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COURT ORDERED ELECTRONIC MONITORING

PRO'S AND CON'S BETWEEN SURETIES AND ELECTRONIC MONITORING WHEN USED IN A BAIL HEARING

In most bail hearings a strong surety is often enough to satisfy the Courts for a release, but while a strong surety is a vital component in the supervision of bail for most cases, defence counsel may present GPS Electronic Monitoring at an expected "tough" bail hearing to bolster the plan of release.

On the likelihood of compliance, where the Court has confidence that the accused will be determined to comply with their bail conditions, supervision may not be required at all, and if required, would be more as an assurance to the Court.

In those matters where the Court has little confidence that the accused would be willing to comply with their bail conditions, and if the accused does not meet the legal test for bail, the bail is denied. Both surety supervision, and/or GPS Electronic Monitoring were not sufficient to tilt the balance in favour of release.

However, the GPS Electronic Monitoring makes the difference in those cases where the Court does not have sufficient confidence in surety-only supervision because the accused may still take risks hoping that a violation is not detected or reported by the surety.

Those risks may be mitigated with GPS Electronic Monitoring so the Court is confident that the accused would more likely comply with bail conditions because he or she knows that violations will be automatically detected and reported. Ultimately, it's the Court that assesses the risk, and makes the decision.

GPS Electronic Monitoring merely provides the Court with an additional risk-management tool to apply the legal test for bail. It happens that this tool is often applied in addition to what a proposed surety offers. But in some rare cases, GPS Electronic Monitoring has been ordered where there is no surety.

Is the following a reasonable statement asked by Crown? "Is GPS Electronic Monitoring only as effective as a strong surety."

It may initially seem a reasonable statement, but where surety supervision is live, eyes-on monitoring, GPS Electronic Monitoring is automated, eyes-in-the-sky monitoring. The logic of the Crown is, being that if surety supervision isn't sufficient, then more distant monitoring should also be insufficient.

Sureties are people, and people work and sleep. Sureties (often a family member) may be swayed by emotional pleas from an accused to not report a violation. GPS Electronic Monitoring is objective, around the clock, with a record of movement, and automatic detection of violations. It does not sleep, and is not subject to emotional pleas. If an accused makes a plea to give him or her a chance, that plea is information that is also forwarded to the police along with the violation report.

GPS Electronic Monitoring and surety supervision decrease risk in similar but distinct ways. Where one form is insufficient, the addition of the other form may tip the balance, and result in an accused being granted bail, where he or she might otherwise have been detained.

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