

CITATION: Her Majesty the Queen and Domotor and Kolompar,
Karadi, Domotor 2011 ONSC 626
DATE: 2011/01/26

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

HER MAJESTY THE QUEEN

Applicant

- and -

FERENC DOMOTOR

Respondent

B E T W E E N:

HER MAJESTY THE QUEEN

Respondent

- and -

GYONGI KOLOMPAR, FERENC KARADI,
GYULA DOMOTOR

Applicants

Heard: at Hamilton on January 17, 18, 19 and 20, 2011
CAVARZAN J.

REASONS FOR DECISION

[1] Four bail reviews were heard together respecting four
accused charged in the same information, along with six others,
with various offences under the *Criminal Code*. The four in

question face charges of human trafficking (s.279.01), withholding travel, identity or immigration status documents (s.279.03), receiving a material benefit primarily in the form of unpaid labour (s.279.02), and defrauding the City of Hamilton concerning payments under the *Ontario Works Act* (s.380(1)(b)).

[2] The prosecutor seeks an order pursuant to s.521 of the *Criminal Code* vacating the order made by Justice of the Peace M.J. Curtis on October 20, 2010 whereby Ferenc Domotor was released from custody upon entering into a \$50,000 recognizance with conditions, and substituting therefore an order detaining him in custody until he is dealt with according to law.

[3] Each of the other three accused applies pursuant to s.520 of the *Criminal Code* for a review of detention orders made by three Justices of the Peace. Waugh J.P. ordered the detention of Gyongi Kolompar on October 28, 2010. Formosi J.P. ordered the detention of Ferenc Karadi on October 28, 2010. Stevely J.P. ordered the detention of Gyula Domotor on November 1, 2010. All three held that detention was justified pursuant to the secondary and tertiary grounds in s.515 (10) of the *Criminal Code*. These three applicants challenge those findings. As well, they alleged error in each case in the determination that the applicant was not a suitable candidate for release. In each application reliance is placed on changed circumstances in

that new sureties are in place and there is a revised plan of supervision.

[4] This case involves a host of alleged victims, eleven having come forward by May, 2010 and a further eight between May and October, 2010. Their complaints led to charges against various accused under the *Immigration and Refugee Protection Act*, S.C. 2001 c.27, against ten accused initially under the *Criminal Code* and, ultimately, against twelve accused in a revised information.

Background

[5] All of the accused are immigrants from Hungary and related to one another by birth or marriage. All of the alleged victims are Hungarian nationals recruited in Hungary by relatives or friends of the accused.

[6] Transcripts of the proceedings before the Justices of the Peace and the testimony heard and exhibits filed during the course of these reviews describe a family-run criminal enterprise. Recruiters in Hungary let it be known that there were work opportunities available in Canada with construction and stucco companies operated by some of the accused. The offer was of a better life in Canada and earnings sufficient to permit one to send money back to Hungary to support family members.

[7] The Canadian residents of the enterprise made the travel arrangements, including the provision of airline tickets and the necessary travel documents. The recruits were met at the airport in Canada, assisted in dealing with the Canadian immigration authorities, and then transported to houses owned by the accused and lodged in Spartan quarters in basements in those houses.

[8] The recruits, none of whom spoke any English, had been relieved of all of their travel and immigration documents by their Canadian hosts. They were then taken to various banks to open bank accounts and to obtain access and debit cards. These items too were taken from them and kept in the possession of the accused persons. Represented upon entry into Canada as visitors or here on vacation and possessing return airline tickets, they were then prompted to provide refugee status claims relating bogus accounts of having been persecuted in Hungary because they are Romas.

[9] They were taken to local social services agencies to apply for monetary assistance in the form of Ontario Works benefits. Money received from this source was retained by the accused. They were employed as labourers in construction businesses operated by some of the accused and not compensated or minimally compensated for their labour. In some cases they

were employed doing various chores in the homes of their Canadian hosts, again without compensation.

[10] Although the recruits were housed and fed, it appears that they were subjected to intimidation and that their ability to move within the community was controlled. Their inability to speak or understand English contributed to their isolation.

