

COURT OF KING'S BENCH OF MANITOBA
(CRIMINAL DIVISION)

B E T W E E N:)
)
HIS MAJESTY THE KING,) Brent Davidson,
) Chantal Boutin,
respondent,) for the (Crown) respondent
)
and)
)
TREVOR DONOVAN ROULETTE,) Ashley Fouad,
) Laura Robinson,
(accused) applicant.) for the (accused) applicant
)
)
) Judgment delivered:
) April 7, 2026

Restriction on Publication: No information regarding any portion of this *voir dire* shall be published in any document or broadcast or transmitted in any way before judgment is given in this case. This publication ban expired on May 26, 2026.

ABEL J.

INTRODUCTION

[1] Trevor Roulette, the Applicant, seeks an order excluding evidence on the basis that the Authorization granted September 7, 2021 (the Authorization) regarding intercepted communications did not meet the threshold of investigative necessity. The

Applicant also argues that the Information to Obtain did not disclose reasonable and probable grounds to believe that the interception of private communications would afford evidence of the crime.

[2] The Applicant therefore argues that the failure to meet those requirements results in any intercepted communications attributed to him being unlawful and contrary to s. 8 of the ***Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.),*** 1982, c.11 (the "***Charter***"). As a result, any such communications ought to be excluded pursuant to s. 24(2) of the ***Charter***.

BACKGROUND

[3] On May 20, 2019, taxi driver Jeffrey Peters (Peters) was found deceased near Portage la Prairie, Manitoba. Peters was found shot three times in the head. His stolen white Toyota Prius (the Prius) was found abandoned later that day at the Brandon Sportsplex in Brandon, Manitoba.

[4] The initial investigation gave no leads as to who may have committed the offence. In late 2020, multiple witnesses reported that Chantell Cote (Cote) admitted she and the Applicant, her boyfriend at the time, shot a taxi driver three times and drove the cab to Brandon. The manner of death of Peters, and the number of times he was shot, were maintained as "hold back information" during the Royal Canadian Mounted Police (RCMP) investigation.

[5] Initial investigative steps included production orders, surveillance, forensic analysis and multiple interviews.

[6] A witness, Colson Wiebe (Wiebe) advised that he had been driving on the road where Peters' body was later located, on May 20, 2019, and saw two people, an Indigenous male and a young woman who seated in the passenger seat of the vehicle which he described as a white van.

[7] Video surveillance found near where the Prius was located (the video) showed two individuals exiting the Prius, a person believed to be a female exiting from the passenger side and a person believed to be a male exiting from the driver's side.

[8] In the fall of 2020, Danette Hanmore (Hanmore) advised that she was told by her niece Avery, that Cote, the younger sister of Avery, told Avery about her involvement in a murder and coming to Brandon.

[9] Hanmore also advised that Cote and her boyfriend named "Junior" came to her residence on May 20, 2019, Junior wearing a black hat and black jacket, clothing consistent with the witness who observed the two individuals near where Peters' body was found as well as the video. The Applicant is referred to as "TJ", being Trevor Junior, by both the Applicant's mother and the Applicant himself.

[10] Avery was interviewed in November, 2020 and disclosed that Cote told her that she and the Applicant, who had been dating for approximately a year before the homicide, killed a taxi driver from Portage before driving the cab to Brandon and staying at a family member's house.

[11] Hanmore's son Zander was interviewed in December, 2020 and disclosed that Cote told him her ex-boyfriend called a taxi in Portage to pick them up, but a

disagreement arose when the driver refused to take them to Brandon. Cote advised Zander that her ex-boyfriend got mad and shot the driver three times.

[12] In October 2020, surveillance was conducted on Cote, allowing the officers to seize a discarded straw from Cote. Forensic analysis of the Prius and the straw resulted in a DNA match to Cote.

[13] By mid-2021, surveillance confirmed that Cote and the Applicant were living together at 203 Melville, in Portage la Prairie (the residence).

[14] On September 3, 2021, the Application was made seeking, *inter alia*, authorizations to intercept private communications of the Applicant, inside the residence.

[15] On September 7, 2021, the Authorization was granted, allowing the interception of private communications between Cote and the Applicant, or between Cote or the Applicant and other individuals.

[16] In October, 2021, RCMP attended the residence for the purpose of stimulating discussion between Cote and the Applicant. As a result, incriminating comments of Cote and the Applicant were captured on recording devices.

[17] Cote was arrested on October 27, 2021. The Applicant was arrested on November 2, 2021.

