

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

JAYDEN GREENLAND

Transcript of the Reasons for Decision delivered by  
The Honourable Justice L.A. Charbonneau, sitting in  
Yellowknife, in the Northwest Territories, on the  
12th day of July 2018.

APPEARANCES:

Mr. A. Godfrey	Counsel for the Crown
Mr. P. Harte	Counsel for the Accused

(Charges under s. 268(2), 264.1(1)(A), 88(2)  
of the *Criminal Code of Canada*)

1 THE COURT: Jayden Greenland is charged  
2 with aggravated assault, uttering death threats,  
3 and for having in his possession a knife for a  
4 purpose dangerous to public peace.

5 These charges stem from events alleged to  
6 have happened on October 7, 2017, in Fort  
7 McPherson. Mr. Greenland was arrested on October  
8 8th for these matters. He was ordered detained  
9 after a show cause hearing held on October 16th,  
10 2017, and was detained on a secondary ground. He  
11 was committed to stand trial after a preliminary  
12 hearing held in December 2017.

13 He had initially elected to have his trial  
14 by judge and jury, but later re-elected to have  
15 it before a judge sitting alone. Originally,  
16 based on the availabilities provided by counsel,  
17 his trial was scheduled to proceed in December  
18 2018. Through his counsel, at an appearance in  
19 regular criminal chambers, Mr. Greenland  
20 expressed concern about this and the delay. The  
21 Court asked the Crown to review its  
22 availabilities and see whether it could be  
23 available for an earlier trial date as defence  
24 had provided a number of availabilities during  
25 the fall. The Crown did send in revised  
26 availabilities, and on that basis, the trial was  
27 moved up a few months, and it is now scheduled to

1 proceed commencing September 19th, 2018, in  
2 Inuvik.

3 Mr. Greenland is now eligible for a bail  
4 review under Section 525 of the Criminal Code.  
5 He applies for release based on a change of  
6 circumstances since his original bail hearing.  
7 At the hearing earlier this week, the Crown  
8 conceded, quite fairly, that there had been a  
9 change in circumstances since the original bail  
10 hearing, but it does maintain its opposition to  
11 Mr. Greenland's release.

12 The allegations are that on the date of  
13 these events, there were two gatherings happening  
14 in Fort McPherson. One was a birthday party,  
15 which was mostly alcohol-free, taking place at  
16 House 221. The alleged victim, Abraham Stewart,  
17 was at that party. He was 17 years old at the  
18 time. Another person, about the same age, named  
19 Tony Alexie was also there. Mr. Stewart and  
20 Mr. Alexie were consuming alcohol. The second  
21 gathering was at House 226. The accused and  
22 others were at a party at that house and were  
23 consuming alcohol.

24 At about 2:00 in the morning, Mr. Alexie was  
25 not feeling well, and he decided to go home.  
26 Outside, he was confronted by the accused. The  
27 accused pushed him around. Mr. Alexie went back

1           inside House 221 and asked Jessica Blake for  
2           help. Ms. Blake asked Mr. Stewart to walk  
3           Mr. Alexie home. Both of them went outside and  
4           were, again, confronted by the accused. An  
5           argument started which escalated to a physical  
6           fight between the accused and Mr. Stewart. It is  
7           alleged that punches were exchanged and that the  
8           two grappled with each other and were holding  
9           onto each other. The accused at one point had  
10          his right arm around Mr. Stewart's lower back.  
11          It is alleged that using his left arm, he stabbed  
12          Mr. Stewart repeatedly. Others intervened and  
13          pulled them apart. It is alleged that the  
14          accused said to Mr. Stewart he was going to kill  
15          him.

16                 Ms. Blake took the knife away from the  
17          accused, but it is alleged he pulled out a second  
18          one and uttered a threat to those present that he  
19          would kill them all. People then dispersed.  
20          Ms. Blake took Mr. Stewart to the health centre  
21          and reported the incident. Police received the  
22          complaint shortly after 2 AM.

23                 At the hearing this week, photos were filed  
24          showing multiple stab wounds to Mr. Stewart's  
25          back. There were nine stab wounds in total, and  
26          they were on the right side of his chest, the  
27          right side of his back, and his side under his

1 right arm as well as his abdomen. He required  
2 stitches and received medical treatment in Inuvik  
3 for those injuries.