[11] When some of the recruits seized an opportunity to leave and to contact the local police, they were threatened with physical violence and death. Members of the enterprise in Hungary contacted relatives of the recruits in Hungary with the message that unless the recruits recanted and withdrew their complaints against the accused, it would "not end well" for them.

[12] Several of the recruits were told to participate in the theft of mail from Canada Post mail boxes. The objective was to obtain cheques from the mail, negotiate them by depositing them to bank accounts, and later withdrawing the cash. The London Ontario Police Service ("L.P.S.") has charged Ferenc Domotor in connection with this activity. The losses in the London area are reported to be in the order of \$250,000; those province-wide, according to the L.P.S. amount to more than \$1,000,000.

[13] The accuseds profited from this human trafficking enterprise through the unpaid labour of the recruits, by retaining social assistance payments intended for others, and very substantially through the theft of cheques from the mail.

Chronology

[14] On April 2, 2009, David Bogdan, Peter Gyimesi, Gabor Barkovics and Sandor Kiss left the residence of Ferenc Domotor and sought out the Hamilton Police. They related information, similar to the above background outline, to a Hungarian-speaking police officer.

[15] On February 4, 2010 search warrants were executed at the residences of Ferenc Domotor, Ferenc Karadi and Attila Kolompar. Police seized a variety of documents belonging to the alleged victims from the bedrooms and other living areas of the accused.

[16] All three were charged with offences under the *Immigration and Refugee Protection Act* (IRPA). These include, with respect to Ferenc Domotor, nine counts under s.124 (1) (c) for employing a foreign national in an unauthorized capacity, and two counts under s.126 of counselling to misrepresent to induce an error in the administration of the Act.

[17] On February 5, 2010 Ferenc Domotor was released on these charges on Recognizance of Bail with a surety of \$10,000 provided by Gyula Domotor, one of the accused in this case.

[18] March to September, 2010 was a period during which, according to the London Police Service, a series of thefts of cheques from Canada Post street letter boxes occurred. As a result of the investigation into these occurrences, Ferenc Domotor has been charged with three counts of possession under \$5000 of stolen property and three counts of fraud. He was released on Recognizance of Bail on these charges on November 9, 2010. This information came to the attention of the prosecutor in this case only after the bail hearing before Curtis J.P.

[19] The accused Lajos Domotor was also charged by the London Police in connection with possession and negotiation of stolen cheques. A London Police report refers to a criminal human trafficking organization operating from Hamilton which directed recent immigrants to apply for bank accounts and debit cards which accounts and cards were then controlled by the organization. "These bank accounts were then used for these fraudulent cheque deposits and withdrawals".

[20] Another family member, Mark Gorcsi, said to be a nephew of Ferenc Domotor, was arrested and charged in connection with thefts from the mail in the following circumstances. In

July, 2010 Canada Post reported to the Halton police that since early June, 2010 there had been many thefts of mail from Canada Post mail boxes in Burlington.

[21] On December 12, 2010 a Halton police officer, acting on a tip from a citizen, stopped a van on Plains Road in Burlington. Visible in the back of the van was a Canada Post mail box. The three occupants of the van, including Mark Gorcsi, the son of the accused Jozsef Domotor, were arrested. Also found in the van was a shopping bag containing numerous cheques by corporations payable to various businesses. A post-arrest search of the person of one of the other occupants of the van yielded a key used to open Canada Post mail boxes.

[22] Those arrests tend to corroborate the witness statements by two of the complainants/victims Imre Szalai and his wife Ezserbet Szalai Ban, that Jozsef Domotor (brother of Ferenc and Gyula Domotor) and his son Mark Gorcsi were active in the criminal organization and heavily involved in thefts from mail boxes. The following is from Imre Szalai's statement:

Martin (Mark Gorcsi) made me go to the post office boxes and steal. During the day while we worked stucco, J. (Jozsef) Domotor told Martin to go out and write down where there were mail boxes to steal from. We would later at night go as a group in a van. Martin, Gyozo Papai (young), Sandor Szolnoki, Robert, workers from Karadi and Eva Kolompar. E. (Eva) Kolompar would place

her skinny hands in the mouth of the box as we turned the box upside down. I did this over 100 times with Martin and others.

