

File No: 244069-10-BC
Registry: Vancouver

In the Provincial Court of British Columbia

REGINA

v.

PATRICK HENRY FOX

**ORAL REASONS FOR JUDGMENT AT JUDICIAL INTERIM RELEASE
HEARING
OF
THE HONOURABLE JUDGE GORDON**

COPY

BAN ON PUBLICATION 517(1) CCC

Crown Counsel:

A. Flanders

Appearing on his own behalf:

P. Fox

Place of Hearing:

Vancouver, B.C.

Date of Judgment:

June 24, 2022

[1] **THE COURT:** Patrick Fox comes before the Court seeking judicial interim release on three charges of Breach of Probation; from a probation Order dated April 21st of this year by Judge Denhoff.

[2] The first is that he failed to -- I said have a seat.

[3] **THE ACCUSED:** I understand that, but I still don't have a pen. I can't take notes. It's not my fault the sheriffs in the jail don't let me bring a pen to court.

[4] **THE COURT:** There. Give him a pen. Here. Here is a pen.

[5] **THE ACCUSED:** Thank you.

[6] **THE COURT:** The first is that he failed to report on April 21st of this year. The second is that on or about May 16th of this year he did not comply with the order by taking all necessary steps to ensure that a website referencing Desiree Capuano was taken down, and the third is that on or about May 16 he breached the probation order by, if I may say colloquially, adding information to the purported website.

[7] He comes before the Court tragically with a record that -- tragically for him - relates only to the same initial allegation of Criminal Harassment where he was convicted on November 10 of 2017 and as well a firearms offence. Since then, he has been convicted of breaching various probation orders on four occasions.

[8] On February 25th of this year, he was given a sentence of 2 months and 18 days in addition to time served.

[9] Crown counsel seeks Mr. Fox's detention on the primary, secondary and tertiary grounds. While I acknowledge that there does appear to be some primary

ground concern in this case, this gentleman is penniless and I would not detain him on the primary ground because he is not able to provide either cash or a surety to the Court. I think that the judicial system in Canada is well past that.

[10] The secondary ground, however, causes the Court significant concerns.

[11] Now, I will say this. I am particularly concerned, and I made it clear when this bail hearing commenced, that since the initial conviction on November 10th of 2017 that no police service has done anything to assist this complainant other than arresting Mr. Fox, because quite frankly I cannot conceive that it is difficult to obtain an order directing whatever company hosts the website to take it down. It is, quite frankly, shocking.

[12] Having said that, various of my colleagues over the years and a Justice of the Supreme Court of British Columbia have directed Mr. Fox to both do things and not do things. Most particularly in this case, the easiest thing for him to have done would have been to report to probation services, which he failed to do at the first possible opportunity and at all continuing opportunities. Additionally, while no police or prosecuting authority have done anything to ensure the website's demise, the evidence presented at this application for judicial interim release strongly suggests that Mr. Fox has added to it since his release from custody earlier this year.

[13] I am satisfied therefore, that, if released, there is a substantial likelihood that he would continue to fail to comply with probation orders and in the result I am compelled to order his detention on the secondary ground.

(REASONS CONCLUDED)