

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N :

HER MAJESTY THE QUEEN

- and -

THOMAS BAIN

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B A I L R E V I E W

HEARD BEFORE THE HONOURABLE MR. JUSTICE ARCHIBALD  
on February 18, 2004 at TORONTO, Ontario

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APPEARANCES:

B. Bennett

for the Crown

S. Heyens

for the accused

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Wednesday February 18, 2004

5 MS. BENNETT: Number 20, Thomas Bain. Mr. Bain is before you.

10 MS. HEYENS: Mr. Bain is my client, Stephanie Heyens for the record. We have a joint position.

15 MS. BENNETT: This is a situation in which it's my submission that there was an error in principle by the learned Justice Horkins in saying that the provisions of Gladue would not apply for show cause hearings. Perhaps technically that's correct because it was dealing with sentencing provisions, but it's only the Gladue court in Canada which deals exclusively with bails and pleas. Ms. Heyens has been able to get a plan from Spirit Of The People, a community integration plan.

20 MR. HEYENS: Yes.

THE COURT: Yes.

25 MS. BENNETT: What we're suggesting, he has nobody to sign for him and bail program won't take him. We're recommending that he be released on an undertaking with conditions, that he report at Spirit Of The People each and every Wednesday and it's located 560 Bloor Street West, 306.

30 MS. HEYENS: It's 360 Bloor West, Your

Honour.

5 MS. BENNETT: To keep the peace and be of  
good behaviour. He's to reside at a place approved of by  
Spirit Of The People which initially my friend has found  
a bed for him in a hostel and Spirit Of The People is  
10 working towards getting him a more guaranteed housing  
plan.

THE COURT: Which is really important for  
this gentleman.

15 MS. BENNETT: He has an appointment next  
week to arrange for that housing. He's to abstain from  
communicating directly or indirectly with John Wilks  
Simmington and abstain from attending 100 metres of  
Seaton House located 390 Yonge Street.

20 Next court date is March 2nd and he is to  
seek and maintain employment, alcohol counselling and  
elder assistance as directed by Spirits Of The People.  
He's to report to the reporting centre each and every  
25 Wednesday at 2440 Lawrence Avenue East between 9:00 a.m.  
and 9:00 p.m.

30 THE COURT: I think Justice Horkins  
misspoke, clearly the principles of Gladue are overriding  
principles in the justice system from the time a person  
comes into the justice system to sentence. I agree with  
you. On the bail review, bail is granted, terms are set

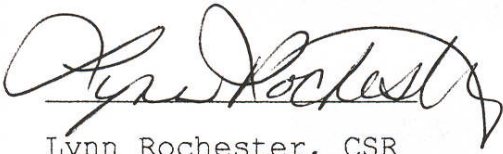
out in the undertaking.

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CERTIFIED CORRECT:

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Lynn Rochester, CSR

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