



**IN THE COURT OF APPEAL
OF NEWFOUNDLAND AND LABRADOR**

Citation: *R. v. Racine*, 2026 NLCA 7

Date: March 11, 2026

Docket Number: 202501H0045

BETWEEN:

HIS MAJESTY THE KING

APPLICANT/RESPONDENT

AND:

MARTIN RACINE

RESPONDENT/APPELLANT

Coram: F.J. Knickle J.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador,
General Division 202203G0140
(2024 NLSC 159 and 2025 NLSC 17)

Application Heard: March 11, 2026

Judgment Rendered (Orally): March 11, 2026

Judgment Filed: March 13, 2026

Reasons for Judgment by: F.J. Knickle J.A.

Counsel for the Applicant/Respondent: Timothy P. O'Brien

Counsel for the Respondent/Appellant: Kenneth J. Mahoney

Authorities Cited:

CASES CITED: *R. v. Racine*, 2025 NLCA 37; *R. v. Oland*, 2017 SCC 17, [2017] 1 S.C.R. 250; *R. v. Johnson*, 2024 NLCA 33.

STATUTES CONSIDERED: *Criminal Code*, RSC 1985, c. C-46, sections 524, 679.

F.J. Knickle J.A.:

INTRODUCTION

[1] Martin Racine was released by this Court (*R. v. Racine*, 2025 NLCA 37) in November 2025, pending appeal of his convictions for drug trafficking and weapons related charges, and for which he received a sentence of four (4) years and ten (10) months imprisonment.

[2] In February 2026, Mr. Racine was arrested for and charged with new offences under the *Criminal Code*, RSC 1985, c. C-46: two counts of assault with a weapon and one count of theft of a cell phone. The offences are alleged to have been committed against his former partner. As a result of these charges, he is also charged with breach of the release order by failing to keep the peace and be of good behaviour.

[3] One of the alleged assaults is particularly serious. The complainant stated to police investigators that after becoming angry with her, Mr. Racine took a knife and placed it inside her mouth. The complainant called 911 and while the police responded, no statement was taken from the complainant, nor were charges laid at that time. That assault was alleged to have occurred in January 2026.

[4] The second assault is alleged to have occurred a little over two weeks later on February 10, 2026. The complainant alleges that Mr. Racine again became angry with her and threw a baseball type of hat at her that hit her below her eye. He then took her cell phone from her. The complainant told the police she believed Mr. Racine took her phone after the second alleged assault so that she would not be able to call the police.

[5] The complainant attended at the police station with her brother on February 13, 2026. She provided a statement to police. Mr. Racine was arrested and held in custody on February 15, 2026. It is on the basis of these new charges that the Crown now seeks to cancel Mr. Racine's release order under section 524(3) of the *Code* and objects to further release under section 679 of the *Code* - the section of the *Code* that governs judicial interim release pending appeal.

[6] At the hearing of this application, Mr. Racine conceded that the criteria for the cancellation of his release conditions under section 524(3) of the *Code* were met. That is, he agreed that the laying of the new charges provided reasonable grounds to believe that he has committed an indictable offence as per section 524(3)(b) of the *Code*. In light of this concession, there is no need to discuss that process further except to confirm that I am satisfied the criteria for cancelling the release order from this Court have been met and I therefore cancel that order.

[7] However, Mr. Racine submits that, notwithstanding these new charges, he still meets the criteria for release under section 679(3) of the *Code*. He denies having committed any of the offences and intends to proceed to trial.

[8] In contrast, the Crown submits that while the first two criteria under section 679(3) of the *Code* are still met, as I concluded in my initial decision, the circumstances of these new allegations tip the balance against Mr. Racine's release under the third criterion in section 679(3) of the *Code*. That is, as the Crown argued, Mr. Racine's release would now be contrary to the public interest because the new charges evidence an increased concern for public safety (*Code*, at s. 679(3)(c)).

DISCUSSION

[9] The first two criteria for release under section 679(3) of the *Code* having been conceded by the Crown, there is no need to discuss those considerations further. These criteria were fully considered in my earlier decision on judicial interim release in *Racine*, at paragraphs 9-17. Those considerations continue to apply here. The sole issue I must address is whether this change in circumstances means that Mr. Racine's detention, pending his appeal, is necessary in the public interest, as per section 679(3)(c) of the *Code*, because of the Crown's assertion that with these new charges there is an increased concern for public safety.

