

Taking 'a flyer' at hearing backfires on JP

Judge rescinds 'illogical' bail order

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JUSTICE REPORTER

Justice of the Peace Vernon Chang Alloy was in a whimsical mood last year when he granted bail to Donovan Sitladeen on serious cocaine-trafficking and gun charges.

"I think I'm going to take a flyer - and I suppose I will hear if I do take the flyer and it blows up in my face," Mr. Alloy said. "But that's why they pay me the little bucks - to take these flyers."

The explosion he foresaw was not long in coming.

Madam Justice Bonnie Wein of Ontario Superior Court rescinded the bail order on appeal shortly afterward, blasting Mr. Alloy for issuing a mishmash of inappropriate comments and muddled law.

"Even after editing, the reasons remain largely incoherent, filled with ramblings and illogical statements," Judge Wein said in a ruling that remained under a publication ban until recently.

She observed that Mr. Alloy appeared not to understand the legal requirements of a bail hearing.

"Overall, the reasons amount to a rambling review of the evidence, with irrelevant references to American gangs and hip hop music, stressing a number of strengths in the Crown's case and weaknesses in the proposal put forward by the defence - but suddenly resulting in the unexpected conclusion that this was a case to 'take a flyer.' "

On a separate issue, Judge Wein condemned a series of "patent inaccuracies" in a transcript of the proceeding that was prepared by an off-site transcriber. They included: "guardians of liberty" appearing as "gardens of liberty"; "remorseful" becoming "resourceful"; and a sentence - "He said that he had no real knowledge" - that was incorrectly transcribed as, "He said that he had no Duct knowledge."

Judge Wein concluded that the monitor - an innovation intended to replace certified court reporters - appeared to be incompetent: "Critical, but invisible errors for the transcript readers - particularly those who were not at the hearing - risk a miscarriage of justice."

The shortcomings in the Sitladeen case go to the heart of two long-standing controversies in the court system - qualifications for JPs and transcription problems.

In a letter sent last month to Ontario Attorney-General Chris Bentley, Criminal Lawyers Association president Frank Addario decried the demise of in-court reporters, who can hear the context of statements and interject when necessary to seek clarification.

"Those with courtroom experience appreciate that the in-court reporter is best positioned to ensure the accuracy of the transcript," he wrote.

Meanwhile, another justice of the peace, Paul Welsh, was charged last week in Hamilton with obstructing justice. Appointed in 2001, Mr. Welsh came under police scrutiny after a member of the judiciary complained about irregularities involving a provincial offences ticket.

The JP system has been repeatedly criticized over the years for placing individuals with no legal training in a position where they make key decisions.

"There has been progress in the appointment process and substantial progress in the training," Mr. Addario said yesterday. "There is a steep learning curve when you put a non-lawyer in the thick of the criminal justice system and ask them to decide important issues."