

CANADA / JUDGMENT

R. v. Alexander

2025 BCSC 1829

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Supreme Court of British Columbia

DECIDED

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2025 BCSC 1829 R. v. Alexander

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Alexander,

2025 BCSC 1829

Date: 20250916

Docket: 40777-2

Registry: Port Alberni

Rex

v.

Peter Anthony Alexander

Before: The Honourable Justice Bantourakis

Oral Reasons for Sentence

Counsel for the Crown:

C.J. Gibson

Counsel for the Accused:

R. Neary

Place and Date of Hearing:

Nanaimo, B.C.

September 16, 2025

Place and Date of Judgment:

Nanaimo, B.C.

September 16, 2025

- [1] On March 15, 2025, Mr. Alexander was found guilty of four counts of possession of a controlled substance for the purpose of trafficking, contrary to s. 5(2) of the Controlled Drugs and Substances Act, S.C. 1996, c.19 ["CDSA"]. The substances in issue were cocaine, fentanyl, methamphetamine, and fentanyl and flubromazepam (a benzodiazepine).
- [2] The findings of guilt were made at trial. Following an unsuccessful application to exclude evidence pursuant s. 24(2) of the Charter, the Crown's case went in unopposed and convictions were invited on the four counts I have just described.
- [3] The charges upon which Mr. Alexander was convicted arise from the events of February 3, 2022, when he was arrested in a Port Alberni alleyway, after the U-Haul truck he was driving was stopped and eventually searched by police officers. As I will explain, the amount of dangerous controlled substances Mr. Alexander possessed for the purpose of trafficking is significant, as is the sentence he is now facing.

Circumstances of the Offence

- [4] On February 3, 2022, members of the RCMP stopped a U-Haul truck that Mr. Alexander was driving in the alleyway behind what they believed was a known drug house in Port Alberni, British Columbia. Mr. Alexander got out of the truck and as he reached back into it for the U-Haul rental agreement, one of the police officers saw, among other things, a packaged blue substance he believed to be fentanyl.
- [5] Mr. Alexander was arrested and searched incident to that arrest. Later, warrants were obtained to search the U-Haul truck and Mr. Alexander's cell phone. In all, Mr. Alexander was found to be in possession of the following for the purposes of trafficking: (a) 41 grams of cocaine; (b) 527 grams of fentanyl powder; (c) 198 grams of methamphetamine; and (d) 376 grams of fentanyl and flubromazepam (a benzodiazepine). In terms of purity, the quantitative analysis of the fentanyl came back as 3.4% to 4.3% and so-called "buff" was being mixed or cooked with the fentanyl to dilute it.
- [6] I would add that there was also 500 ml of a liquid fentanyl and caffeine mixture, but no expert opinion has been provided as to its purity or value. Photographs of the inside of the truck, a video Mr. Alexander sent to someone via text message, and the expert opinion before the Court on sentencing suggest illicit substances had been cooked or mixed with buff in or near the truck. Also found were various indicia of drug trafficking, as well as \$3,430 in cash.

- [7] An expert has given an opinion that the total value of the drugs in issue would range from about \$86,000 to \$122,000, with the value of the fentanyl powder having a mean value of \$55,830 and the fentanyl and flubromazepam mixture having a mean value of just under \$40,000.
- [8] In terms of the impacts of the offence, the trafficking of extremely harmful drugs such as the ones in issue here is a blight upon the community. The widespread and severe harm that flows from these dangerous substances is canvassed extensively in the relevant jurisprudence and is reflected in the sentences imposed for trafficking, and that is particularly the case insofar as fentanyl is concerned.
- [9] A public health emergency was declared in this province some years ago with respect to the opioid crisis and that public health crisis is ongoing. On sentencing, the Crown has tendered information from the B.C. Coroner's service regarding unregulated drug deaths in this province, which sadly paints a picture of seemingly unmitigated misery and senseless loss.
- [10] In addition to the tragedies visited upon addicts themselves, the related harms are far-reaching, deeply impacting families, increasing other forms of crime associated with the drug trade and addicts' own resort to crime in an attempt to fund their addictions. The situation as it currently stands is both heart-rending and exceedingly dangerous.