[18] Cote provided a sworn statement on February 9, 2022 implicating the Applicant in the murder of Peters. Cote entered into an Immunity Agreement on May 6, 2022 to testify against the Applicant.

EVIDENCE RELIED UPON

[19] The evidence to obtain the Authorization was the Affidavit of Sergeant Janna Amirault of the RCMP (Amirault), sworn September 3, 2021 (the Affidavit).

[20] There was no cross-examination of Amirault with respect to the Affidavit.

[21] The overview of the investigation was provided at page 4 of the Affidavit, noting that the investigation related to the investigation of Peters' death, Cote and the Applicant being responsible for the murder of Peters.

[22] The Objectives were set out at page 52, paragraph 108 of the Affidavit, and included gathering evidence to prosecute Cote and the Applicant, to determine the location of any evidence not yet recovered, intercept communications which will assist in determining the roles of Cote and the Applicant, and to determine if there are any further witnesses who have not yet come forward (collectively the Objectives).

[23] In reference to investigative necessity, Amirault averred at paragraph 110 of the Affidavit that they believed there were no other reasonable alternative methods of investigation to obtain sufficient evidence to meet the Objectives and successfully prosecute those responsible for the murder of Peters.

[24] Specific to this investigation, and in reference to investigative necessity, Amirault averred at paragraphs 111 to 141 of the Affidavit of the investigative steps taken to date, regarding the investigation, included the following:

- a. Two search warrants had previously been obtained to search the cellphones of the deceased. There were no grounds to support seeking a further

search warrant for other potential evidence. The execution of further search warrants would not necessarily provide evidence related to the Applicant or Cote, nor shed light on their roles in the way that intercepting their communications could;

- b. Prior production orders had been sought, for information regarding who Peters was in contact with prior to his death. The Applicant and Cote had been investigated regarding evidence obtained from the production orders. Two individuals associated with phone numbers who called Peters prior to his death (Cook and Myran), had not been spoken to at the time of the application for the Authorization;
- c. No transmission data recorder (TDR) warrants had been sought previously, although one was sought as part of the application for the Authorization. A TDR warrant does not show the contents of any communications. The authorization to intercept private communications would result in communications being intercepted which would incriminate the Applicant and Cote, the TDR warrant assisting police in identifying the persons involved in those intercepted communications;
- d. No tracking warrants had been used in the investigation to this point. The tracking warrant can provide locations of where a vehicle may go, but cannot capture conversations in the vehicle. A tracking warrant was being sought as part of the application for the Authorization, as it would be useful in determining locations the Applicant and Cote frequent and potentially

whom they meet. Further, trackers could lead investigators to the location of evidence related to the offence, especially if conversations are captured indicating the movement or destruction of evidence, such as a firearm;

- e. Video surveillance had revealed the location where the Prius was abandoned. Video surveillance would not assist in obtaining the necessary evidence to meet the Objectives, but could assist investigators as a surveillance tool;
- f. Several informants provided information related to the investigation, but not in relation to the Applicant or Cote. None of the informant information received was deemed credible;
- g. Physical surveillance had been used and was successful in determining the addresses of the Applicant and Cote, their access to vehicles, and with obtaining cast off DNA from Cote. Surveillance on its own was not believed to produce evidence to support the Objectives, but the interception of communications in conjunction with surveillance would assist in meeting the Objectives;
- h. Agents and undercover officers (UCOs) had not been used in the investigation as it was believed that the Applicant and Cote would be reluctant to discuss their involvement in the murder of Peters with people outside of their trusted circles. It was unknown if the Applicant had discussed his involvement with anyone outside of Cote and no witnesses

had come forward to indicate that the Applicant had shared details of what occurred the day Peters was murdered;

- i. Witness statements had been obtained, none of whom were an eyewitness to the murder of Peters. The statements obtained did not speak to the specific roles the Applicant and Cote played or detailed the sequence of events that led to the death of Peters;
- j. One of the final steps in the investigative plan was to execute a DNA warrant on Cote and arrest and charge her for the murder of Peters. A warned statement would then be obtained from Cote, while the proposed authorization was intercepting, in the event Cote attempted to contact the Applicant while she was in custody, the conversations being intercepted; and
- k. Forensic evidence had been collected and analyzed, with links to Cote but not the Applicant. The firearm used to murder Peters had not yet been located. During the proposed authorization, a magnet was to be used to search the ditch area where the body of Peters was found. While the recovery of the firearm may support some of the Objectives, it would not allow police to determine the exact roles of the persons responsible for the murder of Peters. The forensic evidence gathered to the time of the application for the Authorization was not enough to prosecute the Applicant and did not confirm the Applicant's involvement in the murder of Peters. It

was the intention of investigators to use the intercepted communications to learn the roles played by the Applicant and Cote.

