

R. v. Steele

Her Majesty the Queen v. Richard Steele

Ontario Superior Court of Justice

Grossi J.

Heard: December 13, 2006  
Judgment: December 13, 2006  
Docket: None given.

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Counsel: Ms K. Hughes, for Crown  
Mr. S. Pieters, for Accused

Subject: Criminal

Criminal law --- Pre-trial procedure -- Review of release orders -- Review of order of justice of peace -- Factors considered.

Statutes considered:

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

s. 11(e) -- referred to

Criminal Code, R.S.C. 1985, c. C-46

s. 515(10) -- considered

Grossi J.:

- 1 This is a bail review decision in *Regina vs. Richard Steele*.
- 2 Richard Steele is charged with conspiracy to traffic in cocaine, conspiracy to traffic in firearms and with an offer to transfer a firearm. The incidents are alleged to have taken place during dates in March, April and May, 2006. He was arrested on those charges in June of this year. On July 10, 2006 Mr. Steele consented to his detention before Justice of the Peace Cramiso. A review of the detention order was heard December the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup>. These are my reasons with respect to that application.
- 3 The offences with which Mr. Steele is charged are particularly serious and egregious. They involve narcotics and guns. He is alleged to have conspired to sell drugs and guns during the above months referred to it goes without saying that, given Mr. Steele's conversations on the intercepts in which he discusses the sale of narcotics and guns, the Crown's case is a very strong one.
- 4 Mr. Steele is, nonetheless, entitled to the presumption of innocence at this stage of the proceedings and to his right under Section 11(e) of the Charter, and not to be denied bail without just cause. It is the balancing of these two elements, the Crown's very strong

case and the accused's right to bail pending trial that poses a problem for the court in a case like this.

5 Mr. Steele bears the onus of establishing that his detention is not justified on any of the three grounds set out in Section 515(10) of the Criminal Code. They are:

a) where it is necessary to ensure the accused's attendance in court in order to be dealt with according to law;

b) where it is necessary for the protection and safety of the public, having regard to all the circumstances including any substantial likelihood that the accused will, if released, commit a criminal offence or interfere with the administration of justice; and

c) where it is necessary in order to maintain confidence in the administration of justice.

6 Now, Mr. Steele is nineteen years of age, single and has no dependents. He has an incomplete grade twelve education. He lives with his mother and sister on Ashbury Street in Toronto. At the time of his arrest he was not working nor was he attending school on a regular basis. He has a criminal record:

- June 6, 2006, Toronto, fail to comply with an undertaking. He was given a conditional discharge and one year probation.
- June 26, 2006, Toronto, fail to comely recognizance. He was sentenced to time served, fifteen days plus one day, plus twelve months probation.

7 The Crown put in evidence a number of telephone calls involving Mr. Steele talking with several persons during the months of March, April and May, 2006. The content of the conversations, while cryptic, can reasonably be interpreted as plans to sell drugs and guns. Further, the degree of sophistication of his alleged illegal activity is evident in his living at a house on Oakwood Avenue, facilitating its use as a crack house, if not by leasing it, then by contributing to the rent.

8 The defence argument, as I apprehend it, is this. Mr. Steele's past conduct with regard to breaking the curfew conditions ordered on previous releases is not material as his intention now is to go to school and abide by the proposed plan of supervision.

9 The Crown argues that any reasonable interpretation of the intercepts reveals a plan to sell drugs and guns. The accused did not keep the terms of his past releases and will continue to re-offend and not abide by the terms of any release. His detention is necessary for the protection and the safety of the public.

10 Let me deal with the Section 515(10) conditions, just cause for detention. First, with respect to the primary grounds, notwithstanding Mr. Steele's contacts and interests and the minimum sentence provision, without more it is not sufficient to establish a likelihood of flight.

11 As to the secondary grounds, I am not satisfied that the terms of supervision and house arrest are adequate to meet concerns for the protection of the public pending Mr. Steele's trial. Now Mr. Steele is worldly beyond his years. He verbalizes quite well and is manipulative as is evident from his mother and sister's involvement. The proposed sureties, Professor Idohosa and Mrs. Eva Martin testified that they would rely on Mrs. Steele, Mr. Steele's mother, for input in their effort to supervise him. Unfortunately, Mrs. Steele was not only unable to control Mr. Steele, but facilitated in his breach of the curfew conditions. In any event, Professor Idohosa and Ms. Martin filed, respectively, an Affidavit and a letter withdrawing themselves as sureties.

12 I now turn to the third or so called tertiary ground. This ground permits the detention of an accused person where the person's detention is necessary to maintain confidence in the administration of justice having regard to all of the circumstances, including the apparent strength of the Crown's case, the gravity of the nature of the offence, the circumstances surrounding its commission and the potential for a lengthy term of imprisonment.

13 In the present case, Mr. Steele's dealing in drugs and guns is captured on intercepts. In my view, I would not classify persons who are upset over this as being over-reactive or over-excitabile if they thought that justice was not being properly administered if an accused, in these circumstances, was released on bail. In my view, a person confronted with the alleged conduct here would be concerned for their safety, their family's safety, and the public safety. They would be persons who are living in the real world, who are cognizant of what is occurring in today's society and not necessarily sophisticated as to be wholly cognizant of the background of the underlying legal principles. To paraphrase Rob Dylan, "You don't need a weatherman to tell you which way the wind is blowing."

14 In the end, in my view, the applicant has not met the onus on the secondary and tertiary grounds and therefore he is detained and the application is dismissed.

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