4 The accused has a criminal record of some  
5 significance despite his young age. He has  
6 multiple convictions for failing to comply with  
7 court orders. He also has other convictions that  
8 give rise to concerns. He has a recent  
9 conviction for pointing a firearm. That offence  
10 occurred in July 2017, and he was sentenced for  
11 it in August 2017, just a few months before the  
12 events giving rise to this charge. He has an  
13 assault from 2017 and another assault conviction  
14 from 2015 as well as a conviction for resisting  
15 arrest in 2015. There are also numerous other  
16 convictions on his record. He was bound by two  
17 separate probation orders at the time of these  
18 alleged events.

19 At the bail hearing held in October 2017,  
20 the Crown indicated its concerns were based on  
21 the secondary ground. The prosecutor at that  
22 hearing said the Crown may consent to the release  
23 subject to a suitable surety being proposed. The  
24 proposed surety at that point was the accused's  
25 mother. It was proposed that he would live with  
26 her in Edmonton. She testified by phone at the  
27 bail hearing.

1           The reasons of the justice of the peace show  
2 that, initially, the justice of the peace was of  
3 the view that the release plan may have some  
4 advantages in that it would have the accused  
5 reside in a location far away from the witnesses  
6 in this matter. However, it is clear from the  
7 Reasons that the justice of the peace was not  
8 impressed by the testimony of the surety as far  
9 as her ability to keep the accused out of trouble  
10 or the prospects of having him returned to Fort  
11 McPherson to be tried.

12           The plan being proposed now is very  
13 different as is the proposed surety. This time,  
14 the proposed surety is Annie Kaye. She is the  
15 accused's grandmother. She testified by phone  
16 earlier this week at some length. She and her  
17 husband are retired and live an alcohol-free  
18 life. They have three camps where they propose  
19 to spend most of their time this summer. The  
20 proposed plan is to have the accused be with them  
21 at those camps and to keep him occupied with  
22 various tasks that need to be done at those  
23 locations.

24           Two of these camps are accessible by road  
25 and, admittedly, are in areas where other people  
26 stay. There is a fair bit of traffic between  
27 those locations and Fort McPherson. The third is

1 accessible only by boat and is some distance down  
2 the river from Fort McPherson.

3 Ms. Kaye also testified about some of the  
4 issues that Mr. Greenland faced growing up about  
5 his parents' alcohol abuse, lack of guidance and  
6 supervision, and other things that she believes  
7 are at the root of his current difficulties. It  
8 is obvious that she cares deeply for him and that  
9 she will continue to support him and do what she  
10 can to assist him. That is very much to her  
11 credit. She is obviously concerned about the  
12 accused and the trouble he has been getting  
13 himself into. She wants to give him the  
14 opportunity to do something more positive than  
15 just sitting idly in jail.

16 She says if he does not listen to her or  
17 does not do what she and her husband say, she  
18 will call the police. She has called the police  
19 on her own son when he has misbehaved in the  
20 past. I will say that I have no difficulty  
21 believing that she would do her duty as a surety,  
22 and she would report to the authorities if the  
23 accused did not obey all his conditions.

24 The Crown fairly conceded that unlike what  
25 was the case in the last show cause hearing,  
26 there are no concerns with this surety. The  
27 differences in the plan and the strength of the

1           surety do constitute a material change in  
2           circumstances. The Crown continues to have  
3           concerns about public safety. The prosecutor  
4           made reference during the review hearing to  
5           concerns that the local RCMP have. These are  
6           related, in part, to rumours of comments that  
7           were said to have been made by the accused to the  
8           effect that he intended to carry out the threat  
9           that he is alleged to have made at the time of  
10          the altercation with Mr. Stewart.

11                 This matter, as I understand, was  
12          investigated by police, and they felt they could  
13          not lay a charge. It goes without saying that if  
14          police felt the information was insufficient to  
15          give rise to reasonable and probable grounds to  
16          believe an offence had been committed and base a  
17          charge on, I can hardly rely on that information  
18          as part of these proceedings. So that aspect of  
19          what I have been told, I have disregarded.

