

CANADA / JUDGMENT

R. v. Catchpole

2012 BCSC 2198

COURT

Supreme Court of British Columbia

DECIDED

4 July 2012

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2012 BCSC 2198 R. v. Catchpole IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Catchpole, 2012 BCSC 2198 Date: 20120704 Docket: 153924-2 Registry: Victoria Regina v. Darren George Catchpole Richard Andrew Catchpole Lloyd Sandor Szabo Before: The Honourable Mr. Justice Bracken Oral Reasons for Sentence Counsel for the Crown: R. Fowler Counsel for the Accused Richard Catchpole: C. Johnson Counsel for the Accused Lloyd Szabo: C. Tollefson Place and Date of Trial/Hearing: Victoria, B.C. July 3 and 4, 2012 Place and Date of Judgment: Victoria, B.C. July 4, 2012

- [1] THE COURT: I will just say for the record that this is a marihuana grow operation that was based on a rural property on the western edge of Victoria, on Humpback Road. It appears that a residence with some outbuildings had been purchased by Mr. Catchpole and other members of his family, particularly his parents, and he was responsible for arranging rentals and revenue from the property. He had rented part of the property out to Mr. Szabo, who was a co-accused in this matter. Crown has indicated a stay of proceedings will be entered at the conclusion of this sentencing.
- [2] Most of the residence which is located on the property had been given over to marihuana production. It appears, just from the material that was filed by way of exhibits on the voir dire, that it was a reasonably sophisticated, relatively small operation.
- [3] There were a number of plants. Mr. Fowler, in his submissions, suggests there were 90 mature plants found and 181 clones, with approximately 30 kilograms in total of harvested marihuana on the property, some of which, perhaps as much as 30 kilograms, had apparently been brought there from another location and were there simply at the time of the search.
- [4] Mr. Catchpole has no record. He is 50 years old. He is married with two children. He has a good work history. He is currently self-employed and I gather has been for some time. The submission is that he was not the primary owner of the operation, although clearly a participant, and was found on the premises and in the residence at the time of the police search.

- [5] The proposed joint submission is one which I find to be appropriate, given the lack of record, given the absence of any aggravating features such as any weapons or theft of hydro. The obvious principal proposal for this is that Mr. Catchpole has no criminal record and it appears that there is no need for an actual custodial sentence. I am satisfied that the principles of sentencing can be met with a conditional sentence order.
- [6] Mr. Catchpole, if you could just stand up for me, please, you will be sentenced to a period of imprisonment for 15 months to be served conditionally in the community on these conditions.
- [7] You shall keep the peace and be of good behaviour. You must appear before the court when required to do so by the court.
- [8] You shall report in person to a conditional sentence supervisor no later than 4:00 p.m. on July 4, 2012, at the probation office at 836 Courtney Street, Victoria, British Columbia, and shall thereafter report as and when directed by your supervisor and in the manner directed by your supervisor.
- [9] You must remain within British Columbia unless written permission to go outside the jurisdiction is obtained from the court or the supervisor.
- [10] You shall notify the court or your supervisor in advance of any change of name or address, and promptly notify the court or the supervisor of any change of employment or occupation.
- [11] You must inform the conditional sentence supervisor of your present residential address and telephone number, and you shall not change your address or phone number at any time without first notifying the supervisor.
- [12] You must obey a curfew by being inside of your residence between the hours of 10:00 p.m. and 6:00 a.m. each day, except with the written consent of the supervisor, such consent is to be given, however, only for compelling personal, family, or employment reasons; or when travelling directly to or returning directly from your place of employment, or while in the course of such employment, and you must provide your supervisor with written details of your employment if requested to do so; when travelling directly to or returning directly from an educational institution at which you are enrolled, or while in the course of classes or extracurricular activities approved of by the supervisor.
- [13] You must present yourself at the door to your residence when the supervisor or any peace officer attends there for the purpose of determining your compliance with the curfew and house arrest conditions of this order. You shall respond personally and immediately to the telephone when a peace officer or the supervisor makes a phone call to your residence for the purpose of determining your compliance with the curfew or house arrest condition of this order.

- [14] You must attend school regularly and not be absent, except in accordance with either a medical certificate or the advance written consent of the supervisor, or make reasonable efforts to seek and maintain employment approved of by the supervisor. I take it that means you shall continue with your business on a full-time basis, and if there is some problem with that, you must use your best efforts to find employment.
- [15] You shall not possess or consume any alcohol or controlled substance within the meaning of s. 2 of the Controlled Drugs and Substances Act, except as prescribed for you by a licensed physician. That is, you are serving a jail sentence, you are not to be found in possession or consume any alcohol. That is a strict condition. You must not enter any liquor store, beer and wine store, bar, pub, lounge, or nightclub.
- [16] You shall not possess any pipes, syringes, or other drug paraphernalia.
- [17] You shall not possess any weapon as defined in s. 2 of the Criminal Code.
- [18] Under the direction and supervision of the supervisor, you shall successfully complete 50 hours of community service work, which shall be completed no later than April 30, 2013.
- [19] With respect to s. 487.04 and 487.05(1), you must supply a sample of DNA, and that is to be done at the direction of your conditional sentence supervisor, who will direct you to attend at a police detachment or police station for that purpose.
- [20] Under section, I believe it is s. 109 for this provision?
- [21] MR. FOWLER: Yes, 109.
- [22] THE COURT: Section 109, you are prohibited from the possession of any firearm, ammunition, or explosive substance and that is, I believe, a lifetime ban under s. 109 or is that a 10-year ban?
- [23] MR. JOHNSON: I think it's 10 years.
- [24] MR. FOWLER: It's 10 year for -- 10 years for a number of the items and there is lifetime ban for other items also specified, but it's --
- [25] THE COURT: All right. That will be for 10 years.
- [26] In addition, there is a forfeiture order which has been consented to and been filed as an exhibit. That sets out the items which will be forfeited, and I will order the items that are listed in the final paragraph of the forfeiture order, which has been consented to, to be forfeited to Her Majesty The Queen and disposed of as the Minister of Public Works and Government Services directs.
- [27] MR. JOHNSON: And I'm not making any submission with respect to the victim fine surcharge, so that can --
- [28] THE COURT: Any comment on that?

[29] MR. FOWLER: No, thank you.

[30] THE COURT: I will waive the victim fine surcharge.

[31] MR. FOWLER: And My Lord, I will direct now a stay of proceedings with respect to Mr. Szabo on both Counts 3 and 4, and with respect to Richard Catchpole with respect to Count 4, as well.

[32] THE COURT: All right. "J. K. Bracken, J." The Honourable Mr. Justice Bracken

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