In the Court of Appeal of Alberta

Citation: Canada (Attorney General) on behalf of the United States of America v Zitoun, 2026 ABCA 351

Date: 20261030
Docket: 2603-0105A
Registry: Edmonton

Between:

The Attorney General of Canada on behalf of the United States of America

Applicant

- and -

Ahmad Nabil Zitoun

Respondent

Reasons for Decision of
The Honourable Justice Kevin Feehan

Application for Review of Judicial Interim Release
Pending Committal Hearing

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I. Overview

[1] The Attorney General of Canada on behalf of the United States of America applies for review of a decision granting judicial interim release to Ahmad Nabil Zitoun in ***Canada (Attorney General) on behalf of the United States of America v Zitoun***, 2026 ABKB 166, under s 18(2) of the *Extradition Act*, SC 1999, c 18.

[2] For the reasons below, the application for review is denied; the original decision is confirmed.

II. Legislation

[3] Sections 18(2), 19, and 20 of the *Extradition Act* provide:

> **18 (2)** A decision respecting judicial interim release may be reviewed by a judge of the court of appeal and that judge may
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> **(a)** confirm the decision;
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> **(b)** vary the decision; or
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> **(c)** substitute any other decision that, in the judge's opinion, should have been made.
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> ...
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> **19** Part XVI of the *Criminal Code* [Compelling Appearance of Accused Before a Justice and Interim Release, ss 493-529.5] applies, with any modifications that the circumstances require, in respect of a person arrested under section 13 [Provisional Arrest Warrant] or 16 [Warrant of Arrest or Summons] or to whom a summons has been issued under section 16.
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> …
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> **20** Section 679 [Release Pending Determination of Appeal] of the *Criminal Code* applies, with any modifications that the circumstances require, to the judicial interim release of a person pending

> **(a)** a determination of an appeal from an order of committal made under section 29 [Order of Committal];
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> **(b)** the Minister's decision under section 40 [Surrender] respecting the surrender of the person; or
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> **(c)** a determination of a judicial review of the Minister's decision under section 40 to order the surrender of the person.

III. Background

[4] Mr Zitoun was before the Court of King's Bench following a provisional arrest warrant requested by the United States, indicating that he was wanted for conspiracy to distribute, and possession with intention to distribute, cocaine; conspiracy to export cocaine; conspiracy to commit murder in connection with a continuing criminal enterprise and drug crime; murder in connection with a continuing criminal enterprise and drug crime; conspiracy to tamper with a witness, victim, or informant; tampering with a witness, victim, or informant; conspiracy to retaliate against a witness, victim, or informant; and retaliation against a witness, victim or informant.

[5] Under s 522(2) of the *Criminal Code*, Mr Zitoun has a reverse onus to prove his detention is not necessary on any of the criteria in s 515(10) of the *Criminal Code*:

> a) … to ensure his attendance in court ...;
> b) … for the protection or safety of the public, ... having regard to all the circumstances including any substantial likelihood the accused will, if released from custody, commit a criminal offence or interfere with the administration of justice; and
> c) … to maintain confidence in the administration of justice, having regard to all the circumstances, including:
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> (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,
> (iv) the fact that the accused is liable, on conviction, for a potentially lengthy term of imprisonment ..., and
> (v) the number or gravity of outstanding charges against the accused ....

[6] A presumption of innocence applies in the original judicial interim release hearing, this review, and throughout the extradition process.

IV. Decision of the Chambers Judge

[7] The chambers judge acknowledged that Mr Zitoun was allegedly involved in a violent drug trafficking organization based in Mexico, led by Ryan Wedding, which trafficked cocaine from Colombia through Central America and Mexico into the United States and Canada.

[8] Information of a co-operating witness, apparently a person highly ranked in the Wedding organization, was that in late 2021, the co-operating witness began working with Mr Zitoun's brother. The co-operating witness said both Mr Zitoun and his brother conducted acts of violence and drug trafficking activities for the Wedding organization. While Mr Zitoun had a limited record, one vehicle violation, one restraining order, and one "very dated" conviction for breach of recognizance, his brother had an extensive record including violent and serious offences, and alleged contacts producing fake Alberta identifications.