Circumstances of the Offender

- [11] I turn now to Mr. Alexander's circumstances. This information comes largely from a pre-sentence report, a pre-sentence psychological report by a registered psychologist with Forensic Psychiatric Services, various letters of support, Mr. Alexander's counsel's submissions, and Mr. Alexander himself, who both wrote a letter to the Court and made comments on sentencing explaining the difficult circumstances he has found himself in as he has struggled with addiction issues that have plagued his entire adult life.
- [12] Mr. Alexander is currently 41 years old. His childhood and adolescence were sadly marred by the kind of instability, emotional neglect, and exposure to both violence and substance abuse that are all too common in cases like these. Mr. Alexander has been diagnosed with ADHD, has a history of behavioural and other problems in school, did not complete high school and was homeless by the age of 17.
- [13] Despite this, and to his credit, Mr. Alexander has obtained his GED and has also completed a welding course. Additionally, during his recent pre-trial detention, Mr. Alexander has completed one Grade 11 course and is progressing well through two Grade 12 courses with the intention of obtaining his Adult Dogwood Diploma. Also during his pre-trial detention, Mr. Alexander was chosen to attend a Criminology course delivered through professors from Vancouver Island University, graduated from that program, and was again chosen to participate in another course next semester.

- [14] Mr. Alexander has worked as a welder, as well as in construction and drywalling, among other things. It appears that he has had difficulty sustaining long-term employment, however.
- [15] Mr. Alexander has an extensive criminal record, consisting of 38 convictions, starting at age 19, with an apparent gap in offending between about 2008 and 2015. His convictions include violent offences such as robbery and assault causing bodily harm, firearms offences, and five previous convictions for possession for the purpose of trafficking. The most recent of those involved fentanyl. The remainder of Mr. Alexander's substantive convictions arise from an array of offences such as possession of property obtained by crime, possession of break-in instruments, theft, and break and enter. Additionally, Mr. Alexander has had significant difficulty complying with court orders, with numerous convictions for offences such as breach, failure to appear, and one conviction for flight from a peace officer.
- [16] Sadly, and as I have already alluded to, Mr. Alexander is a drug addict. He has been diagnosed as exhibiting Stimulant, Alcohol and Cannabis Use Disorders. He began smoking cannabis in grade 9 and drinking thereafter. Though he admits to having consumed a variety of illicit substances, and to having been a heavy drinker and cannabis user, his drug of choice is crystal methamphetamine. He has struggled with addiction to that substance since he was 20 years old. Before his current incarceration, he has twice been enrolled in substance recovery programs but failed to complete them.
- [17] That said, Mr. Alexander has maintained his sobriety while incarcerated and appears to have been actively and meaningfully involved in treatment. He has been enrolled in the Guthrie House residential treatment program since March of this year. He has successfully completed the first two phases of that program and is currently in phase three. He has distinguished himself enough that he has been given a leadership position overseeing a team of kitchen staff and also acts as a mentor for three residents within the community. He has completed at least 100 hours of clinical group therapy and attends all programs regularly, including optional ones. He has also completed the Peer Connect program, earning certification as a peer support worker.
- [18] A letter from an addictions counselor involved with the Guthrie House suggests that Mr. Alexander appears to be gaining insight into his life history and addiction and has expressed motivation to continue to work towards greater wellness and a drug and crime-free lifestyle in the future. The pre-sentence psychological report I have before me suggests that while Mr. Alexander's substance use disorders are currently in remission in the controlled prison environment, the road ahead for him in terms of maintaining that success in the community will not be easy.
- [19] I have before me a letter from Mr. Alexander's mother in which she speaks of his difficult growing up experience and the progress she believes he has made since his arrest. She believes that he has turned a corner. I also have other letters of support from fellow detainees who attest to the positive influence Mr. Alexander has been for them.

- [20] On sentencing, Mr. Alexander submitted two letters he had authored and also made spontaneous comments at the sentencing hearing. The first letter I have from Mr. Alexander is written to the police officers who arrested him. In it, he thanks them for saving his life, as he believes he would likely have died from a drug overdose if he had not been arrested. The second letter I have from Mr. Alexander is written to the Court. In it he acknowledges he was wrong in his choices, says he wishes to make amends and that he is looking forward to a drug-free future. In his comments during the sentencing hearing, Mr. Alexander explained some of the very difficult circumstances he believes led him to this point and expressed gratitude for being drug-free and alive.

Crown and Defence Positions

- [21] The Crown submits that the appropriate sentence for Mr. Alexander is eight years incarceration. It also seeks several ancillary orders. The Crown emphasizes that denunciation and deterrence are the primary sentencing objectives here. It also says that separating the accused from society, promoting a sense of responsibility and acknowledging the harm done are important sentencing principles in this case. It characterizes Mr. Alexander's offence as involving mid-level fentanyl trafficking. It says the general range in keeping with the Court of Appeal's recent decision in *R. v. Bird*, 2025 BCCA 300 is four to seven years, but that the particular circumstances of Mr. Alexander's case militate in favour of a sentence above that.
- [22] The defence acknowledges that a custodial sentence is warranted in these circumstances and agrees that the possession for the purpose of trafficking in this case is appropriately characterized as being at the mid-level. However, the defence emphasizes that Mr. Alexander was engaging in these activities due to his own addiction and says that his substantial rehabilitative efforts militate in favour of a three to three and a half year sentence, which while substantial, with credit for time served would allow him to remain in provincial custody and continue with the risk-mitigating programming and education he has already undertaken and wishes to continue with.