[23] On September 10, 2010 Ferenc Domotor was released on bail of \$5,000 on a charge of failure to comply with his recognizance on the IRPA charges. He had relocated to another residence on the same street without advising the authorities as required.

[24] On October 6, 2010 the original information charging the *Criminal Code* offences described earlier led to his re-arrest. The named victims of Ferenc Domotor were David Bogdan and Tamas Miko.

[25] On October 20, 2010 Ferenc Domotor was released on bail on these charges by Curtis J.P.

[26] Curtis J.P. and the other three J.P.s had all concluded that the accused before them were members of a criminal organization and that the effect of the operation of s.467 (1) (a) and 515(6) (a) (ii) of the *Criminal Code* was to place the onus on the applicants for release on bail.

[27] As a result of the criminal organization finding by the J.P.s, a new information of November 10, 2010 added charges of conspiracy (s.465(1)(c)) to commit the indictable offence of

trafficking in persons (s.279.01(1)(b)) and participation in the activities of a criminal organization (s.467.11(1)).

Procedure

[28] The Court was advised that bail hearings have yet to be held on the charges in the most recent information. By agreement, however, in the case of the accused Ferenc Domotor, his terms of release on the charges in the original *Criminal Code* information have been made applicable to the charges in the new information.

[29] The charge under s.467.11(1) of the *Criminal Code* of participation in the activities of a criminal organization brings into play the provisions of s.515(6)(a)(ii) which results in a reverse onus situation:

515(6) Unless the accused, having been given a reasonable opportunity to do so, shows cause why the accused's detention in custody is not justified, the justice shall order, despite any provisions in this section, that the accused be detained in custody until the accused is dealt with according to law, if the accused is charged

(a) with an indictable offence, other than an offence listed in section 649,

(ii) that is an offence under section 467.11, 467.12 or 467.13, or a serious offence alleged to have been committed for the benefit of, at the direction of, or in association with, a criminal organization,

[30] This being the prosecutor's s.521 application to review the order of Curtis J.P. made applicable by agreement to the charges in the new information, Mr. Skarica was called upon to make his submissions first.

The Review Concerning Ferenc Domotor

[31] The position of the prosecutor is that the order of Curtis J.P. should be vacated and an order made detaining the accused in custody until he is dealt with according to law. Mr. Skarica relies upon the following grounds: material change in circumstances and error in law.

Three material changes of circumstances were cited, namely that:

- 1) The bail hearing on the initial *Criminal Code* information did not include the charges of conspiracy and of participation in the activities of a criminal organization.

- 2) The Crown was unaware of the London possession and fraud charges at the time of the bail hearing before Curtis J.P.

- 3) The law of conspiracy is now applicable and has the effect of bolstering significantly the apparent strength of the prosecutor's case.

[32] Although he made no specific submissions on error of law as a ground, Mr. Skarica maintained, nevertheless, that detention is justified in this case on both the secondary and the tertiary grounds in s.515 (10).

[33] The position of the accused is that he has shown cause why his detention in custody is not justified; he asks that this application be dismissed. On the issue of the apparent strength of the Crown's case, Mr. Cohen stated that it depends largely upon the credibility of the complainants, none of whom has been cross-examined. Moreover, he observes that some complainants have criminal records in Hungary and all of them were complicit in advancing the bogus refugee claims. He noted, as well, that the only evidence relied upon by the London Police for their charges against Ferenc Domotor is bank surveillance photographs of a suspect which, on scientific comparison between those photographs and a file photograph of Ferenc Domotor, yielded an inconclusive result. The images from the bank surveillance cameras depict a man whose facial features are partially obscured by the peak of his baseball cap.

[34] Mr. Skarica fairly concedes that the London charges constitute only a weak basis for the Crown's case on this review.

[35] Mr. Cohen quite properly invoked the constitutional values at stake in this matter, namely, the rights in subsections 11(d) and (e) of the *Canadian Charter of Rights and Freedoms*:

11. Any person charged with an offence has the right

(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

(e) not to be denied reasonable bail without just cause.

[36] Finally, Mr. Cohen submitted that the tertiary ground is not available as a justification for detention of the accused in the circumstances here.