20                 I also heard other concerns expressed,  
21          through the prosecutor, from some of the RCMP  
22          members in Fort McPherson, about having received  
23          several calls for service that had involved this  
24          accused in the recent past. Their perception  
25          that there is an escalation in his behaviour,  
26          that he is increasingly showing lack of concern  
27          for others. Again, I must be very careful about



1 attaching any weight to this kind of information.  
2 Defence did not object to it being presented, and  
3 I did not hear full submissions about the  
4 admissibility of this type of information.

5 The rules of evidence are relaxed at a bail  
6 hearing but up to a point only. I have attached  
7 very little weight to this information. However,  
8 I do recognize that the accused's criminal  
9 record, in particular, the recent entries, do  
10 show an escalation in his conduct, and that is a  
11 proper consideration for me in making this  
12 decision.

13 I am also left with very, very serious  
14 allegations. The second ground of detention is  
15 concerned with public safety. More specifically,  
16 the question is whether the accused's detention  
17 is necessary for the protection or safety of the  
18 public, including any victim or witness, having  
19 regard to all the circumstances including any  
20 substantial likelihood that the accused will, if  
21 released, commit an offence or interfere with the  
22 administration of justice.

23 A person with an extensive criminal record  
24 is still presumed innocent and still has the  
25 constitutionally protected right to reasonable  
26 bail, as much so as a person who does not have a  
27 criminal record. But as a matter of practical

1 reality, where someone has accumulated as  
2 extensive a criminal record as this accused has,  
3 including numerous failures to comply with court  
4 orders, and when there are recent convictions for  
5 crimes of violence, that raises serious issues as  
6 far as whether conditions included in a court  
7 order can alleviate public safety concerns that  
8 arise.

9           The release plan has some merit and  
10 strength, but two of the three cabins are in  
11 locations where other people go and where alcohol  
12 may be found. They are also areas that are  
13 accessible by road and areas that see  
14 considerable traffic to and from the community  
15 where the witnesses to be called at this trial  
16 reside. In addition, inevitably, the surety and  
17 her husband would need to come into town for  
18 supplies from time to time. The bottom line is I  
19 can order, as part of release conditions, that  
20 the accused always be in the presence of one of  
21 his grandparents. I can order him not to drink.  
22 I can order him to follow their directions and  
23 obey their rules. But the success of the plan is  
24 entirely dependent on the accused abiding by  
25 those conditions. Even the surety said, in her  
26 testimony, "It will be up to him".

27           The problem is that the risk is not simply

1       that he will disobey his grandmother. The risk  
2       is that he will disobey his grandmother and  
3       behave in the manner he has behaved in the recent  
4       past and commit further offences.

5               I am convinced of the sincerity of the  
6       proposed surety, and I know she would do  
7       everything she can to keep her grandson out of  
8       trouble. But as she said herself in her  
9       evidence, she has always been stern with him, and  
10      he knows it. She has talked to him about things.  
11      She has been in his life, and despite her  
12      efforts, whatever she has told him and however  
13      stern she has been with him, she does not appear  
14      to have been able to influence or control his  
15      behaviour.

16             As I said, these allegations are very  
17      serious. The trial is a few months away. If it  
18      proceeds as scheduled, it will have taken place  
19      within less than a year of the events giving rise  
20      to this charge. As I said in giving my decision  
21      on the *Sunrise* bail review earlier this  
22      afternoon, a trial in this Court cannot be  
23      expected to be accommodated as quickly as a trial  
24      in the Territorial Court.

25             The surety has the best of intentions. And  
26      I heard and I considered her plea to the Court to  
27      give this accused a chance to be released pending

1 trial and do some productive things. But despite  
2 her best intentions, I am not satisfied that the  
3 plan adequately addresses the public safety  
4 concerns that exist in this case and all the  
5 circumstances. The application is dismissed and  
6 the detention order will continue.

7

---

8 PROCEEDINGS ADJOURNED

9

---

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

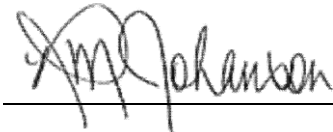
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

CERTIFICATE OF TRANSCRIPT:

I, Roxanne M. Johanson, certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 21st day of September 2018.



---

Roxanne M. Johanson, CSR(A)  
Official Court Reporter