

Gladue- Application on Bail

Leading Authorities

R v Gladue, [1999] 1 S.C.R. 688

R v Ipeelee, [2012] 1 S.C.R. 433

R v Robinson, 2009 ONCA 205

R v Silversmith, [2008] O.J. No. 4646

R v Kakekagamick, 2006 ONCA 3346

R v Brant, [2008] O.J.No.5375

Duties on Counsel

There is a duty upon counsel to determine if the alleged offender identifies as Aboriginal, and if so, undertake to ensure that Gladue is applied properly. The individual coming before the court can have Gladue presented by the use of a Gladue Report or submissions of Defence counsel. If a Gladue Report is not requested Defence Counsel may have to call evidence. You would seek to have evidence provided by individuals with particularized knowledge in this area, a relative/friend of the accused, who knows of the some or all of the factors listed below, or the accused themselves.

Factors to consider

1. Substance abuse personally and in the immediate family
2. Physical abuse in personal relationships
3. Violence in the family
4. Deterioration of Health
5. Low income and unemployment due to lack of education
6. Poverty
7. Mobility
8. Home and food security
9. Overt and covert Racism
10. Loss of identity, culture and ancestral knowledge

Contact

Mi'kmaw Legal Support Network

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