[37] Mr. Skarica submitted that the real issue in this case is: What is the strength of the Crown's case?

[38] Subsection 515(10) of the *Criminal Code* provides that:

For the purposes of this section, the detention of an accused in custody is justified only on one or more of the following grounds:

(a) where the detention is necessary to ensure his or her attendance in court in order to be dealt with according to law;

(b) where the detention is necessary for the protection or safety of the public, including any victim of or witness to the offence, having regard to all the

circumstances including any substantial likelihood that the accused will, if released from custody, commit a criminal offence or interfere with the administration of justice; and

(c) if the detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including

(i) the apparent strength of the prosecution's case,

(ii) the gravity of the offence,

(iii) the circumstances surrounding the commission of the offence, including whether a firearm was used, and

(iv) the fact that the accused is liable, on conviction, for a potentially lengthy term of imprisonment or, in the case of an offence that involves, or whose subject matter is, a firearm, a minimum punishment of imprisonment for a term of three years or more.

The Alleged Conspiracy

[39] Nineteen complainants have related essentially the same story. Those of David Bogdan and Tamas Miko are representative.

[40] David Bogdan was recruited in Hungary by Sandor Kolompar, Ferenc Domotor's brother-in-law, who put him in touch directly with Ferenc Domotor. Gyongi Kolompar signed an Immigration Canada document called a Letter of Invitation naming Bogdan as a visitor to Canada and her friend. Bogdan, together

with another recruit, his friend Peter Gyimesi, were taken to the airport by Sandor Kolompar. Upon their arrival in Montreal, they were met by Ferenc Domotor and Gyongi Kolompar, who took their passports from them for "safekeeping". The e-mail airline tickets had been sent by the travel agency to an e-mail address associated with Ferenc Domotor's business.

[41] Bogdan and Gyimesi were lodged initially in the garage at the Kolompar residence and then in the basement. Bogdan was told that he would not be paid for his work until he had paid off the cost of the airfare and a 300,000 Forint fee paid to Sandor Kolompar - presumably a finder's fee. Bogdan and others were put to work finishing the basement of Ferenc Domotor's residence and later were sent to work for Gyula Domotor in stucco work. They were transported to and from the work sites by Ferenc Domotor, Ferenc Domotor Jr. or Gyula Domotor. He also worked for Ferenc Domotor's company, D&M Stucco (mocsika@hotmail.com).

[42] Bogdan was taken by Ferenc Domotor and Ferenc Domotor Jr. to register as a refugee after his return airline ticket had expired. Bogdan had been instructed by the Domotor family as to what to tell the immigration officials. After the meeting with these officials, he was required to write an account outlining his reasons for coming to Canada and claiming to be a refugee.

Bogdan has stated that the story he wrote was dictated to him by Ferenc Domotor, Ferenc Domotor Jr. and Gyula Kolompar.

[43] Given a Refugee Protection Claimant Document as his identification, this document was taken from him by the Domotors.

[44] Ferenc Domotor Jr. took Bogdan to TD Canada Trust to open a bank account and later to activate a bank card. The PIN number was given to him by Junior who also took the card from him.

[45] Bogdan was taken to social services agencies where paperwork was completed for him.

[46] On April 2, 2009 Bogdan and three others left the Domotor home and contacted the local police.

[47] Tamas Miko's story is similar. He was recruited by Ferenc Domotor's sister-in-law. Gyongi Kolompar signed his Letter of Invitation falsely claiming that Miko is her cousin and that he was only visiting Canada.

[48] Miko was met at the airport by Ferenc Domotor and his spouse Gyongi Kolompar and their daughter. Gyongi took possession of his passport.

[49] A claim for Refugee Protection in Canada form completed for him indicated that Gyongi had paid for the airline ticket and that Ferenc Domotor Jr. had assisted Miko in completing the form. The story he was to tell officers about being persecuted in Hungary as a Roma was dictated to him by Ferenc Domotor and Gyongi Kolompar. It is remarkably similar in detail to the one told by David Bogdan.