[25] It is for those reasons that the Crown argues that investigative necessity was established for the issuance of the Authorization, and that there were reasonable and probable grounds to believe that the interception of private communications would afford evidence of the crime.

ANALYSIS AND DECISION

The Law

Charter rights engaged

[26] There is no doubt that s. 8 of the **Charter**, the right to be secure against unreasonable search or seizure, is engaged in this matter. The Authorization sought, among other things, to intercept private communications between Cote and the Applicant, or between Cote or the Applicant and other individuals.

[27] The Authorization itself acknowledged at paragraph 2 that the observations that may be made are of the activities in circumstances in which persons have reasonable expectations of privacy.

Scope of Review

[28] The standard of review of the sufficiency of the information in the affidavit in support of the Authorization is narrow. The Authorization is presumptively valid. The Applicant bears the onus to show that their *Charter* rights have been infringed or denied, on the balance of probabilities.

[29] A reviewing judge is not to second guess the issuing judge, or determine if they would have come to a different conclusion. The reviewing judge must examine the material that was before the authorizing judge to determine whether there was **any** basis upon which the order **could** issue, based on the information contained in the affidavit (**emphasis added**) (see **R. v. Garofoli**, [1990] 2 SCR 1421).

[30] The reviewing judge should only set aside the authorization if satisfied on the whole of the material presented that there was no basis on which the authorization could be sustained. (**R. v. Baldovi et al.**, 2016 MBQB 220 (**Baldovi**) at para 147).

[31] A reviewing judge must not deconstruct every paragraph of the affidavit in a piecemeal manner, but rather look at the affidavit as a whole and consider the totality of the circumstances as presented to the authorizing judge. The reviewing judge is obliged to accept the ability of the authorizing judge to draw reasonable inferences from the contents of the affidavit (see **R. v. Vu**, [2013] 3 SCR 657).

[32] A practical, non-technical and common-sense assessment of the facts and reasonable inferences should be completed by the reviewing judge to determine whether there was any basis upon which the authorizing judge could be satisfied the relevant statutory preconditions existed (see **R v Pilbeam**, 2018 MBCA 128 at paras 6 to 12).

Statutory Pre-Conditions

[33] Section 186(1) of the **Criminal Code**, R.S.C., 1985, c. C-46 (the "**Code**") sets out the statutory pre-conditions for the issuance of a full wiretap authorization. It provides that an authorization may be given if it would be in the best interests of the administration

of justice to do so, and that other investigative procedures have been tried and have failed, or other investigative procedures are unlikely to succeed.

[34] The best interests of justice has been interpreted to mean that there are reasonable and probable ground to believe that an offence has been committed or is about to be committed and that the authorization sought will afford evidence of the offence.

[35] The Applicant has conceded that there are reasonable and probable grounds to believe that an offence has been committed, being the murder of Peters.

[36] The Applicant argues that the Authorization would not afford evidence of the crime, and that the Authorization did not satisfy the investigative necessity test.

Whether the Authorization sought would afford evidence of the crime?

[37] Determining whether there were reasonable grounds that a wiretap would afford evidence does not require proof beyond a reasonable doubt, or even a *prima facie* case. The standard is one of reasonable probability or credibility-based probability (see ***R v. Beauchamp***, 2015 ONCA 260 (***Beauchamp***) at para 92).

[38] The reasonable grounds standard applies to the offence as a whole, not to individual persons or targets of the investigation (See ***R. v. Mahal***, 2012 ONCA 673 at paras 49, 76 and 78).

[39] The main arguments of the Applicant relate to the information known at the time the Authorization was sought, and what information linked the Applicant to the offence. The Applicant argues that the information known at the time may have linked Cote to the murder of Peters, but not the Applicant.

[40] With respect to what was known at the time of the Authorization, and in summary:

- a. DNA from the passenger side door of the Prius matched Cote;
- b. Cote's arrest did not link the Applicant to the offence;
- c. Hanmore's statement linked Cote and her boyfriend (not specifically named) to the murder of Peters;
- d. Avery's statement linked Cote to the murder of Peters; and
- e. Zander's statement confirmed that Cote told Zander that her ex-boyfriend shot a cabbie, three times.

[41] The Applicant argues that the information relied upon may have afforded evidence that Cote was involved in the murder of Peters, but not the Applicant, and would therefore not satisfy the preconditions of s. 186(1) of the *Code*.

