary ground, her ladyship referred favourably to the decision in *R. v. Dang*, 2015 ONSC 4254; that court held that a release plan may be relevant to whether public confidence in the administration of justice can be maintained when an accused person is released:

A reasonable and knowledgeable member of the community may take a different view of a case in which an accused person charged with a violent offence is released into the community with virtually no supervision, compared to a situation where a strict plan has been put in place to monitor the accused. The plan goes to the core of s. 515(10)(b), but it may also impact on the application of s. 515(10)(c). The bail decision does not involve a stark choice between absolute freedom on one hand, and detention on the other. Realistically, it is a choice between release on conditions and detention. I see nothing wrong with this reality being reflected in s. 515(10)(c).

R. v. Dang at para. 58

[36] At the conclusion of her treatment of the tertiary ground, DeWitt-Van Oosten J. added the following comments which I adopt here:

Again, whether a reverse-onus accused has met the burden for release under one or more of the s. 515(10) grounds is a case-by-case enquiry and necessarily informed by the personal antecedents of the applicant, the particulars of their alleged involvement, and the assessment of public confidence in the administration of justice specific to their individualized context (para. 95)

Positions of Counsel

i. Defence

[37] Counsel for the four accused submit that the case on importing is weak to non-existent, and that there are gaps and flaws in the circumstantial case on the PPT count which substantially weaken that case as well. It is argued that these frailties in the evidence are relevant to my consideration of both the primary and tertiary grounds.

[38] With respect to the importing count, counsel point out that the first time the accused were observed in surveillance was 25 February, after the pallets had been moved not once but twice, and that the act of importation was completed a month before that, with no evidence of their participation in that offence.

[39] Counsel argues that there are live issues with respect to the reliability of police surveillance on 25 February, and that a number of individuals who could not have been any of the four accused were observed in and around the pallets at Unit 119 on that date. Counsel disputes Crown's assertion that the four were seen running from the scene, and point to notes made by surveillance officers which are inconsistent on this point, and that none of this evidence has been tested by cross-examination. Counsel for Mr. Cota Garcia also submits that his surrender to police some one hour after the arrest of the other three accused is the type of cooperation which may serve to allay primary ground concerns.

[40] Defence counsel also point to the impact of the COVID-19 pandemic as a factor which must be considered with respect to both the primary and tertiary grounds. I am asked to consider that jails are particularly susceptible to transmission of a virus of this kind given that social distancing measures are all but impossible to maintain in a custodial environment. Although none of the accused claim to be particularly vulnerable to a more severe outcome if infected by reason of age or pre-existing conditions, there is no guarantee that their symptoms would be mild or non-life threatening, and there is a public health concern arising from the risk of spread of this illness to others, including staff, within the confined quarters of a jail setting. I am reminded that courts have

recently considered the COVID-19 pandemic as one of many factors relevant to bail, and also for sentencing where jail is contemplated: *R. v. J.S.*, 2020 ONSC 1710, *R. v. Kandhai*, 2020 ONSC 1611; *R. v. Nelson*, 2020 ONSC 1728; *R. v. C.J.*, 2020 ONSC 1933; *R. v. Berlinguette*, 2020 BCSC 477.

[41] Counsel also submit that the pandemic has disrupted the operations of the court to such an extent that the trial of this matter will be delayed by a matter of months if not longer, which would in turn lengthen the period of pre-trial custody in the event of a detention order. I am asked as well to consider that a lengthy detention period in our current circumstances will make it that much more difficult for counsel to take instructions and prepare for trial, matters which are of course relevant to the accused's right to make full answer and defence.

[42] Finally, defence counsel submit that their suggested release plan would meet any primary or tertiary ground concerns that might arise in this case. They submit that this plan has a particular focus on the primary ground risk of flight from the jurisdiction. The families of the accused are able to post \$10,000 cash bail for each of the accused. Mr. Karp, counsel for the Hernandez Cedillo brothers, assisted the families in their search for accommodation and was able to secure the rental of a unit in a fourplex located at 1828 W. 10th Avenue in Vancouver, where the four can live together until their court matters have been concluded. The families of the accused have committed to pay the monthly rent of \$3,500, and have already paid a \$2,000 deposit to hold the unit for 30 days. The families of the accused have committed to those payments on a month-to-month rental arrangement. There are two bedrooms in the unit with two beds in each room. I have been assured that the owner of the fourplex has been made aware of the circumstances of the accused, in particular that they are facing serious criminal allegations, and that they would be living there while subject to bail supervision.

