

**03/13; [2012] VSC 645**

**SUPREME COURT OF VICTORIA**

***R v RAMAZANOGLU***

**Coghlan J**

**6, 11, 13 December 2012**

**CRIMINAL LAW – BAIL APPLICATION – ACCUSED CHARGED WITH TWO COUNTS OF ATTEMPTING TO POSSESS A COMMERCIAL QUANTITY OF AN IMPORTED BORDER CONTROL DRUG BEING COCAINE AND METHAMPHETAMINE – ACCUSED REQUIRED TO SHOW EXCEPTIONAL CIRCUMSTANCES BEFORE RELEASE ON BAIL – ACCUSED SAID TO BE IN POOR HEALTH REQUIRING INTENSIVE TREATMENT IN HOSPITAL OR LIKE SETTING – EXCEPTIONAL CIRCUMSTANCES NOT SHOWN – UNACCEPTABLE RISK OF REOFFENDING – RECOMMENDATION THAT ACCUSED'S MEDICAL DISORDER BE APPROPRIATELY ADDRESSED AT THE REMAND CENTRE.**

**HELD: Application for bail refused.**

**1. The real issue is this application was whether or not the accused was receiving appropriate treatment for his Post Traumatic Stress Disorder. Although it was accepted he did suffer from that disorder, there had been a partially differential diagnosis of Cluster B personality disorder with prominent medication seeking although the two conditions were not mutually exclusive. Prior to his incarceration, the accused appeared to have coped reasonably well in the community notwithstanding his diagnosis of Post Traumatic Stress Disorder including his involvement in the present offences. He at times availed himself of treatment and at other times disregarded it.**

**2. Having regard to all of the evidence including the medical evidence in relation to the accused, exceptional circumstances were not shown. Also, the risk of the accused failing to answer his bail was unacceptable.**

**3. It was recommended to Corrections Victoria that appropriate steps be taken to ensure that the accused's post traumatic stress disorder was being appropriately addressed at the Metropolitan Remand Centre.**

**COGHLAN J:**

**1. Erol Ramazanoglu makes application for bail. He is committed for trial on two charges of attempting to possess a commercial quantity of an imported border control drug being cocaine and methamphetamine respectively. His trial is listed to commence in April 2013. Negotiations are proceeding with respect to a possible plea of guilty. A total of 390 litres of border controlled drugs were imported disguised in a consignment of Mexican beer. The drug solution was substituted and the applicant was found in possession of part of the substitute drug solution. He tried to destroy a handwritten note which made reference to passports. Drugs were recovered from the premises to which you had access. The total amount of the importation was 133 litres of methamphetamine and 14.1kg pure of cocaine.**

**2. The case against the applicant is a strong one and he is facing a very significant term of imprisonment. His role in the enterprise is a significant one.**

**3. I received material from the prosecution which showed in the months preceding the alleged offending the applicant was responsible for the transfer of more than \$750,000 to Turkey and had about a year earlier transferred more than \$370,000. No explanation has been advanced for those transactions.**

**4. The application is based on the applicant's health. It is submitted that the decline of his health is such that he requires intensive treatment in a hospital or hospital like setting. It was suggested that he could have been admitted to the Melbourne Clinic as an in-patient and made subject to a 24-hour curfew.**

**5. It emerged on the hearing of the application that there is a dispute between the applicant**

and his advisers on the one hand and those that have the general medical care of the applicant at the Melbourne Remand Centre on the other as to the adequacy of his treatment.

6. I am satisfied that the applicant's family are concerned about him. I am not sure, however, that the applicant has embraced the medical treatment available to him in the Remand Centre. The real issue seems to me to be whether or not he is receiving appropriate treatment for his Post Traumatic Stress Disorder. Although it is accepted he does suffer from that disorder, there has been a partially differential diagnosis of Cluster B personality disorder with prominent medication seeking although the two conditions are not mutually exclusive. Prior to his incarceration, the applicant appears to have coped reasonably well in the community notwithstanding his diagnosis of Post Traumatic Stress Disorder including his involvement in these offences. He at times availed himself of treatment and at other times disregarded it.

7. On receiving all the evidence including the evidence of Mr Barr and Dr Milner together with the reports of Mr Cummins and Dr Sullivan I am not satisfied that exceptional circumstances have been shown. If by any chance I am wrong about that in a strict sense I regard the risk of the applicant failing to answer his bail as unacceptable. The temptation is grave. If those two matters are required to be dealt with together I would regard the risk being as further reason why exceptional circumstances have not been shown.

8. Mr Dunn of Her Majesty's Counsel who appeared for the applicant somewhat candidly conceded that there were difficulties about the release of his client into the community even subject to curfew. He did urge me to recommend his transfer to St Vincent's Hospital in custody.

9. I am not in a position to do that. I am prepared to recommend to Corrections Victoria that appropriate steps be taken to ensure that the applicant's post traumatic stress disorder is being appropriately addressed at the Metropolitan Remand Centre.

**APPEARANCES:** For the Crown: Mr R Pirrie, counsel. Office of Public Prosecutions (Cwth). For the accused Ramazanoglu: Mr P Dunn QC, counsel. Garde Wilson Lawyers.

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