[42] For the reasons that follow, I do not agree with this argument of the Applicant.

[43] Firstly, the test is not whether the Authorization sought would afford evidence of the Applicant's involvement in the offence. Rather, the reasonable grounds standards applies to the offence as a whole, including if communications will be intercepted related to or concerning the offence. "Evidence with respect to the commission of an offence" is a broad statement, encompassing all materials which might shed light on the circumstances of an event which appears to constitute an offence (see *CanadianOxy Chemicals Ltd. v. Canada (Attorney General)*, [1999] 1 SCR 743 at paras 13 to 16).

[44] Secondly, the authorizing judge was permitted to make reasonable inferences based on the evidence, including evidence regarding the relationship between Cote and the Applicant.

[45] The evidence in the application for the Authorization, regarding who was involved in the offence, and the relationship between the Applicant and Cote, included the following paragraphs of the affidavit of Amirault:

- a. A statement from Wiebe confirmed that he observed an Indigenous man and a female in the passenger seat of a white van, near the location where Peters' body was found (at para 26);
- b. The Prius was located at the Brandon Sportsplex (para 31);
- c. Video surveillance near the Brandon Sportsplex showed a person who appeared to be male exit the driver's side, and a person who appeared to be female exit the passenger's side (para 32);
- d. Hanmore's statement confirmed that she was advised by the sister of Cote, that Cote told her sister that she and her boyfriend were involved in the murder of a cab driver (para 48);
- e. Avery Cote's statement confirmed that Cote told her that she and the Applicant killed a cab driver, drove the vehicle to Brandon afterwards, and at the time Cote had been dating the Applicant (para 49);
- f. Zander's statement confirmed that Cote told him that Cote's ex-boyfriend shot a taxi driver, three times (the number of times Peters was shot was information withheld from the media) (para 50);
- g. DNA obtained from the passenger side of the vehicle matched Cote, with a probability of selecting an unrelated at random with the same profile as 1 in 7.5 quadrillion;

- h. On July 21, 2021, the police spoke with Avery, who confirmed that Cote is living with the Applicant in Portage la Prairie, and is 11 weeks pregnant (para 84);
- i. The Applicant was arrested on May 11, 2021 for failing to attend court, at the residence in Portage la Prairie (para 85); and
- j. Through surveillance in August 2021, Cote and the Applicant were seen at the residence on a consistent basis (para 94).

[46] It was a reasonable inference of the authorizing judge that in September 2021, the Applicant and Cote were in a relationship. It was also reasonable to assume that the Applicant and Cote would speak to each other about the events relating to the death of Peters and that they would not speak in any detail to others outside of their family or close circle (see ***R. v. Telfer & Crossman***, 2019 MBQB 12 (***Telfer and Crossman***) at para 27).

[47] The information confirmed that the Applicant and Cote had been in a relationship, and were still in a relationship at the time the Authorization was sought, living together at the residence in Portage la Prairie.

[48] It was also open to the authorizing judge, based on the foregoing, that there was a reasonably based probability that stimulation of conversation between the Applicant and Cote would afford evidence of the crime under investigation, as was the case in ***R. v. Ciancio and Lees***, 2006 BCSC 1717, at para 67.

[49] There was a credibility-based probability that two intimate partners would discuss their involvement between themselves or with others close to them.

[50] Considering the nature of the investigation, the Objectives, the relationship between the Applicant and Cote, their connection to the vehicle of Peters, and the anticipated use of stimulation techniques, there was a reasonable probability that the Authorization would afford evidence of the offence, thereby satisfying the statutory preconditions of s. 186(1) of the **Code**.

Investigative necessity

[51] Investigative necessity means that there must be, practically speaking, no other reasonable alternative of investigation in the circumstances of the case (see **Baldovi**, at para 141).

[52] Investigative necessity sufficient for an authorization does not require a recourse of last resort; it can include gathering independent confirmatory evidence that is not reasonably available by other methods (see **R v Ledesma**, 2017 ABCA 131 at para 67).

[53] The investigative necessity test applies to the investigation as a whole and not to individual targets. The supporting affidavit need not demonstrate investigative necessity on an individual target basis (see **Beauchamp** at para 100).

[54] The Applicant argues that there were other less invasive investigative techniques that could have been utilized, prior to resorting to the Authorization.

[55] For the reasons that follow, I do not agree with this argument of the Applicant.