[50] The Crown's allegation of conspiracy is based on the following elements from the material before the court:

- The victims were recruited in Hungary by persons associated with the Domotors.
- Airfare to Canada was paid for the victims.
- The victims lived in the basements of the co-conspirators.
- The victims worked for little or no pay in the conspirators' businesses.
- The victims spoke no English.
- The victims were coached and taken to make false refugee claims.

- The victims were taken to banks to open accounts, and their access cards, visa cards, and other documents were taken from them by the co-conspirators.
- The victims were taken to claim social services benefits. The co-conspirators received the welfare moneys.

[51] Mr. Skarica acknowledges that Bogdan is wanted in Hungary for some sort of a sexual offence and that that may well impair his credibility. On the other hand, Miko has no criminal record and on Ferenc Domotor's own statement to police that Miko is a good boy and that he loves him, no credibility issue arises.

[52] Independent evidence corroborating the complainants' accounts is the wide range of documents belonging to the complainants seized by the police from the bedroom of Ferenc Domotor and Gyongi Kolompar. Similarly, police seized from the home of Ferenc Karadi an immigration document belonging to the complainant Imre Orsos.

[53] In his statement given to the police on October 16, 2010, Ferenc Domotor indicated that he doesn't know how David Bogdan got to Canada. He claimed to have met him in a coffee shop in Hamilton and that Bogdan was looking for work. Found in

the master bedroom shared by Ferenc Domotor and Gyongi Kolompar, however, were David Bogdan's travel documents including a receipt sent to the e-mail address of Ferenc Domotor and an invoice for Bogdan's travel from Hungary to Canada, addressed to Ferenc Domotor in Ancaster. Also found is a Letter of Invitation to David Bogdan signed by Gyongi Kolompar.

[54] A further indication of organization and planning found during the search of that bedroom were blank Letters of Invitation already signed by the Notary Public who is supposed to witness the declaration of the host in Canada.

[55] The same Notary Public signature appears on a November 14, 2008 Letter of Invitation prepared by Gyula Domotor as "Host in Canada" for Ferenc Karadi, the "Proposed Visitor" declaring that the purpose of Karadi's visit to Canada was a vacation of 2 to 3 weeks' duration. Karadi has claimed refugee status.

[56] R.C.M.P. Constable L. Jankovic travelled to Hungary in December, 2010 to inquire, amongst other things, about Karadi's criminal status in Hungary. The Hungarian authorities confirmed that there are arrest warrants for him for offences involving extortion of businessmen in Hungary.

[57] Ferenc Karadi was identified by police as a person waiting to meet a new recruit, Jozsef Olajos, at Pearson International Airport on October 7, 2010. Mr. Karadi was free on bail at the time.

The Law of Conspiracy

[58] Regina v. Baron and Wartman [1976] O.J. No. 2304 (O.C.A.) approves the proposition that if a conspiracy is found, the acts and declarations of one conspirator in furtherance of the conspiracy are evidence against a co-conspirator (at para. 53).

The rule is based upon a principle of agency. If A and B have agreed to achieve a common unlawful purpose, then by their agreement each has made the other his agent to achieve that purpose, with the result that the acts and declarations of A in furtherance of the common design are not only A's acts and declarations but, in law, are also B's acts and declarations (at para. 54).

See also R. v. Koufis [1941] S.C.J. No. 28 (S.C.C.) at p. 7:

It is well settled law that any acts done or words spoken in furtherance of the common design may be given in evidence against all (*Paradis v. The King* [1934] S.C.R. 165). This rule applies to all indictments for crime, and not only when the indictment is for conspiracy, and it also applies even if the conspirator whose words or acts are tendered as evidence has not been indicted.

R. v. Perciballi [2001] O.J NO. 1712 (O.C.A). discussed the jury instruction on the co-conspirators' exception to the hearsay rule at para. 47:

[47] This instruction is commonly referred to as a *Koufis* or a *Carter* charge to the jury in reference to the principles set out in *Koufis v. The King*, [1941] S.C.R. 481, 76 C.C.C. 161 and *R. v. Carter*, [1982] 1 S.C.R. 938, 67 C.C.C. (2d) 868 ...