[43] Counsel submit that the release order should include reporting, as well as a house arrest provision, with exceptions as permitted by the bail supervisor, for brief periods of time to obtain necessities like groceries, and for medical emergencies, and well as a condition requiring surrender of passports and other travel documents. The BC

Corrections Branch has advised that electronic monitoring is not available for new bail orders until further notice due to the global pandemic, so that is no longer an option.

[44] Counsel also submit that in this current international climate, supervision of the accused in the community would be less difficult and more reliable. Visits from police, and probably immigration officials as well, would ensure compliance with the house arrest condition, and would also ensure early detection if any one of the four is found to be outside the home contrary to restrictions. Counsel also point out that all non-essential crossings at the Canada-USA land border are currently prohibited.

ii. Crown

[45] While Crown counsel concedes that there are weaknesses in the evidence with respect to the importing count, she submits that the circumstantial case for conviction on the PPT count is compelling and strong. While also conceding that the range of sentence for importing is generally higher than for PPT, she also points out that the maximum available penalty in each case is life in prison.

[46] In support of the PPT allegation, Crown emphasizes that these offences were committed with a high degree of organization and sophistication, that three of the accused arrived here some two weeks prior to the 25th of February, their attendance near Unit 119 on the same day that the pallets were delivered to that location, their presence in that area when police detected the sound of blocks being struck, followed by their departure from the scene (whether described as running or walking), and powdered debris on their clothing consistent with having participated in smashing open the blocks. Crown also points out that after the drugs were first discovered, police re-filled some of the blocks with a sand like substance. Crown asks me to infer that the accused fled the scene after breaking open the blocks and realizing that the drugs had been detected and removed by authorities. Crown also asks me to infer that the four large suitcases located in Unit 119 were there to carry the drugs away from the warehouse.

[47] In response to defence submissions related to COVID-19, Crown read into the record a recent update from the BC Corrections Branch reporting that there are currently no confirmed cases amongst the staff or inmates at their facilities. The update also describes a revised intake procedure for new inmates which includes an extensive questionnaire, immediate isolation of an inmate displaying known symptoms of the virus, a specialized intake unit where new arrivals who are asymptomatic are held for their first 14 days, and mandatory handwashing and facility cleaning protocols. Finally, with the exception of counsel visiting in-custody clients, in-person visits have been banned.

[48] The Crown submits that the release plan in this case is inadequate to meet the primary and tertiary ground concerns which arise here. With respect to the primary ground in particular, Crown submits that the accused have strong family connections in Mexico, no supports here at all, and each are facing the potential for a lengthy term of imprisonment, particularly given the quantity of Methamphetamine seized in this case. Crown submits that in these circumstances, the accused will be motivated to flee the jurisdiction, and that the release plan is not enough to reduce that risk to an acceptable level. Crown adds that a release order which places the four accused together in the community is also problematic because the evidence suggests that this was a joint enterprise involving all of them. It is the Crown's view that a release order, if made, would have to include a term prohibiting contact or communication between the accused; the current release plan would make this impossible.

[49] Crown counsel has also made inquiries and determined that although there are severe restrictions at Canada-USA land crossings, commercial flights to Mexico are leaving from YVR.

Decision

[50] I will begin with the tertiary ground. I agree with counsel for the accused that the evidence in support of the importing allegation is weak at best with respect to three of the accused. Even though Mr. Renteria Maldonado's name is connected to a phone number on the shipping information, Crown counsel concedes that the evidence against

all four accused in support of the importing allegation is not as strong as it is for the PPT count. But for that difference in the evidence, there is really no difference in the strength of the Crown's case against each of them, or with respect to their background circumstances.

[51] I suppose it goes without saying that possession for the purpose of trafficking some 100 kilos of Methamphetamine is a very serious offence which, upon conviction, will almost certainly attract a lengthy jail term.

