PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. LeBlanc*, 2016 NSPC 57

Date: 2016-10-04
Docket: 2909176
Registry: Pictou

Between:

Her Majesty the Queen

v.

Coty LeBlanc

SENTENCING DECISION

Judge:	The Honourable Judge Del W. Atwood
Heard:	4 October 2016 in Pictou, Nova Scotia
Charge:	Sub-Section 5(2) Controlled Drugs and Substances Act
Counsel:	Linda Hupman for the Public Prosecution Service of Canada Steven Hayward for Coty LeBlanc

By the Court:

[1] The court has for sentencing Coty LeBlanc. Mr. LeBlanc elected to have his charge dealt with in this court and entered a guilty plea to a single count of possession of a Schedule I substance, cocaine, for the purpose of trafficking, contrary to sub-section 5(2) of the *Controlled Drugs and Substances Act*.

[2] The maximum potential penalty for an offence under para. 5(3)(a) of the *Controlled Drugs and Substances Act* is imprisonment for life.

[3] The facts that the court heard read in this morning were that Mr. LeBlanc was stopped by RCMP on 11 July 2015, on Highway 104 at Marshy Hope in Pictou County, as a result of the officer who effected the stop having observed Mr. LeBlanc driving in a somewhat erratic fashion.

[4] A search of the vehicle that Mr. LeBlanc was driving, which was owned by an acquaintance of Mr. LeBlanc's, uncovered a significant amount of cash, as well as 32 grams of cocaine.

[5] There was a joint recommendation before the court for a sentence of two-years' imprisonment, which is a bare federal sentence, under para. 743.1(1)(b) of the *Code*.

[6] The prosecution has referred the court to the very recent decision of Chipman J. in *R. v. Swaine,* 2015 NSSC 265. I also have reviewed and considered the array of decisions rendered out of our Court of Appeal, specifically in *R. v. Knickle*, 2009 NSCA 59; *R. v. Conway*, 2009 NSCA 95; *R v. Scott*, 2013 NSCA 28.

[7] In my view, the joint recommendation is a reasonable one. The Court of Appeal has held that a sentencing court ought to depart from a joint recommendation only if the court were to be satisfied that the joint recommendation would bring the administration of justice into disrepute or would be contrary to the public interest.

[8] In my view, the sentencing authorities define an ordinary range of sentencing for petty retailing in cocaine of two years; therefore, in my view, the joint recommendation is a reasonable one.

[9] Therefore, Mr. LeBlanc, the court sentences you to a federal term of imprisonment of two (2) years, commencing today's date.

[10] There will be a section 16 *CDSA* forfeiture order. The court is also required, pursuant to section 109 of the *Criminal Code*, to prohibit you from possessing any firearm, other than a prohibited firearm or restricted firearm and any crossbow,

restricted weapon, ammunition and explosive substance beginning today's date and ending ten (10) years after your release from imprisonment.

[11] In addition, the court is required to prohibit you from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.

[12] The court will order the mandatory minimum victim surcharge amount of $200.00 and will allow Mr. LeBlanc 36 months to pay that victim surcharge amount.

[13] In determining whether to impose a secondary designated offence DNA collection order, I observe that this is a secondary-designated offence as defined in section 487.04 under the heading "secondary designated offence", sub-paragraph (b)(i).

[14] I take into account the fact that Mr. LeBlanc has no prior record. I take into account the fact, as well, that Mr. LeBlanc would appear to be a good candidate for rehabilitation. Mr. LeBlanc is 22 years of age. He successfully completed high school, began university courses at Saint Francis Xavier University and hopes to resume his education after his release from custody and I believe that all of those objectives are realistic.

[15] I am not satisfied, given the evidence that is before me, that it would be in the interests of justice that Mr. LeBlanc be required to submit a secondary-designated-offence DNA sample.

[16] I take into account Mr. LeBlanc's very young age, his lack of prior record, his co-operation with the police and the fact that he was very fairly and accurately characterized by the prosecution as being involved in petty retailing within the categories set out in *R. v. Fifield* [1978] N.S.J. No. 42 (A.D.) ; therefore, the Court declines to impose a secondary designated offence DNA collection order.

JPC