(a) they must consider whether on all the evidence they are satisfied beyond a reasonable doubt that the alleged common unlawful design in fact existed;

(b) if they conclude that the alleged common unlawful design existed, they must decide whether, based upon evidence of an accused's own acts or declarations, the accused was probably a participant in the common unlawful design; and

(c) if they are satisfied based only on the accused's own acts and words that he was probably a member of the conspiracy, they can consider the acts and words made in furtherance of the conspiracy by other persons who they have found to be probable members as evidence against the accused.

[59] At the original bail hearing for Ferenc Domotor on February 5, 2010 when his brother Gyula Domotor became surety, Gyula testified that nine named complainants/victims worked for his brother: David Bogdan, Tamas Miko, Peter Bodai, Tibor Baranyai, Imre Orsos, Janos Acs, Gyula Csorge, Csaba Kalmar and Sandor Simon. I agree that this is compelling evidence of a

conspiracy to bring people from Hungary as workers in the accused's business.

[60] On the basis of all the material before the court, I conclude that the prosecution has presented a strong case against the accused.

[61] The offences charged involved organized crime by a network extending to Hungary, carrying out an elaborate and complex scheme of deceit affecting Canada's immigration system and its welfare system. The testimony and material presented bespeaks a systematic and cynical attack on Canada's social safety network. Human trafficking is a very grave offence indeed.

[62] As to the circumstances surrounding the commission of these offences, it is noted that they involve numerous victims, intimidation of the victims and their families, and threats of violence and actual violence, for example, an alleged physical assault on David Bogdan by Ferenc Domotor, an individual undeterred by prior involvement with the criminal justice system.

[63] Upon conviction the accused are liable to potential lengthy terms of imprisonment.

[64] Mr. Cohen submitted that it would be inappropriate to detain the accused on the basis of the tertiary ground in s.515(10)(c) of the *Criminal Code*. If not limited in its applicability to murder cases, then, as I understand his submission, its use is restricted to serious firearms and drug trafficking offences. In my view resort to s.515(10)(c) is not so restricted.

[65] Winkler, C.J.O. in *R. v. B.S.* [2007] O.J. No. 3046 (O.C.A.) referred to the leading discussions in *R. v. Hall*, [2002] 3. S.C.R. 309 and *R. v. E.W.M.*, [2006] O.J. No. 3564 (O.C.A.) and concluded as follows at para. 10:

10. The tertiary ground continues to apply to all persons seeking judicial interim release, whether charged with relatively minor, non-violent offences or whether charged with murder. In a practical sense, it will not often be a factor in most cases, but as the nature of the offence and surrounding circumstances become more serious, the consideration of the tertiary ground will become more relevant.

[66] As in this case, counsel challenged the strength of the case against the accused/applicant. Winkler C.J.O. states at para. 12 that "[w]hile the case may not be straightforward or overwhelming, neither is it weak or suspect". As in *R. V. B.S.*, the case against Ferenc Domotor and the other accused is at the very least "reasonably strong".

[67] Finally, and relevant to the circumstances in this case, Winkler C.J.O. identified as factors to be considered when assessing the applicability of the tertiary ground, conduct directed towards potential witnesses and gang-related crimes.

[68] In *R. v. E.W.M.* (supra), it is stated at page 26 that "[w]here the individual case turns on the tertiary ground, as here, the question is whether accused's presence in the community will undermine the public's confidence in the administration of justice". As a reminder of the countervailing considerations, the Court of Appeal at para. 27, quoted the following from *R. v. Nguyen* (1987), 119 C.C.C. (3d) 269 (B.C.C.A.) at p.274:

The principal that seems to emerge is that the Court favours release unless there is some factor or factors that would cause "ordinary reasonable fair-minded members of society"...or persons informed about the philosophy of the legislative provisions, Charter values and the actual circumstances of the case..., to believe that detention is necessary to maintain public confidence in the administration of justice.

Conclusion

[69] In my view, there is a substantial likelihood that Ferenc Domotor will, if released from custody, commit a criminal offence or interfere with the administration of justice.

At a bail hearing, the court is required to make a prediction about the accused person's future conduct. The assessment is based upon what the accused is alleged to have done, along with information about the accused person's social circumstances and character. Subject to rules of admissibility, anything that sheds light on these issues is relevant at a bail hearing. Consequently, evidence may be led that would not be relevant and admissible at trial. This may include: character evidence; propensity for violence; uncharged conduct; other contacts with the police; evidence as to disposition; psychiatric history; stayed charges; and employment history.