Discussion

- [23] The fundamental purpose of sentencing is to contribute to respect for the law and maintenance of a just, peaceful, and safe society: Criminal Code, R.S.C., 1985, c. C-46, s. 718. In the Controlled Drugs and Substances Act context, sentences must serve that purpose while encouraging rehabilitation and treatment of offenders in appropriate circumstances, while also acknowledging the harm done to victims and to the community: CDSA, s. 10(1).

- [24] Relatedly, as set out in s. 718 of the Criminal Code, the objectives of sentencing include: denunciation of unlawful conduct; deterrence of the offender and others from committing further offences; separation of the offender from society where necessary; rehabilitation of the offender; reparation for harm done; and promotion of a sense of responsibility in the offender, including acknowledgment of harm done.
- [25] Section 718.1 of the Criminal Code sets out the fundamental principle of sentencing: the sentence imposed must be proportionate to the gravity of the offence and the degree of responsibility of the offender. Proportionality is the "organizing principle" in achieving fair, fit, and principled sanction in every case: *R. v. Parranto*, 2021 SCC 46 at para. 10. It is determined both on an individual basis, that is in relation to the offender himself and to the offence committed, and by comparison with sentences imposed for similar offences committed in similar circumstances: *R. v. Lacasse*, 2015 SCC 64 at para. 53; *Parranto* at paras. 11-12.
- [26] Section 718.2 of the Criminal Code, in turn, sets out a number of specific principles, including that a sentence should be increased or reduced to take account of any aggravating or mitigating circumstances, that a sentence should be similar to sentences imposed on similar offenders for similar offences in similar circumstances, that an offender should not be deprived of liberty if a less-restrictive sanction is appropriate, and that all available sanctions other than imprisonment should be considered if they are reasonable in the circumstances and consistent with the harm done.
- [27] While Mr. Alexander has been found guilty of possessing several different controlled substances for the purposes of trafficking, the parties agree that the sentences on all counts should be served concurrently and that in these circumstances the driver of the overall effective sentence in this case will be the sentence imposed on those counts involving fentanyl, given the jurisprudence. I agree with the parties in that regard.
- [28] Possession for the purpose of trafficking in a Schedule I substance is a serious offence, as reflected in Parliament's choice of a maximum sentence of life imprisonment. Denunciation and deterrence are the primary sentencing objectives where the offender possessed dangerous and harmful drugs for the purposes of trafficking: *R. v. Voong*, 2015 BCCA 285 at paras. 1, 18. As the Court of Appeal recently confirmed in *Bird*:
- [28] Denunciation "requires that a sentence express society's condemnation of the offence". The principle of deterrence has two aspects to it--general and specific. General deterrence is at the forefront in fentanyl-related cases and "intended to discourage members of the public who might be tempted to engage in the criminal activity for which the offender has been convicted". In those cases, the offender is "punished more harshly in order to send a message to the public or, in other words, to serve as an example". The Supreme Court of Canada has acknowledged that the effectiveness of general deterrence is a subject of ongoing academic and societal debate; however, it remains a principle Canadian trial and appellate courts are legally bound to apply: *R. v. Bissonnette*, 2022 SCC 23 at paras. 46-47.

- [29] That said, the principles of rehabilitation and restraint remain relevant and sentencing is a highly individualized process in which the search for a proportionate sentence is necessarily informed by the offender's personal circumstances. The "goal in every case is a fair, fit, and principled sanction": Parranto at paras. 9-10.
- [30] The jurisprudence establishes a variety of sentencing ranges for fentanyl trafficking. The generally applicable range for street-level fentanyl trafficking in British Columbia is 18 months to three years or higher (R. v. Smith, 2017 BCCA 112 at para. 45), four to seven years or higher for what is referred to as mid-level participation in the illegal distribution of fentanyl (Bird at para. 49), and eight to 15 years' imprisonment for offenders who participate in the wholesale distribution of fentanyl in a leadership or high-level role (Parranto at paras. 63-68).
- [31] These ranges reflect the generally high moral culpability of offenders who traffic in fentanyl and its analogues, the acute threat that fentanyl poses and the crisis it has engendered within our society. Nevertheless, sentencing ranges provide a starting point, but are not binding. The sentencing judge must conduct an individualized analysis, taking into account all relevant factors and sentencing principles: Parranto at paras. 16, 36. It bears repeating that achieving a proportionate sentence is a case-specific determination and a highly individualized process; all relevant factors must be considered: R. v. Nur, 2015 SCC 15 at para. 43; see also e.g. Bird at para. 31.
- [32] Whether a particular case falls in the mid-level range will depend on the circumstances of the offence, the circumstances of the offender, and the relevant common law and statutorily codified principles of sentencing: Bird at para. 51. In Bird, at paragraph 39, our Court of Appeal endorsed the following passage from R. v. McLean, 2022 MBCA 60 at para. 6:

