



CASE NO SUM/CRIM/52/18

IN THE SUMMARY COURT OF THE FALKLAND ISLANDS

Courts and Tribunal Service
Town Hall
Ross Road
Stanley
Falkland Islands

Date: 3 August 2018

Before:

JANET ROBERTSON, JP
ANTON LIVERMORE, JP
KRISTIANE THORSEN, JP

BETWEEN:

PAUL BARTON

Appellant

and

THE CHIEF OF POLICE

Respondent

Phil Axon for the Appellant
Stuart Walker for the Respondent

In the course of an application to vary conditions of bail imposed by the police prior to charge, the court was called upon to determine whether section 55 of the Criminal Procedure and Evidence Ordinance provided jurisdiction for the court to hear such an application.

The justices ruled that:

“It is our conclusion that the right to vary conditions of bail does arise once a person has been arrested and granted bail, and therefore we conclude that we do have a jurisdiction to hear this appeal. Furthermore, no matter how the legislation has been written, it is clear what the intent of the legislation is, and that this should be the case. We accordingly find that we do have jurisdiction.”

The court was then asked to consider whether the substantive hearing of the application to vary conditions of bail imposed by the police prior to charge should be heard in public or in private.

The justices ruled that:

“The court has taken in to account the fact that this is pre-charge, and the arguments in favour of the hearing being held in private. We appreciate that had this action been brought to court by the police, rather than by the appellant, that it would be heard in private. We also take in to account the effect that the appeal being heard in public would have on the appellant [in his particular personal circumstances], and for all those reasons we determine that this appeal should be heard in private.”