

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

**CRIMINAL LAW DIVISION
2020/CRI/BAI/387**

BETWEEN

CHARLES ST. LUC

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Hon. W. Renae Mckay
Appearances: Mr. Jomo Campbell for the Applicant
Mr. Patrick Sweeting for the Respondent
Hearing Date: 25th March, 2021
Ruling Date: 8th April, 2021

RULING

Criminal – Bail – Variation of Bail – DPP did not object to initial bail application – Applicant main breadwinner – Applicant seeks removal of Electronic Monitoring Device – Applicant seeks removal of curfew – Applicant seeks return of travel documents – Applicant boat captain and could not secure overnight jobs or jobs off the island

1. The applicant, Charles St. Luc (**the “Applicant”**) seeks a variation of the bail conditions imposed on him on the 14th October, 2020. He was granted bail in the amount of \$20,000.00 with two suretors and subject to the following conditions:
 - 1.1 He was to be fitted with an Electronic Monitoring Device (**“EMD”**);
 - 1.2 He was to report to the South Beach Police Station every Monday, Wednesday and Friday before 6:00 p.m.;
 - 1.3 He was required to surrender his passport;
 - 1.4 He was ordered not to interfere with the witnesses in the matter; and

1.5 A curfew was imposed on him between the hours of 10:00 p.m. to 6:00 a.m.

2. Accordingly, he seeks to have the EMD removed, the curfew lifted and the return of his passport.
3. By his Summons and Affidavit both filed the 4th March, 2021, the Applicant, a 35 year old Bahamian citizen, who is a boat captain and the father of 2 children, averred that since his release on bail and due to the COVID-19 pandemic, he and his family have experienced financial hardships.
4. The Applicant further averred that he was unable to go on overnight fishing trips out of the jurisdiction as a result of his bail conditions. He added that he tried to supplement his income by performing side jobs which has also proved to be a challenge because he is fitted with the EMD in addition to the existence of the curfew conditions. The Applicant added that he had bid on two jobs for two barges and a sinking boat near Andros but because it required him to overnight, he lost the bid.
5. The Applicant stated that he did his best to conceal the EMD however it would ring off at times, which would alarm his co-workers and his clients As a result he would be prevented from completing a job or working overtime. Accordingly, the EMD and curfew obstructed his ability to provide for his family which resulted in financial challenges.
6. The Applicant further stated that his son suffered from the sickle cell disease and was required to take medication daily. He added that while his wife did her best to assist with the expenses, her income was also limited. In that regard, he was in dire need of the additional income to sustain himself, his family and to pay his legal fees.
7. He went on to say that he was served with his Voluntary Bill of Indictment a week prior to the filing of his application and that he was now awaiting the assignment of a trial date. The Applicant continued to maintain his innocence and averred that he had complied with all of his bail conditions and had not incurred any infractions since he was granted bail.
8. Counsel for the Applicant, Mr. Campbell submitted that the Applicant felt emasculated. He further submitted that the Applicant should not have to choose between medication and paying bills. Mr. Campbell relied on **Attorney-General v. Daniel Andres Ayo SCCrApp No. 99 of 2010** where the Court of Appeal allowed the Respondent, who was not a Bahamian citizen, to return to the United States until his trial was set to commence.
9. Sawyer P in an oral judgment stated:

““We have nothing before us to indicate that Mr. Ayo is unlikely to return to stand his trial and Mr. Williams was not able to show us anything other than the seriousness of the charge of murder (which we discussed at some length when Mr. Williams was not the counsel before us) which would cause us to say that our order of 10th August should be varied to extend until 2012 when the chances are, if the voluntary bill is a valid one, the trial may begin.....

He is free to leave on the understanding that 21 he will return to stand his trial which is a requirement of 22 the bond that he has signed.”

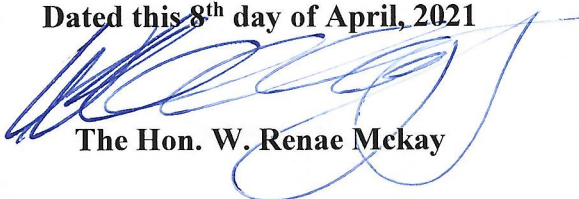
10. In that regard, Mr. Campbell submitted that the Applicant maintained his innocence.
11. The Respondent, the Director of Public Prosecutions (**the “Respondent”**) objected to the variation, having due regard to the nature of the offence and the terms and conditions of the bail. Counsel for the Respondent, Mr. Sweeting, contended that the Applicant had agreed to abide and had no problem abiding by all of the terms and conditions imposed upon him. On that note, he submitted that the bail previously imposed was sufficient.

Discussion

12. It is well established that bail should not be denied to an accused as punishment prior to being granted a fair hearing. At the Applicant’s previous bail hearing, the Respondent did not object to the Applicant being granted bail with the imposition of stringent conditions due to the nature of the offence, murder.
13. Taken into account was the fact that the Applicant had no pending matters and no previous convictions. I additionally noted that the Applicant was an employed husband and father and that there was uncontroverted evidence that he was a model citizen. Moreover, I considered the fact that the Applicant suffers from sickle cell disease and remaining in the Bahamas Department of Corrections could possibly be a threat to his health due to the existence and the continued existence of the COVID-19 disease on the island.
14. To date, the Applicant has not breached any of the bail conditions imposed upon him. The Applicant is to be perceived as innocent until proven guilty. Therefore, he should not be prevented from going about his life as he was used to which includes obtaining work in order to provide for himself and his family being its main breadwinner.
15. In consideration of the evidence and submissions before me, I shall accede to the application to vary the conditions imposed on him on the 22nd October, 2020. Accordingly, the conditions of his bail are varied as follows:
 - 15.1 The Applicant’s EMD shall be removed: and
 - 15.2 The Applicant’s bail amount is increased to \$50,000.00
16. The following conditions remains in place:
 - 16.1 The Applicant shall continue to sign in to the South Beach Police Station every Monday, Wednesday and Saturday before 6:00 p.m.
 - 16.2 The Applicant shall not interfere with any of the prosecution’s witnesses;
 - 16.3 The Applicant shall surrender all travel documents;
 - 16.4 The Applicant is to be subject to curfew conditions from 10pm to 6am daily; and

16.5 The Applicant shall surrender to custody on the Friday before the commencement of his trial.

Dated this 8th day of April, 2021



The Hon. W. Renae McKay