While not a perfect paradigm, the distinctions of street-level, mid-level and high-level trafficking highlight the drug trade's chain of distribution beginning with the sourcing of the drug by either importation or domestic production through a series of transactions to its ultimate consumption. Street-level trafficking refers to activities focused on the back end of the chain of distribution--direct sale to drug users. Mid-level trafficking refers to the wholesale trade where one trafficker supplies another trafficker lower down the chain of distribution. This subset commonly has many layers of entrepreneurs. Finally, there is high-level trafficking, whose distinguishing attribute is the significant scale of the trafficking and, in particular, the quantity, purity or value of the drugs; the ability to obtain the drugs at their source; and/or the sophistication and organization of the drug operation.

- [33] The parties essentially agree that the volume of controlled substances at issue here suggests that Mr. Alexander's possession for the purpose of trafficking falls above the street-level range. At the same time, while the amount of drugs in issue is very high, there has been no suggestion that Mr. Alexander's activities are properly characterized as falling within the category of high-level trafficking.

- [34] I agree with the parties that the volume of illicit substances at issue here supports the conclusion that Mr. Alexander's activities fall within the mid-range. Mr. Alexander's conduct was organized to a degree, as evidenced not only by the amount and variety of drugs in issue, but by text messages located on Mr. Alexander's cell phone and other items seized. That said, the circumstances do not permit me to conclude that this was a particularly sophisticated operation. Of course, there is no question that Mr. Alexander's conduct in this instance posed a substantial threat to the safety of addicts and others within our community.
- [35] There are several aggravating factors in this case. Mr. Alexander's extensive criminal record is aggravating, including, notably, prior convictions for possession for the purpose of trafficking, which is a designated substance offence as defined in s. 2(1) of the CDSA: see CDSA, s. 10(2)(b). I also consider it notable that Mr. Alexander's most recent conviction for possession for the purpose of trafficking related to fentanyl. The presence of fentanyl in this case is aggravating, as is the volume drugs, and there can be no question that Mr. Alexander would have been aware of the potentially lethal consequences of his actions.
- [36] In terms of factors in mitigation, while I accept that Mr. Alexander is an addict whose addiction has informed his criminal offending, his activities in this instance exceed what might have been necessary to sustain his own addiction. That said, I consider his rehabilitative efforts in that regard to be mitigating. Mr. Alexander has done very well in treatment and has demonstrated a commitment to recovery sufficient that he was given a position of trust and is a mentor to others. That is meaningful. Mr. Alexander has also expressed regret for his actions, though his process of achieving insight is ongoing.
- [37] Acknowledging the role that parity plays in achieving a proportionate sentence, I consider the following cases to have been most helpful in terms of offering some or other points of comparison to Mr. Alexander's situation. Of course, I have kept in mind that these cases reflect a fine balancing of case-specific factors, just as the outcome in the present case reflects the highly individualized nature of the sentencing process.
- [38] In *Bird*, the Court of Appeal recently set aside a two-year less a day conditional sentence order plus probation, substituting a term of five years' imprisonment, for a mid-level fentanyl trafficker who possessed 834 fentanyl pills (deceptively made to look like Percocet) with a street value of \$8,690-\$17,380 for the purpose of trafficking, as well as very significant amounts of MDMA (over eight kilograms, consistent with trafficking at the kilo level). Mr. Bird possessed far less fentanyl than Mr. Alexander did. Also, unlike Mr. Alexander, Mr. Bird did not have a criminal record. However, Mr. Bird was not a drug addict. The offences were motivated solely by greed. Additionally, the drugs were located in the house where Mr. Bird's young daughter lived and items within the home offered indicators of a degree of sophistication in Mr. Bird's activities.
- [39] In *R. v. Virus* (January 26, 2022), Nanaimo 87702-3-C (B.C.P.C.), an unreported decision of the Provincial Court of British Columbia, the court imposed a six-year sentence on an offender who pleaded guilty to possessing fentanyl, carfentanyl, and methamphetamine for the