[52] I agree with Crown counsel that the evidence supporting a conviction for the charge of possession for the purpose of trafficking, though circumstantial, has some strength, but it is also far from the type of overwhelming case where convictions would appear all but certain. I agree with the defence that there are triable issues, and that the true strength of the Crown's case can only be assessed at trial.

[53] The accused are presumed innocent, and the evidence is not overwhelming. They do not have a criminal history in this country. The alleged offences do not involve resort to weapons, or actual or threatened violence. It is my view that, having regard to the suggested release plan, which includes a cash deposit and house arrest, detention on the tertiary ground is not necessary to maintain confidence in the administration of justice. These circumstances satisfy me that the accused have shown cause why their detentions on the tertiary ground are not justified.

[54] I turn now to my consideration of the primary ground, which I find to be the more difficult challenge in this case.

[55] The core elements of the release plan clearly contemplate the primary ground concern that the accused might attempt to flee the jurisdiction, in particular the offer of cash deposits, and the suggestion that the accused be subject to house arrest with limited exceptions. But for the COVID-19 pandemic, I expect the plan would have also included a requirement that the house arrest term be electronically monitored, which is a term I would have given careful consideration had EMP been available. But for the

absence of that term, I find that the release plan is well aimed at managing the relevant bail risks in this case.

[56] The remaining question is whether the plan manages the primary ground risks to the point that the four accused can be released into the community. As noted near the outset of these reasons, the accused must show cause why their detention is not justified on the primary ground.

[57] There are three key factors which drive my decision on this ground.

[58] The first factor is a repeat of my earlier comments regarding the weakness of the evidence relevant to the importing count, and triable issues which are apparent with respect to the PPT.

[59] The second is the release plan itself. With the addition of a number of conditions which I will refer to in a moment, I am satisfied that even without electronic monitoring, the combination of cash deposits and restrictive bail conditions will reduce to a manageable level the risk that these accused might flee the jurisdiction.

[60] The third relates to the impacts brought about by the COVID-19 pandemic, which I find have application to all three grounds for detention in s. 515 of the *Code*.

[61] Despite recent reports from BC Corrections that, to date, the crisis is being successfully handled inside our detention facilities, it appears to me inevitable that these places cannot remain as infection free zones while the virus continues its relentless march into every corner of the planet. The conditions which are inherent to a custodial setting suggest that, most unfortunately, the battle will be lost here as well, with predictable consequences for inmates, staff, and the community at large. As an aside, and not to suggest that I have a special ability to see in into the future, about half an hour after writing this part of my judgment the Chief Medical Officer for BC announced at her daily briefing that an inmate at the Okanagan Correctional Centre has tested positive for COVID-19. I think that almost anyone who is paying attention to what has been going on all around us would have come to the same conclusion that I did.

[62] COVID-19 has also caused a significant disruption to the operations of this court. All non-custodial trials have been adjourned to fix dates in June. Most in-custody trials have now also been adjourned and will not be set down again until months into the future. The stacking of all of these cases will inevitably push newer matters like this one, which sits at the back of the que, much further down the line.

[63] Having considered the whole of the circumstances, and with particular emphasis on the factors just outlined, I have come to the conclusion that the accused have met their burden of showing cause why their detention is not required on the primary ground.

[64] I now turn to the order and conditions of release.

[65] There will be a release order for each accused with a cash deposit (per accused) of \$10,000.

[66] The conditions are as follows:

(1001) You must keep the peace and be of good behavior.

(1103) You must report by telephone to a bail supervisor at 275 East Cordova Street, Vancouver, B.C. telephone number (604) 660-3777 within 24 hours of your release from custody. If the office is closed, you must continue calling daily during regular business hours until you have spoken to a bail supervisor and received further direction to report. After that, you must report as directed by the bail supervisor. At the discretion of your bail supervisor, reporting may be in person, by telephone, or via remote video conferencing employing applications like FaceTime, Skype, and Zoom.

(1204) You must live at suite 1828 -1822 West 10th Avenue, Vancouver, B.C. ("your residence") and provide your bail supervisor with your phone number. You must not change your residence or phone number without prior written permission from your bail supervisor.

You will be released only to Enrique Flores. Upon your release, you must travel with Enrique Flores directly to your residence.

