

R. v. Aziga

Her Majesty The Queen, Respondent v. Johnson Aziga, Applicant

Ontario Superior Court of Justice

T. Lofchik J.

Judgment: July 3, 2008
Docket: Hamilton 07/1122

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J. Kubursi, for Ministry of Community & Correctional Services
D. Bagambiire, S. Pieters, for Mr. Aziga

Subject: Criminal

Criminal law.

Lofchik, T.S.C.J.:

1 I have reviewed the Brown, case. I can't help noting that in that case it was a charge involving a violent murder and that there were some problems with behaviour of the accused in the course of the trial, and yet throughout the trial the accused there were allowed to remain unshackled.

2 I have had in-pu from the supervisor of the custody officer's yesterday, and as I understand his explanation for use of restraints, it is essentially that this is the way we do things and everybody is shackled.

3 I don't see that there is any greater flight risk with respect to Mr. Aziga than there would be with respect to most accused as they appear in this court. I recognize that the issue of security is best left to those whose function it is to deal with those aspects of courthouse activity, but I think the case law is clear that so far as the situation in the courtroom is concerned it is a matter of discretion for the trial judge.

4 Under the circumstances I don't see Mr. Aziga as a particularly high security risk and I am going to order that the shackles be removed while he is in court.

5 MR. BAGAAMBIIRE: Thank you Your Honour.

6 THE COURT: And just to be clear my order is solely with respect to the courtroom. So far as Mr. Aziga's movements outside the courtroom are concerned, that is a matter for the security authorities to do as they in their discretion feel advised to do. All right, any other matters that need to be deal with this morning?

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