Gary T. Trotter, *The Law of Bail in Canada* (2nd Ed.) at p.223.

The Review Concerning Ferenc Domotor

[70] Ferenc Domotor is no respecter of the law. He is a fugitive from justice in Hungary. His conviction for theft under in Canada in 2001 would ordinarily, in and of itself, be given very little weight in a determination about future conduct. He has, however, breached the terms of his release on the *Immigration and Refugee Protection Act* charges, breached the terms of his release on the original *Criminal Code* charges and stands accused of possession of property stolen from the mail and fraud, and may well be found to be a co-conspirator in the October 2010 attempt to effect the entry of a further recruit/victim into Canada.

[71] He has actively encouraged dishonesty and deception by the victims in their dealings with the immigration authorities. Documentary evidence led by the prosecutor corroborates the allegation that he lied to the police about having nothing to do with bringing David Bogdan to Canada.

[72] Ferenc Domotor's detention is justified pursuant to the secondary grounds in s.515(10)(b). In the circumstances here, a detention order does little to undermine either the presumption of innocence or the right not to be denied reasonable bail.

[73] Furthermore, his detention is necessary to maintain confidence in the administration of justice pursuant to the tertiary grounds specified in s.515(10)(c). The reasonable and fully-informed member of society would have shaken confidence in the administration of justice if release from custody were continued.

[74] The prosecutor's application is allowed on the basis of the material changes in circumstances presented on this review. Curtis J.P. considered Ferenc Domotor's application for release on bail in the absence of any knowledge about the charges laid by the London police, and before the new information containing the additional conspiracy and organized crime charges came into being.

[75] I would add, however, that I disagree with Curtis J.P.'s conclusion that, on the basis of the record before him, "an informed number of the community would lose confidence in the administration of justice if this gentleman were detained."

[76] This application is allowed. The release order of October 20, 2010 is vacated and detention is ordered.

The Review Concerning Gyongi Kolompar

[77] I agree with Mr. Skarica that Gyongi Kolompar is in much the same position as her spouse. The record before the court shows that she worked hand-in-glove with him. The identification documents of various complainants/victims, their banking documents, their social assistance documents and, in particular pre-signed blank Letters of Invitation all found in the dresser in their bedroom provide compelling corroboration of the victims' complaints and of the alleged conspiracy.

[78] I find no error in the ruling by Waugh J.P. The accused has failed to show cause why her continued detention is not justified. Her application is, accordingly, dismissed.

The Review Concerning Ferenc Karadi

[79] Ferenc Karadi recruited three victims who ended up in the cellar of his residence at 285 West 31st Street, Hamilton.

[80] Peter Bodai was recruited by Ferenc Karadi's cousin Tamas Bogdan. Karadi then counselled Bodai by phone to claim refugee status upon arrival in Canada. Karadi sent money for a passport, an airline ticket, and a Letter of Invitation from Jozsef Sztojko as the host in Canada. Bodai and another victim, Imre Orsos arrived on December 12, 2009 and were met at the airport by Ferenc Karadi, his wife Viktoria Nemes, and Janos Pal. Karadi took possession of Bodai's immigration documents and identification.

[81] Karadi then took Bodai to the immigration authorities to register his refugee claim and to Ontario Works to apply for benefits.

[82] Karadi's son, Roland Karadi, and daughter-in-law brought Bodai to the bank to open an account. Later Ferenc Karadi took possession of the bank card. Ferenc Karadi kept welfare moneys intended for Bodai.

[83] Atilla Kolompar found jobs. Ferenc Karadi transported Bodai to work. Pay cheques for Bodai's work were given to Ferenc Karadi.

[84] A similar story is told by the victims Tibor Baranyai and Imre Orsos. Orsos was recruited in Hungary by Ferenc Karadi's brother Tamas Kolompar.

[85] On January 10, 2010, Bodai, Baranyai, and Orsos escaped and contacted Hamilton police who took them to a shelter. Ferenc Karadi and his daughter Zsanett Karadi located them at the shelter and attempted to force them to return. The police arrived and the Karadis left the scene.