[9] The co-operating witness said Mr Wedding had instructed that a Canadian member of the gang be sent to Medellin, Colombia to locate an Airbnb property operated by a person who was a confidential human source assisting in the police investigation of the Wedding organization. The co-operating witness said he contacted Mr Zitoun in December 2024 to have him fly to Medellin to locate that property. On December 16, 2024, Mr Zitoun flew to Dubai, United Arab Emirates. It is alleged that Mr Wedding believed the FBI had sent the confidential human source on an operation to Mecca, Saudia Arabia. The co-operating witness indicated that Mr Zitoun was sent to Colombia again between January 2 and 9, 2025 to locate one of the confidential human source's residences, but he was unsuccessful in all cases. The co-operating witness advised that Mr Zitoun was offered a contract to kill the confidential human source in Colombia, but he declined. The co-operating witness said Mr Zitoun was paid $10,000 plus expenses for his attempts to locate that person. That confidential human source was later murdered in Colombia on January 31, 2025, allegedly at Mr Wedding's command.

[10] In February 2025, it is alleged that Mr Wedding and the co-operating witness discussed stealing a shipment of drugs and the individuals responsible for stealing the drugs were Mr Zitoun and his brother.

[11] The chambers judge reviewed the primary, secondary, and tertiary criteria upon which Mr Zitoun had a reverse onus. She found his detention was not necessary to ensure his attendance in court, despite the Crown's position that he was a "substantial flight risk", the evidence against him was "extremely strong" and "he is a member of a criminal organization [and] his brother has ties to someone who can falsify documents". Mr Zitoun submitted that he is a Canadian citizen, a life-long Edmonton resident, with strong ties to the Edmonton community, and lives with his mother. He agreed to house arrest with electronic monitoring and to wear an ankle monitor at all times. His mother advised she would call police if she witnessed any breach of conditions.

[12] The chambers judge said it did not appear Mr Zitoun had access to substantial sums of money to aid in any flight, and escape would be difficult because authorities in both Canada and the United States would be aware if he removed his electronic monitoring device.

[13] On the secondary criterion, the chambers judge said Mr Zitoun's detention was not necessary for public protection. Although he had been charged with very serious crimes, particularly his alleged involvement in the death of the confidential human source, he is presumed to be innocent at this time.

[14] The chambers judge pointed out that while Mr Zitoun was allegedly sent to locate the Airbnb property of the confidential human source, that person was not murdered at that site, and Mr Zitoun declined the contract killing. She said Mr Zitoun's involvement in the Wedding organization was vague and there was not significant evidence of dangerousness, with no obvious, previous pattern of offending behaviour. She said any risk would be mitigated by the proposed release plan which she found "puts him at the very top of the ***Antic*** ladder": ***R v Antic***, 2017 SCC 27, paras 4, 29, 30, 44, 47, 48, [2017] 1 SCR 509.

[15] In addressing the tertiary criterion, whether Mr Zitoun's detention was necessary to maintain confidence in the administration of justice, the chambers judge said that under s 29(1) of the *Extradition Act*, the alleged conduct, had it occurred in Canada, would justify committal for trial. She said the allegations against Mr Zitoun are based on information gained from the co-operating witness, but that information was "corroborated in part by digital communications and border control records". She concluded the prosecution's case for extradition is "arguable".

[16] As to the gravity of the offence, the chambers judge found the gravity was great; particularly the contract killing of an informant. This factor weighed against release pending extradition.

[17] On the circumstances of the alleged offences, Mr Zitoun is accused of being part of a criminal organization; this factor supports detention. However, the chambers judge said Mr Zitoun's personal involvement was "adjacent to those who committed the actual murder". He knew about the planned murder, tried to help find the victim, and was paid for his help.

[18] The chambers judge said causing a death related to witness intimidation or retaliation carried a minimum sentence in the United States of life imprisonment, and several of the other charges against Mr Zitoun also carried a maximum penalty of life imprisonment. Additionally, she acknowledged Canada's obligation to other states under its extradition treaties.