purpose of trafficking, in circumstances that appear to qualify as mid-level trafficking. Like Mr. Alexander, Mr. Virus had an extensive criminal record, even more extensive than that of Mr. Alexander, had a prior conviction for trafficking and was an addict. Mr. Virus possessed a lesser amount of fentanyl for the purpose of trafficking than Mr. Alexander, but also possessed carfentanyl for the purposes of trafficking, whereas that aggravating factor is not present in Mr. Alexander's case. The offender in Virus had not undertaken the kind of rehabilitative steps Mr. Alexander has, but pleaded guilty.

- [40] Considering these and all the cases that have been brought to my attention, those cited in Bird and the record before me as a whole, I have concluded that the circumstances in this case do not justify a sentence below the range the Court of Appeal identified in Bird, as proposed by the defence here. In so saying, I acknowledge that Mr. Alexander is a drug addict and his rehabilitative efforts in the controlled prison environment to date. I commend him for those efforts. I also agree that the substantial gap in his criminal record shows that he has the ability to change when motivated and with the proper supports.
- [41] I have also considered that the psychological opinion before me indicates that Mr. Alexander's "history of using illicit psychoactive substances and release from custody without a place to live have been key drivers of his criminal offending patterns" and that "the central motivation for the offences was to obtain money to fuel his drug use". However, as I have said, the activities here exceed what might reasonably be explained by the need to fund Mr. Alexander's own habit, there are significant aggravating factors that must be accounted for and the sheer volume and nature of the drugs involved, as well as their impact on the community cannot be ignored.
- [42] Simply put, I am not satisfied that a sentence below the range recently identified in Bird would give sufficient effect to the principles of denunciation and general deterrence or specifically deter Mr. Alexander. Nor would such a sentence adequately reflect Mr. Alexander's moral blameworthiness considering the circumstances as a whole.
- [43] That said, I also do not agree that a sentence beyond the four-to-seven year range identified in Bird is justified in this case. I acknowledge the Court's indication in that case that a sentence beyond that range may be justified in mid-level cases involving "particularly aggravating facts, significant moral culpability, and/or one or more related convictions": Bird at para. 49. However, balancing all relevant factors, I am not persuaded that I should exercise my discretion in the manner impressed upon me by the Crown considering the particular features of this case, as I have described them.

Sentence and Disposition

- [44] Mr. Alexander, would you please stand? Taking all that I have discussed into account, I sentence you to five years and six months imprisonment calculated as follows, with the sentences on the various counts to run concurrently to each other:

Count 1: possession of cocaine for the purpose of trafficking four years;

Count 2: possession of fentanyl for the purpose of trafficking five years and six months;

Count 3: possession of methamphetamine for the purpose of trafficking three years; and

Count 8: possession of fentanyl and flubromazepam (a benzodiazepine) for the purpose of trafficking five years and six months.

[45] You will be credited 627 days for the 418 days you have spent in pre-trial custody, for an effective sentence of 45 months. You can have a seat.

[46] The Crown is also seeking a variety of ancillary orders. The first is a mandatory lifetime firearms prohibition and I will make that order.

[47] The Crown also seeks a discretionary DNA order pursuant to s. 487.051(3)(b) of the Criminal Code. Considering Mr. Alexander's criminal record, the nature of the offence in issue, its surrounding circumstances, and the impact a DNA order would have on Mr. Alexander's privacy and security of the person, I am satisfied that it is in the interests of justice to make such an order. The intrusion on Mr. Alexander's privacy is limited in these circumstances and there is a societal interest that weighs more heavily, considering the circumstances as a whole. So there will be a DNA order pursuant to that subsection.

[48] The Crown has requested a forfeiture order in relation to those items seized other than the controlled substances, which have already been destroyed pursuant to the CDSA. I am satisfied that order should be made.

[49] And finally, there is the victim fine surcharge. Considering the information presented on sentencing regarding Mr. Alexander's employment history, and receipt of social assistance and disability benefits, as well as his incarceration, I am satisfied that imposing the victim fine surcharge in any amount here would cause Mr. Alexander undue hardship. Accordingly, no victim fine surcharge is payable.

[50] Mr. Alexander, this will no doubt have been difficult news for you today. I hope that you will continue on the path to remaining clean and sober and employ the resources to help you in doing so both while incarcerated and upon your release. If you do, I have been convinced that you have something positive to offer, and I wish you the best.

"Bantourakis J."

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