(1209) You must obey house arrest by being inside your residence 24 hours a day, every day.

You must present yourself immediately at the door to your residence or answer the phone when any peace officer or bail supervisor attends or calls to check on you during the house arrest.

You may be away from your residence during the house arrest with the written permission of your bail supervisor. Such permission is to be given only for a maximum of three hours per week, and only for obtaining necessities like groceries or prescribed medications, or where your bail supervisor in their discretion has determined that you have a similarly compelling reason for being outside of your residence. You must carry the permission, which can be in electronic format, with you when you are outside your residence.

(1209-2-A) You may also be away from your residence during the house arrest hours:

- a. while at, or going directly to, or returning directly from a healthcare facility because of a medical emergency related to yourself. If asked, you must provide your bail supervisor with proof of your attendance at the facility.
- b. while going directly to or returning from a meeting with your lawyer or the lawyer for your co-accused so long as you advise your bail supervisor of the meeting in advance.

(1002) You must have no contact or communication, directly or indirectly, with [names of co-accused] when outside of your residence. The exceptions are as follows:

- a. Through or in the immediate presence of your lawyer or a lawyer who represents one of your co-accused, and while traveling directly to or directly from a meeting with one or both of the lawyers.
- b. When travelling directly to or from court on this matter, or when travelling directly to or from the location of any hearing or proceeding initiated under the *Immigration and Refugee Protection Act ("IRPA")* regarding your status in Canada, and while at court or *IRPA* proceedings.
- c. While being transported directly to your residence following your release from custody.

(1206) You must not be within 5 kilometres of the Canada-USA border unless you have the written permission of your bail supervisor. You must carry the written permission, which can be in an electronic format, with you at all times.

(1207) Before you can be released from custody you must arrange for the surrender all of your travel documents, including any passport, Nexus card, travel visa or enhanced driver's licence to a peace officer at the RCMP detachment located at 14355 57 Ave, in Surrey or the Surrey Court Registry, and you must not apply for or obtain any further travel documents.

(1301) You must not leave the City of Vancouver. The exceptions are as follows:

- a. with the prior written permission of the bail supervisor. Such permission is to be given only for compelling reasons. You must carry the permission, which can be in an electronic format, with you at all times when you are in the prohibited area.
- b. To attend scheduled court appearances, appearances at any hearing or proceeding initiated under the *IRPA*, or appointments with the police, your bail supervisor, lawyer or doctor. You must provide your bail supervisor with written notice two (2) days in advance of your attendance within the prohibited area.

(1401) You must not possess or consume alcohol, drugs or any other intoxicating substance, except with a medical prescription.

(1606) You must not possess or use any mobile communication device.

The exceptions are as follows:

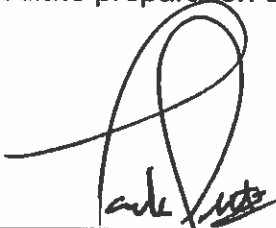
- a. You may possess one cell phone that has only one phone number and is registered in your name.
- b. You can only use the cell phone for contacting your bail supervisor, your lawyer, Canadian Immigration Services or any other government official regarding your immigration status in Canada, immediate family members, or in an emergency.
- c. You must not use a pay as you go service, or possess more than one SIM card for the phone that is registered in your name.
- d. You must provide your bail supervisor with the cell phone number and service provider and not change it without the prior written permission of your bail supervisor. A peace officer may obtain the number from your bail supervisor.
- e. You must keep a history of and not delete your call and text usage.

And upon the request of a peace officer, you must give them access to any cell phone in your possession so they can verify compliance with this condition.

(1610) You must not possess, directly or indirectly any weapon as defined by the *Criminal Code*, including:

- a. firearms, and ammunition;
- b. cross-bows, prohibited or restricted weapons or devices, or explosive substances;
- c. anything used, designed to be used or intended for use in causing death or injury to any person, or to threaten or intimidate any person;
- d. any imitation firearms or weapons, including any compressed air guns or bb/pellet guns; or
- e. any related authorizations, licences and registration certificates, and you must not apply for any of these.

(1616) You must not possess any knife outside your residence, except for the immediate preparation or eating of food.



The Honourable Judge M. Jetté
Provincial Court of British Columbia