[19] In balancing all factors in the public's confidence in the administration of justice, the chambers judge said the overall issue was to be determined on the view of a reasonable person possessing a thorough understanding of the relevant facts, assessing them objectively, free from emotional bias, understanding the importance of the presumption of innocence, and the constitutional right to reasonable judicial interim release. She concluded that a reasonable person

would not lose confidence in the administration of justice if Mr Zitoun was released pending his committal hearing.

[20] Mr Zitoun obtained judicial interim release on terms including:

a) he will report to a bail supervisor within 24 hours of release and thereafter as required, and report to Court as required;
b) he will live with his mother, in the home he owns in Edmonton;
c) he will remain in the residence on house arrest at all times unless written approval is granted by his supervisor, obtained in advance, other than for limited exceptions;
d) he will be subject to GPS monitoring including by ankle bracelet and abide by all its rules and protocols;
e) he may possess only one cell phone, capable of producing monthly records which must be provided to the supervisor upon request;
f) he will surrender all passports and travel documents, and he cannot possess, apply for, or renew any passport from any country;
g) he may not possess any weapons, firearms, ammunition, or related licenses, and any prohibited items must be surrendered to the Edmonton Police Service within 24 hours of release;
h) he will abstain from non-prescribed controlled substances; and
i) he will have no contact with eight named persons and his brother.

In addition, Mr Zitoun was required to deposit $50,000; his mother would act as surety for him and also deposited an additional $50,000, and Mr Zitoun pledged $200,000 equity in his home, in which his mother and grandmother reside, as security in favour of the Attorney General of Canada.

V. Grounds of Review

[21] The Crown says the chambers judge erred in principle by:

a) failing to consider relevant evidence;
b) drawing conclusions bereft of an evidentiary basis; and
c) giving excess weight to some factors and insufficient weight to others.

The Crown also says the chambers judge erred in law in failing to assess the tertiary criterion for detention independently of the proposed release plan.

VI. Standard of Review

[22] Under s 18(2) of the *Extradition Act*, a reviewing judge may only vary an initial judicial interim release decision on the basis of an error in principle: ***R v St-Cloud***, 2015 SCC 27, para 102, [2015] 2 SCR 328; ***R v Nygard***, 2021 MBCA 27, para 17. A reviewing judge "cannot simply substitute his or her assessment of the evidence for that of the justice who rendered the impugned

decision", as intervention is warranted only where the decision contains an error of law or is clearly inappropriate, where the judge "gave excessive weight to one relevant factor or insufficient weight to another": ***St-Cloud***, para 6.

[23] A review under s 18(2) of the *Extradition Act* is not a hearing *de novo* where a court is free to substitute its own view for that of the chambers judge, and the judge's weighing of the evidence is entitled to significant deference on review: ***Nygard***, paras 17, 24; ***United States v Paradkar***, 2026 ONCA 392, para 83, aff'g ***The Attorney General of Canada on behalf of the United States v Paradkar***, 2025 ONSC 7187; ***United States of America v Chapman***, 2026 ABKB 376, paras 38, 39.

VII. Positions of the Parties

[24] The Crown submits the chambers judge misapprehended and failed to consider that Mr Zitoun was a trusted associate in the Wedding organization, and had carried out acts of violence and drug-trafficking activities for the organization. It says the chambers judge's characterization that he was a "low-level" associate was wrong. Mr Zitoun had travelled to Medellin and the Middle East to locate the confidential human source so he could be killed and was paid $10,000 plus travel expenses.

[25] On the primary criterion for release, the Crown says that in the extradition context, courts must assess the risk of non-appearance with particular caution given the potential diplomatic impact on Canada's international relations and the need to honour Canada's treaty obligations: ***United States v Emony***, 2025 ONCA 28, para 23, ***USA v Edwards***, 2010 BCCA 149, para 18; ***Jackson v United States of America***, 2012 ONSC 2796, para 14. This includes consideration of whether Mr Zitoun might flee justice within Canada, without crossing any border, and whether the Wedding organization might assist Mr Zitoun to flee this jurisdiction.

