

CANADA / JUDGMENT

R. v. Cote

2014 BCCA 475

COURT

British Columbia Court of Appeal

DECIDED

1 December 2014

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2014 BCCA 475 R. v. Cote COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Cote, 2014 BCCA 475 Date: 20141201 Docket: CA042110 Between: Regina Respondent And Donald Denis Cote Appellant Before: The Honourable Mr. Justice Groberman The Honourable Mr. Justice Harris The Honourable Mr. Justice Willcock On appeal from: An order of the Supreme Court of British Columbia, dated October 24, 2013 (R. v. Cote, 2013 BCSC 2424, Vancouver Docket 26159). Oral Reasons for Judgment Counsel for the Appellant: C. Darnay Counsel for the Respondent: E. Campbell Place and Date of Hearing: Vancouver, British Columbia December 1, 2014 Place and Date of Judgment: Vancouver, British Columbia December 1, 2014 Summary: Enhanced credit given for pre-sentence custody on the basis of R. v. Summers, 2014 SCC 26.

- [1] WILLCOCK J.A.: On October 24, 2013, Donald Cote was sentenced to three years and three days' imprisonment on a charge of manslaughter and two counts of assault with a weapon (one year each concurrent). The sentencing judge granted Mr. Cote 1:1 credit for one year and 362 days spent in pre-sentence custody.
- [2] Having sought legal aid funding in a timely manner, Mr. Cote now applies for an extension of time to apply for leave to appeal the manslaughter sentence and, if leave is granted, seeks enhanced (i.e., 1.5:1) credit for the one year and 362 days spent in pre-sentence custody based on the decision of the Supreme Court of Canada in R. v. Summers, 2014 SCC 26, 308 C.C.C. (3d) 471.
- [3] He seeks an additional 364 days' credit for time in pre-trial custody. The Crown is not opposed to time being extended or to enhanced credit being given. It agrees Mr. Cote is not disqualified from receiving such credit for any statutory reason.
- [4] I would extend the time for filing of the notice of application for leave to appeal to August 25, 2014, grant leave to appeal, allow the appeal, and vary the sentence to two years and four days' imprisonment.
- [5] GROBERMAN J.A.: I agree.
- [6] HARRIS J.A.: I agree.

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- [7] GROBERMAN J.A.: The time for filing the notice of application for leave is extended to August 25, 2014, leave to appeal is granted, the appeal is allowed, and the sentence varied to two years and four days' imprisonment. "The Honourable Mr. Justice Willcock"
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