[86] Travel agency invoices for plane tickets for Bodai and Orsos are addressed to G. Domotor, 708 Upper James Street, Hamilton. A master business licence issued for Frank Construction and Stucco with Ferenc Domotor as sole proprietor was issued effective January 16, 2008. That address has been occupied as a private residence since April, 2009 by Ms. Natasha McKenzie who stated that she had no knowledge of the Domotors or Frank Construction, although mail arrived addressed to them. The 708 Upper James Street appears on credit applications made on behalf of some victims, including David Bogdan.

[87] This address continued to be used even though the business was not operated from that address, nor was the master business licences ever updated with the current mailing address.

[88] There are European and Intentional arrest warrants in existence for Ferenc Karadi. Hungarian authorities confirmed to RCMP Constable Jankovic that there are arrest warrants for Karadi in Hungary for offences involving extortion of businessmen in Hungary.

[89] I find no error in the ruling of Formosi J.P. The accused has failed to show cause why his continued detention is not justified. His application is, accordingly, dismissed.

The Review Concerning Gyula Domotor

[90] The accused has failed to show cause why his continued detention is not justified. The plan of supervision offered by the proposed sureties Andrew Scarlett and Duncan McDougall is hopelessly inadequate. One of the two would attend at Gyula's house at least once per week and one of the two would contact him by phone at least once per day. They propose to cover for each other in the event of the absence of one of them.

[91] Both Scarlett and McDougall reside in Hamilton and are employed. McDougall resides in central Hamilton, Gyula Domotor's residence is in Ancaster. Scarlett and McDougall are co-religionists of Gyula Domotor. They met him at church services.

[92] The proposed plan offers no assurance that Gyula Domotor can be adequately supervised. Gyula Domotor is involved in the recruitment and exploitation of various victims who are employed without pay in his stucco business.

[93] Tibor Csuti was recruited in Hungary by Gyula Domotor's sister Gizella. The Letter of Invitation was by Gyula's wife Szilvia Szekelyfoldi. He arrived in Canada on April 6, 2008 with Gizella and her daughter. They were met at the airport by Gyula Domotor and then taken to his home in Hamilton where Csuti was lodged in the basement.

[94] Gyula transported Csuti to see the immigration authorities to register his refugee claim, to the bank and to the social services agencies. Csuti did stucco work for Gyula and after two years was told that he had not yet paid off his plane ticket.

[95] Jamas Bodgan was recruited by one Szabas, a long-time friend, in 2010. He was met at the airport in Canada by Jozsef Domotor and others and lodged in Jozsef Domotor's home. Jozsef Domotor counselled him to make a refugee claim. He was taken to work for Ferenc Domotor and to Regina, Saskatchewan, to work on a project for Gyula Domotor. Back in Ontario, he was put to work building a deck at Gyula's residence.

[96] James Bogdan sought help from the police. Gyula Domotor found him at the shelter and tried to persuade him to return with a promise to pay him \$100 per week.

[97] Gyula Domotor was ordered to be detained in custody on the basis of the secondary and tertiary grounds in *Criminal Code* s.515(10).

[98] I find no error in the ruling of Stevely J.P. The accused has demonstrated no material change in circumstances. His application is, accordingly, dismissed.

Delivered orally on Thursday, January 27, 2011

CITATION: Her Majesty the Queen
and Domotor and Kolompar, Karadi,
Domotor. 2011 ONSC 626
DATE: 2011/01/26

**ONTARIO
SUPERIOR COURT OF JUSTICE
B E T W E E N:**

HER MAJESTY THE QUEEN

Applicant

- and -

FERENC DOMOTOR

Respondent

B E T W E E N:

HER MAJESTY THE QUEEN

Respondent

- and -

GYONGI KOLOMPAR, FERENC KARADI,
GYULA DOMOTOR

Applicants

BEFORE: The Honourable Mr.
Justice J. Cavarzan

COUNSEL: Toni Skarica
for the Applicant
Laurence Cohen for the
Respondent

REASONS FOR DECISION

Cavarzan J.

JC:km

Delivered orally on Thursday, January 27, 2011