[26] The Crown questions Mr Zitoun's mother's ability to control him as his surety. It says he has not been living with her full time, she has little knowledge of his friends, activities or finances, limited computer or social media literacy, and during his mother's absences, Mr Zitoun would be left only with his grandmother, who neither speaks nor understands English. The Crown criticizes the chambers judge's finding that Mr Zitoun did not appear to have access to substantial sums of money, and treated his mother's house as his primary residence, when the evidence was that he also lived half-time in a luxury downtown high-rise, and owned a valuable, detached home and vehicles, saying these show some resources to facilitate flight.

[27] On the secondary criterion, the Crown says Mr Zitoun has long-standing ties to organized crime, a pattern of violent behavior, association with gangs, and had his firearm license revoked. Additionally, the Crown points out that Mr Zitoun's brother is a violent, high-risk offender, convicted of attempted murder and with access to high-quality counterfeit documents.

[28] Importantly, the Crown submits the chambers judge made an error in law by collapsing the tertiary criterion into other criteria, effectively finding that the release plan answered tertiary criterion concerns. It says a separate assessment of whether detention is necessary is required, carefully examining the apparent strength of the Crown's case, the gravity of the offences, circumstances of commission, and potential for lengthy imprisonment: ***R v Pathmanathan***, 2022 ONSC 383, para 50.

[29] Mr Zitoun replies that the chambers judge's conclusions on all three criteria in s 515(10) of the *Criminal Code* were reasonably open to the chambers judge, and deference is owed to her determinations. Mr Zitoun says the chambers judge reviewed all the facts properly, including his travel to Colombia and the Middle East, his unsuccessful search for the residence of the confidential human source, and his refusal to take a contract to kill that person. Mr Zitoun says there is no evidence he knew of the reason he was to locate the residence of the confidential human source at the time of his search.

[30] On the primary criterion, Mr Zitoun says the findings of the chambers judge were substantially identical to those of the judge in ***Paradkar***: he does not appear to have access to substantial funds, would require the assistance of a sophisticated organization to flee, and that flight would be detected because authorities on both sides of the border would know he had removed his monitoring device: ***Paradkar***, paras 76-78.

[31] On the secondary criterion, Mr Zitoun says a substantial likelihood of reoffending or interference with the administration of justice must be shown, not a mere possibility: ***R v Manasseri***, 2017 ONCA 226, para 87. He says the chambers judge examined RCMP and Edmonton Police Service profiles mentioning him in 58 events and found that many of them reflected his ejection from venues for being "suspected of being a gang member", some were complaints in which he was the complainant, and a single dated conviction; she found nothing amounting to an established pattern of violent conduct.

[32] As to the tertiary criterion, Mr Zitoun says the chambers judge did not collapse the release plan into the tertiary criterion. He says she addressed each of the applicable factors in ss 515(10)(c) individually, and undertook the balancing exercise ***St-Cloud*** requires on a reasonable person standard.

[33] As to his release plan, Mr Zitoun says this case is not like ***Pathmanathan*** where the justice of the peace declined to engage with the enumerated factors at all, saying she "would not refer to these factors in detail", and her tertiary criterion reasoning was found to be "essentially the same as her secondary ground analysis". Mr Zitoun says his release plan, GPS monitoring, and house arrest with immediate reporting of unauthorized absences, addresses movement anywhere, not only movement across an international border.

[34] As to the appropriateness of Mr Zitoun's mother acting as surety, Mr Zitoun agrees that a surety's capacity to supervise, not merely her willingness, is the relevant inquiry: ***Attorney General***

of Canada v Mello-Lima, 2019 ONSC 6457, paras 30-32. Here, the chambers judge made no adverse credibility finding against Mr Zitoun's mother, and the release plan does not rest only upon her supervision, but is reinforced by GPS monitoring, a central monitoring unit that reports unauthorized absences directly to police, cash deposits, and a pledge of the equity in the family home.

