

**IN THE SUPREME COURT OF BELIZE, A.D. 2021
CRIMINAL JURISDICTION**

SOUTHERN DISTRICT – STANN CREEK

Indictment No. 234 of 2020

THE QUEEN

v.

LEROY ROBATEAU

BEFORE: Hon. Mr. Justice Francis M. Cumberbatch

APPEARANCES: Mr. Cecil Ramirez, Counsel for the Crown
Mr. Ronell Gonzalez, Counsel for the Accused

TRIAL DATES: 14th of May, 2019

IN THE MATTER OF Revocation of bail for breach of bail conditions against
Leroy Robateau, the Accused

AND

IN THE MATTER OF ACT NO. 25 OF 2003 and NO. 24 of 2010 (Amendment)
of the Crime Control and Criminal Justice Act Chapter 102 of the Substantive Laws
of Belize Revised Edition 2003.

Ruling

[1] The Accused was on the 13th day of January, 2020, charged for the offence of
incest with a minor of 12 years six months of age. On the 24th day of April,

2020, he was granted bail by Justice Colin Williams in the sum of \$6000.00 with two sureties of \$3000.00 each.

- [2] It was an expressed condition of his bail that the Accused is not to contact or communicate with the virtual complainant, nor any Prosecution witnesses in this matter, either directly or indirectly and is not to come within 100 yards of the virtual complainant's home.
- [3] On the 3rd day of July, 2020, Stephanie Crawford, the mother of the virtual complainant, and a witness in this case made a report to the police at the Roaring Creek Police Station against the Accused to the effect that she on two occasions, namely, on Wednesday the 13th day of May, 2020, at around 2:30 p.m. and on Tuesday the 16th day of June, 2020, at around 1:30 p.m. was at her home when she saw the Accused on the George Price Highway.
- [4] On the first occasion, the Accused was allegedly about 30 feet away from her home in a stationary vehicle pointing her out to another male person in his company. On the following occasion, she observed the Accused driving unusually slow along the same roadway whilst he was in company with his common-law-wife who was pointing her out to other persons inside the vehicle.
- [5] The Crown also relies on the statement of one, Kryston Crawford, who states that on Tuesday the 9th day of June, 2020, at about 5:30 p.m. the Accused

approached him whilst he was in Esperanza Village and asked him for the whereabouts of the virtual complainant. The Accused allegedly told the witness that he must tell the virtual complainant in private that he misses her and wants to see her and that he loves her no matter what and he wishes to go where she is and see her. The Accused allegedly gave the witness a two dollar bill and told him not to tell anyone because they will get vex with him. This witness said when he got home he told his mother and grandmother what he was told by the Accused.

[6] Defence Counsel submits that though Stephanie Crawford said in her statement that she was afraid for her life and that of her children, she took a very long time to make a report to the police of the incidents aforesaid. He further contended that the witness, Kryston Crawford, did not give his statement to the police in the presence of his mother but in the presence of the mother of the virtual complainant and as such it should be rejected.

[7] Mr. Gonzalez further contends that the road on which Stephanie Crawford saw the Accused was a public highway which his client is required to use to travel to and from Belize City. He submits that his presence on the highway is not to flout the orders of the Supreme Court but to conduct his business. Thus, in the circumstances the Crown's application should be dismissed and

the Accused be released on bail. Defence Counsel suggested the imposition of more stringent conditions of bail upon the release of his client on bail.

[8] The evidence adduced by the Crown is that on the 13th day of May, 2020, the Accused was not traversing the highway but was parked on the road about 30 feet away from the virtual complainant's home and he was pointing out the virtual complainant's mother to another person. On the next occasion, the Accused was seen driving unusually slowly enough along the highway in front of the virtual complainant's residence to enable Stephanie Crawford to observe his common-law-wife pointing her out to a passenger in the vehicle.

[9] The unchallenged statement of Kryston Crawford discloses that since the 9th day of June, 2020, the Accused was seeking information on the whereabouts of the virtual complainant and was also seeking to make contact with her through her cousin. In his statement, this witness states that Stephanie Crawford was his guardian. The statement of Stephanie Crawford discloses that the Accused was parked on the highway pointing her out to a male person in his company.

[10] It has not been denied that Stephanie Crawford is the aunt of Kryston Crawford and from all appearances she is the sister of his mother. It can be inferred that after Kryston told his mother and grandmother about this encounter with the Accused they contacted his aunt, Stephanie Crawford, and

informed her thereof. Hence, her presence as his guardian with Kryston at the police station. Thus, I do not find anything sinister in the presence of Stephanie Crawford at the police station with her nephew when he gave his statement to the police.

[11] The Court is required to determine whether or not the Accused has acted in breach of his bail conditions aforesaid and whether his bail should be revoked. The evidence adduced by the Crown in support of its application reveals that the Accused has within two months of being admitted to bail has been acting in breach of its conditions. I have no doubt that Justice Colin Williams would have made it clear to the Accused what were his bail conditions and that the bail could be revoked if he acts in breach of those conditions.

[12] The evidence adduced by the Crown is unchallenged. The Accused made no statement to the Court nor did he call any witnesses. Defence Counsel concentrated his submissions on the delay by Stephanie Crawford in making a report to the police which he contends throws her statements of concern for her safety and that of her family in doubt. He also contends that in any event his client has a right to use the public highway for business and travel purposes.

[13] The Court is aware that the grant of bail with certain conditions is not merely to ensure that the Accused person appears in court to stand trial on its

appointed date. There are other conditions imposed for the protection of the witness' safety and to ensure that they are free to attend court and present their evidence bereft of any fear of harm and/or harassment. Moreover, in this case, the virtual complainant is of the tender age of around 13 years' old which without more makes her a vulnerable witness.

[14] The Accused faces very serious charges for offences which carry mandatory minimum sentences of 12 years' imprisonment on conviction. The prospect of spending a lengthy prison sentence if convicted is not an appealing one. Thus, there is the possibility that anyone facing such draconian consequences for committing the offences herein would spare no pains at avoiding a trial.

[15] Justice Colin Williams ordered "*that the bail granted to the Accused aforesaid is liable to be revoked if the Petitioner breaches any of the foregoing conditions or if he is charged with any offence whilst he is on bail.*" This order is pursuant to the provisions of Section 16(4)(c) of the Crime Control and Criminal Justice Act CAP 102. Thus having found that the Accused has acted in breach of his bail conditions and in pursuance of the order of Justice Colin Williams the Accused's bail is hereby revoked.

[16] The Court must now determine whether fresh bail should be granted to the Accused. Defence Counsel has urged that bail should be granted with more

stringent conditions. It is trite law that the Accused has a right to bail whilst awaiting his trial. That right, however, is not an absolute one. In granting bail, the Court must of necessity consider many factors which are not merely limited to the possibility of the Accused being present to attend his trial on the dates and at the places so determined.

[17] The Court must also take into consideration the issue of the protection of witness from fear, threat, harm, and harassment. The contents of condition number four in the order of Justice Colin Williams aforesaid sought to address that issue but within two months thereafter the Accused has acted in breach of that order. Moreover, the possibility of revocation of his bail expressly stated in the bail order did not deter him from taking steps to make contact with the virtual complainant and being within less than 100 yards of her residence. In the circumstances, I fail to see what more stringent conditions could be imposed against the Accused and to what end.

[18] Accordingly, the Court will not exercise its discretion to grant fresh bail to this Accused. I will order, however, that his trial be conducted to due expedition.

Dated this **14th day of May, 2019.**

Honorable Justice Mr. Francis M. Cumberbatch
Justice of the Supreme Court