[56] Firstly, with respect to specific further steps that could have been undertaken in the investigation, prior to seeking the Authorization:

- a. Further surveillance of the Applicant would not have produced similar evidence as with Cote. Surveilling Cote resulted in the retrieval of discard

DNA, which was used to match the DNA found on the passenger door of the Prius. There was not DNA recovered from the driver's side door of the Prius. Any DNA recovered from surveilling the Applicant could not have been used to link the Applicant to the Prius;

- b. Whether the magnet was ever tried in relation to recovering the murder weapon is not determinative. Even if the weapon was recovered, one of the Objectives was to determine the roles played by each of the Applicant and Cote in the murder of Peters. The recovery of the weapon may not have assisted with respect to that Objective;
- c. The Applicant argues that no efforts were made to interview the family of the Applicant. No efforts were made to interview the family of Cote – the individuals who provided statements to the police came forward voluntarily. No such voluntary information was provided from the family of the Applicant;
- d. At the same time as Peters was murdered, Kurtis Beaulieu was also killed as a result of gunshot wounds from a .22 calibre firearm. Tips were provided indicating that two individuals, Laurent and Meeches were possibly involved in the Peters murder. All the information and tips were followed up on, nothing supporting the suggestion that they were involved in the murder of Peters (para 59 of the Affidavit). Laurent and Meeches were ultimately charged in the death of Beaulieu (para 60 of the Affidavit);

- e. In relation to Beaulieu's murder, the police were advised that even if Cote had information relating to that investigation, Cote would not talk about it, even if someone tried to bring it up to discuss (para 62 of the Affidavit); and
- f. No attempt was made to obtain a Chartered and cautioned statement from either Cote or the Applicant prior to seeking the Authorization. To do so prior to the Authorization would have interfered with or ruined the investigation. The taking of such a statement from Cote was part of the investigative plan, after she was arrested, as set out at para 134 of the affidavit. Sufficient evidence did not exist to charge the Applicant for the murder of Peters. If the Authorization revealed evidence against the Applicant, the plan was to strategically arrest the Applicant and interview him (at para 135 of the Affidavit).

[57] Where the use of other investigative techniques would likely succeed in establishing the culpability of one target of an investigation, but would not succeed in establishing the culpability of others, investigative necessity is not defeated. Even if a statement was taken from Cote which could succeed in establishing her culpability, but not in establishing the culpability of the Applicant, investigative necessity is still a live issue. (see ***R. v. Riley***, [2009] OJ No. 738 at para 148).

[58] Secondly, it is to be remembered that investigative necessity does not equate to a last resort. One of the Objectives was to establish roles played by each of the Applicant and Cote. The efforts undertaken by the police had not been able to establish the roles

played by each, and the further investigative steps to which the Applicant suggests could have been undertaken may not have met that objective.

[59] Thirdly, the affiant explained in detail their belief as to why intercepting private communications was the only practical means of achieving the goals of the investigation (at paras 110 to 114 of the Affidavit).

[60] It was open to the authorizing judge to place considerable weight on the opinion of the investigating officer as to the probable success of the alternative investigative techniques referenced in the affidavit (see *R. v. Paris*, [2006] OJ No 1445 at para 22).

[61] This does not mean that the authorizing judge could simply rely on conclusionary statements made by Amirault. However, in reviewing the Affidavit, there was sufficient evidence to substantiate the information provided, permitting the authorizing judge to issue the Authorization.

[62] Lastly, in considering the nature of the relationship between the Applicant and Cote, investigative necessity was made out, as the Affidavit confirmed the positive belief that one of the targets would not speak about the incident. It was reasonable to assume, as was the case in *Telfer and Crossman*, that intimate partners would be unlikely to discuss an offence in any meaningful way with others outside of their union or family thereby supporting the investigative necessity component.

[63] In considering the investigative techniques used to the time of the Affidavit, their limitations and the reasons why other techniques would not be sufficient to accomplish the Objectives, there was a basis for the authorizing judge to conclude that the

information contained in the Affidavit demonstrated that investigative necessity was established.

[64] As such, the statutory preconditions of s. 186(1) of the **Code** were again satisfied.

CONCLUSION

[65] Looking at the Affidavit as a whole and considering the totality of the circumstances as presented to the issuing judge, there was **a** basis upon which the Authorization **could** issue. Given the limited scope of such a review, there is no basis to disturb the determination of the issuing judge, in granting the Authorization.

[66] As the Authorization was in compliance with s. 186(1) of the **Code**, there has been no breach of the Applicant's rights pursuant to s. 8 of the **Charter**. Accordingly, the application is dismissed.

_____ J.