

SUPREME COURT OF NOVA SCOTIA

Citation: *R v. Bergeron*, 2023 NSSC 432

Date: 20231212
Docket: 517382
Registry: Sydney

Between:

His Majesty the King

v.

John Paul Bergeron

SENTENCING DECISION

Judge: The Honourable Justice Patrick J. Murray

Heard: December 12, 2023

Counsel: Christa MacKinnon, for the Crown
Tony Mozvik, for the Defence

Oral Decision: December 12, 2023

By the Court:

Introduction

[1] I have read and reviewed the Agreed Statement of Facts, filed as Exhibit #1.

[2] Mr. Bergeron has plead guilty and took responsibility for his actions in relation to both of these offences. He had no prior criminal record and by pleading guilty, the necessity of the trial was avoided and that would include any issues relating to evidentiary issues which has been pointed out and commonly exist within a trial. That impacts on the positions of both Crown and the Defence in such circumstances.

[3] Mr. Bergeron is still relatively young at forty years of age. He has been in a common law relationship for the past six years according to his common law spouse. They have had their challenges but have worked through them and now have a good relationship.

[4] In terms of the charges to which Mr. Bergeron has plead guilty, they both occurred on February the 24, 2021, two and half years previous. The possession of cannabis resin contrary to section 81(B), it is a drug offence. Drug offences are serious offences. In this case, the possession was not for the purpose of distributing or trafficking.

[5] In regard to the weapons charge, it occurred on the same date, and was for the possession of the 22-caliber handgun without a license. The Crown has pointed out that this is a serious charge, and the Court concurs. This is signified by the maximum penalty being ten years for such an offence. This does denote the seriousness of that offence.

[6] In terms of the circumstances of the offence itself, I have already alluded to the statement of facts. In addition to the facts, I concur with the Defence that the Pre-Sentence Report is a positive report.

[7] Mr. Bergeron has struggled with depression, but he was still able to assist in raising a young person during that time, EH. His personal friends say he is a good guy who made a big mistake. Mr. Bergeron is a talented musician.

[8] The sentence proposed is a joint recommendation of both Crown and Defense, two senior Counsel, I may add and whereas this is a joint recommendation, the public interest test applies and under the public interest test.

[9] A trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute where others contrary to the public interest. (*R v. Anthony-Cook*, 2016 SCC 43)

[10] Further, the prospect of a joint submission that carries with it a high degree of certainty encourages accused persons to enter a plea of guilty and guilty pleas save the justice system precious time, resources and expenses which can be channelled into other matters. This is no small benefit.

[11] One point of hesitation is the firearms or weapons. It is always a concern when there is a weapons charge, and guns are found in possession of persons. That is why those offences exist, it leads to other types of criminal activity.

[12] I do believe that the custodial sentence that is being proposed is sufficient for deterrence and denunciation of that particular crime in this particular case. I say that, because the 18-month period conditional sentence that is being proposed does include 6 months of full house arrest, 6 months with a curfew and then 6 months with conditions but no curfew condition.

[13] If there is a breach during those 18 months of the conditional sentence order then of course, Mr. Bergeron will be brought back before the Court and dealt with at that time according to law with respect to any alleged breaches. Mr. Bergeron would have to be adjudicated upon such a breach, but it does hold out that prospect as a form of deterrence and denunciation for Mr. Bergeron.

[14] I am prepared to accept the joint recommendation for the reasons I have indicated. I am prepared to grant the Forfeiture Order of the seized items although it is not mandatory, it is part of the joint recommendation. There will be a Weapons Prohibition pursuant to Section 110(B) of the *Criminal Code* for 10 years.

[15] Finally, I will simply note for the record that as the Crown has pointed out that all prerequisites of Section 742(1) (a) to (d) have been met in this case which enables the Court to grant the sentence that is being proposed. The conditions that have been read into the Court will form part of the Conditional Sentence Order and Mr. Bergeron will be required to abide by each and every one of those conditions.

[16] This concludes my sentencing decision in the matter.

Murray, J.