[10] There is no doubt that whether detention is necessary in the public interest under section 679(3)(c) of the *Code* includes a public safety component for consideration by the Court (see *R. v. Oland*, 2017 SCC 17, [2017] 1 S.C.R. 250, at paras. 23-27; and *Racine*, at paras. 20-21).

[11] I also agree that these new allegations increase the concern for public safety that was not present when the circumstances for Mr. Racine's release were considered in November 2025. In my initial review of Mr. Racine's circumstances, I concluded that, in the circumstances, there was not a substantial likelihood that he would commit further offences. At paragraphs 21-22, I stated:

[21] In these circumstances, the evidence supports that there is not a substantial likelihood that Mr. Racine will commit further offences if released. I understand that Mr. Racine abided by the terms of his release for the offences that are now under appeal for a period of over four years. This evidence supports that Mr. Racine can and has abided by court orders to secure his good behavior.

[22] Further, his criminal history is brief. Mr. Racine is 42 years of age and, according to the sentencing decision (*R. v. Racine*, 2025 NLSC 136, at para. 31), his criminal history consists of a previous offence of careless storage and handling of a firearm, being unlawfully in a dwelling house, assault with a weapon, and a breach of a recognizance or undertaking. While the breach of recognizance or undertaking is evidence that shows that Mr. Racine has not abided by court orders in the past, it is one instance and I note he received a suspended sentence for this particular offence.

[12] These new allegations are further evidence that Mr. Racine may commit an offence that puts the safety of the public, in particular, the complainant, in danger. These allegations of assault are troubling given that, although his previous criminal history is brief, it includes a conviction for assault against this complainant in 2018.

[13] While these new allegations have raised safety concerns not previously present, the question is whether the risk that Mr. Racine poses can be managed without having to deny Mr. Racine his liberty while waiting for the resolution of his appeal.

[14] The further risk here is primarily to the complainant. I am satisfied that the risk can be managed by including a condition of his release to have no contact or communication with her. I am also satisfied that his proposed change in his place of residence will help to diminish the risk of harm to the complainant.

[15] Mr. Racine has also provided a surety, Ms. Maloney, who is prepared to not only allow Mr. Racine to reside with her, but is also willing to promise a further \$1,000.00 to guarantee Mr. Racine's good conduct. She presented in court as a responsible and credible witness and I am satisfied she understands her role in acting as a surety for Mr. Racine. She is familiar with his background and the circumstances of his appeal before the Court.

[16] For his part, Mr. Racine is also prepared to deposit further cash with this Court.

[17] Apart from the safety considerations, I have also considered how these new charges impact the balancing between the enforceability of the convictions under appeal against the interest in ensuring the convictions are reviewed on appeal. These new allegations, unrelated to the matters under appeal, have yet to be proven in Court. While the evidence supports that there are reasonable grounds to believe that the offences occurred, the evidence is not overwhelming. In this regard, the circumstances here are distinguishable from those in *R. v. Johnson*, 2024 NLCA 33, in which there was overwhelming evidence that Mr. Johnson not only committed further offences related to the offences under appeal, but Mr. Johnson also violated his curfew imposed as part of a separate conditional sentence order.

CONCLUSION

[18] When I consider the new circumstances and the proposed plan for release, I am satisfied that the balancing of all three of the criteria under section 679(3) of the *Code* still favours Mr. Racine's release.

DISPOSITION

[19] The application under section 524 of the *Code* to revoke Mr. Racine's release order of November 3, 2025, is allowed.

[20] However, the criteria under section 679(3) of the *Code* for release pending appeal having been met, Mr. Racine shall be released on a new order with all of the conditions as per the original order except that his place of residence shall now be different. As well, in addition to the \$10,000.00 deposited with this Court with the initial release order, Mr. Racine will deposit a further \$5,000.00. As well, Ms. Maloney will be added as a surety with a promise to pay \$1,000.00 should Mr. Racine violate any of the terms of this release order. Further, Mr. Racine will remain

within his residence between the hours of 11:00 p.m. and 6:00 a.m. and, finally, Mr. Racine will have no contact, either directly or indirectly, with the complainant, her son, or her brother except as permitted by the Court or through legal counsel retained by any of them.

[21] Application for release allowed.

F.J. Knickle J.A.