[35] As to the Crown's concern about the 2024 incident in which Mr Zitoun did not surrender a firearm as directed by the Chief Firearms Officer, Mr Zitoun says when he was ordered to return the firearm, his mother moved the locked box containing it to her bedroom where it remained secured until police executed a search warrant, finding it still locked in the drawer where she had placed it. He says that shows her effort, although incomplete, to ensure he was following the firearm direction.

[36] Mr Zitoun says all the information about the acceptability of Mr Zitoun's mother as a surety was before the chambers judge, and she concluded his mother was a fit and proper surety for him under all the circumstances of his release plan.

VIII. Analysis

[37] The chambers judge's decision shows no errors of law and is to be accorded deference.

[38] A thorough review of the reasons for decision of the chambers judge shows she was continuously alive to the evidence before her on all three criteria for release, considering the reverse burden on Mr Zitoun. The Crown's objections to her conclusions on the first and second criteria are merely asking this Court to reweigh the evidence before her differently. That is not the role of this Court.

[39] The chambers judge concluded on the primary criterion on the facts before her that if Mr Zitoun was released pending completion of extradition proceedings, he would attend in court throughout the process. That has been the case since his provisional arrest. He is a Canadian citizen, a lifelong resident of Edmonton, with strong ties to the community, who lives with his mother. She says on the evidence before her, Mr Zitoun did not appear to have access to substantial sums of money and would require the assistance of a sophisticated organization to avoid detection. There was appropriate evidence before the chambers judge for her to come to these conclusions.

[40] On the secondary criterion, the chambers judge acknowledged that Mr Zitoun had been charged with very serious crimes, of which he is currently presumed to be innocent, but said the evidence before her as to Mr Zitoun's involvement and position within the organization was "very vague", and "certainly not overwhelming". She acknowledged that the Edmonton Police Service believed Mr Zitoun was involved in a gang or criminal organization and were keeping a watchful eye on him, but he had only one vehicle violation, one restraining order, and a "very dated" record for one breach of recognizance. She said the Crown had not established an obvious previous pattern

of behaviour which might predict future offending behaviour. These findings were reasonably open to the chambers judge.

[41] On the tertiary criterion, the chambers judge viewed the apparent strength of the prosecution's case, the gravity of the offences, circumstances surrounding the offences, the potential for a lengthy term of imprisonment, and Canada's obligations to other states: ***United States v Pannell***, 193 CCC (3d) 414, para 39 (ONCA).

[42] As to the apparent strength of the prosecution's case, the chambers judge found that the cooperating witness had clear credibility issues, the case against Mr Zitoun was “arguable” and “certainly defendable”. She found Mr Zitoun was charged with very serious offences with significant gravity, he “knew about the hit, he helped try to find the [confidential human source] and was paid for his help”, and that if convicted he would face a penalty of life imprisonment. However, balancing all relevant factors, the chambers judge found it was not necessary to maintain public confidence in the administration of justice that he be detained pending his committal hearing. She said a reasonable person fully cognizant of the facts, understanding the presumption of innocence and the legal framework governing judicial interim release in Canada, would not lose confidence in the administration of justice if Mr Zitoun was released. This decision of the chambers judge is accorded deference.

[43] As to Mr Zitoun’s release plan, the chambers judge found it to be strong, including the presence of cash deposits by himself and the surety, electronic monitoring, pledging of the equity in the home in which his mother and grandmother reside, prohibiting contact with his brother and others, and the further provisions within the plan, adequate to ensure Mr Zitoun’s compliance with the three criteria for his continued release pending completion of the extradition process. The chambers judge did not conflate Mr Zitoun’s release plan with the criteria to be evaluated and did not make the tertiary criterion irrelevant in that regard. There is no error in the conclusion of the chambers judge.

IX. Conclusion

[44] The application for review of Mr Zitoun’s judicial interim release is dismissed. The decision of the chambers judge is confirmed.

Application heard on September 9, 2026

Reasons filed at Edmonton, Alberta
this 30th day of October, 2026

Feehan J.A.

Appearances:

A. Touchette
D. D. Young (no appearance)
C. LaRoche
for the Applicant

J.H. Chadi (no appearance)
D.A. Ibrahim
for the Respondent