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ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

DEREK DUNLOP

P R O C E E D I N G S

BEFORE HIS WORSHIP F. MORA

on December 7, 2012 at BARRIE, Ontario

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APPEARANCES:

M. Villamil

Counsel for the Crown

30 J. Burns

Duty Counsel for Derek Dunlop

FRIDAY, DECEMBER 7, 2012

COURT OPENS...

MR. BURNS: This is Derek Dunlop.

THE COURT: Your name please, sir?

DEREK DUNLOP: It's Derek Dunlop, Your Worship.

THE COURT: Thank you.

MR. BURNS: My understanding is he wants to -  
this matter be returned by video on Wednesday.  
I'll let him speak.

DEREK DUNLOP: Your Worship, I'm trying my  
hardest to come up with some sort of bail plan.  
My mother is terminally ill in North Bay  
Hospital being taken care of with inoperable  
cancer at this point. This is very difficult.  
I've spent over ten months in custody already.  
I'm trying to come up with some sort of bail  
plan either next week so that I can get to be  
with my mother. I'm not sure whether I'll be  
able of getting a week. The prognosis is - is  
not good. I mean, she's going into palliative  
care in the next probably few days. It's very  
difficult for me. The Crown I guess initially  
is asking somewhere in the vicinity of nine  
months for this charge. I don't know whether  
there's anything else that can be done; an ankle  
bracelet, being released. I mean, I don't know  
if there's anything else the Crown consider my  
own recognizance with a promise to appear in  
this matter. I don't know. I'm kind of at a  
loss. I would like you at least put this over,  
come back next Friday in person and possibly on  
Wednesday with a video so that I can update the

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Court on Wednesday whether there's going to be anybody here on Friday.

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MS. VILLAMIL: Your Worship, this is a situation where Mr. Dunlop's been, as he's indicated, in custody with his bail not dealt with since his arrest in I understand July. I understand that....

THE COURT: In July, without bail hearing you mean?

MS. VILLAMIL: Yes.

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THE COURT: In July without....

MS. VILLAMIL: That's my understanding. Perhaps the front of my brief is incorrect.

THE COURT: What's the reason?

MS. VILLAMIL: And Your Worship, just so that you're aware, currently there's a judicial pre-trial date of December 10<sup>th</sup>. The matter is supposed to go to Court on Monday for judicial pre-trial. This - Mr. Dunlop has been in custody longer than he would have served the sentence and so....

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THE COURT: This is...

MS. VILLAMIL: ...February, so my understanding is it's February and my date is incorrect on the front of the brief.

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THE COURT: So what is in February? In February...

MS. VILLAMIL: Yes.

THE COURT: ...2012?

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MS. VILLAMIL: Yes.

THE COURT: Are you aware of the charges?

DEREK DUNLOP: There's one charge of criminal

harassment, Your Worship.

THE COURT: What the charge - that's the charge, criminal harassment?

MS. VILLAMIL: Yes.

THE COURT: And he's been ten months in jail?

MS. VILLAMIL: Yes. Your Worship....

MR. BURNS: I didn't know he's been in jail long. I didn't know that.

THE COURT: Okay, what's going on here?

MS. VILLAMIL: Well Your Worship, we're asking - we're asking that he be released with a surety, and he hasn't provided a surety.

THE COURT: Yeah but it's no black and white. I mean...

MS. VILLAMIL: And Your Worship....

THE COURT: ...you cannot keep a person for ten months in jail without bail. I mean not because you ask.

MR. BURNS: In speaking to him today, I didn't know he had been here that long. He told me - he gave my co-worker and myself names of people to call for potential sureties and this is - I did not know that he'd been in custody that long.

THE COURT: Okay, we want to resolve this problem. I mean we cannot stay like that. What happened if we - does he actually think he will be in jail for - for life? Ten months in jail without bail hearing.

MR. BURNS: I should ask him for plea position perhaps. I'll ask him if he wants to get....

MS. VILLAMIL: Well the plea position is nine

months, and Your Worship, I'm looking at - I'm actually looking at the...

THE COURT: Let me see the information.

MS. VILLAMIL: ...the blue form, and we are seeking his detention. We're not agreeable to a release with a surety.

MR. BURNS: Mr. Dunlop has told me he'd like to speak for himself. He does not want Duty Counsel assistance.

THE COURT: Okay, I want - go ahead, sir. Anything to say?

DEREK DUNLOP: Yeah just I - I - as I said, I would appreciate that it be put over for one week. I've made contact with a friend in Belleville last night. He'll be making contact with some of my other friends in North Bay, possibly get a possible surety so that I can be....

THE COURT: One second, one second, stop right there. I mean this is insane. This is insane. If you are getting convicted - if you are convicted it would be about nine months...

MS. VILLAMIL: I understand that was the position....

THE COURT: ...and you spent ten months in jail.

MS. VILLAMIL: But Your Worship, there's some issues with respect to mental health. There's some risk of violence, and that's why we're seeking his detention.

THE COURT: Okay, that's another issue.

DEREK DUNLOP: Also issues that collusion, corruption and cover-ups, there's also

issues....

THE COURT: Okay, okay, okay, okay, stop right there.

DEREK DUNLOP: Well that - that's to give you the crux of the matter here. You have people in the system that are corrupt, cover-ups and nobody can come forward with the truth so.

THE COURT: Did you present this notice of motion?

DEREK DUNLOP: I presented the motion returnable for the 10<sup>th</sup>. There's one returnable for....

THE COURT: For the 10<sup>th</sup> of December?

DERAK DUNLOP: Yeah, and there was one returnable also for December 5<sup>th</sup>.

THE COURT: Okay, you know what, when is the next plea court?

MS. VILLAMIL: Monday.

THE COURT: Monday, okay. Ask me if you want to go for a plea court Monday.

MS. VILLAMIL: I understand he wishes to have - Your Worship, his next court attendance to deal with that motion is in Collingwood on Monday in the judicial pre-trial court. That's also a plea court essentially, can be a plea court, so I would ask that it go to that date.

THE COURT: Okay, Monday, December 10, 2012, for your motion Monday.

DEREK DUNLOP: Okay I - but what about bail Your Worship?

MS. VILLAMIL: That date will be dealt with on the next date.

THE COURT: On the next date we're going to deal

with bail. Monday will be a decision regarding your case, and if you have to come back you can go for a bail hearing, but Monday the first day for you, this Monday, December 10. Okay?

DERAK DUNLOP: So that doesn't deal with bail, Your Worship. I'm asking bail be put over until Friday. I'm asking the Court to have something in action in relation to my mother.

THE COURT: You know, let me - let me tell you something. It's much better - I cannot give you legal opinion but information - deal with this matter Monday first, and after you come back Friday for a bail hearing in two weeks.

DEREK DUNLOP: So we schedule a bail hearing?

THE COURT: Oh yes, yeah for sure.

DEREK DUNLOP: Thank you.

THE COURT: Yeah, no problem.

M A T T E R   A D J O U R N E D

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Evidence Act, subsection 5 (2)

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May 13, 2013  
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