

CANADA / JUDGMENT

R. v. Dawson

2015 BCCA 161

COURT

British Columbia Court of Appeal

DECIDED

20 April 2015

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2015 BCCA 161 R. v. Dawson COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Dawson, 2015 BCCA 161 Date: 20150420 Docket: CA42487 Between: Regina Respondent And William Allan Dawson Appellant Before: The Honourable Madam Justice Bennett The Honourable Madam Justice Garson The Honourable Madam Justice Stromberg-Stein On appeal from: An order of the Provincial Court of British Columbia, dated December 19, 2013 (R. v. Dawson, Vancouver Docket Nos. 217577-1; 217736-1; 217785-1; 217803-1; 217828-1). Counsel for the Appellant: M. Poulsen Counsel for the Respondent: T. Gerhart Written Joint Statement Filed: Vancouver, British Columbia March 12, 2015 Place and Date of Judgment: Vancouver, British Columbia April 20, 2015 Written Reasons by: The Honourable Madam Justice Garson Concurring in by: The Honourable Madam Justice Bennett The Honourable Madam Justice Stromberg-Stein Summary The appellant applies for an adjustment of time in custody in accordance with R. v. Summers, 2014 SCC 26. Held: Appeal allowed. The appellant is entitled to a credit of 100 days. Reasons for Judgment of Madam Justice Garson:

- [1] The appellant, William Allan Dawson, applies for an extension of time to file for leave, leave to appeal the sentence, and if leave is granted, seeks enhanced (i.e., 1.5:1) credit for the 67 days he spent in pre-sentence custody based on the decision of the Supreme Court of Canada in R. v. Summers, 2014 SCC 26.
- [2] On December 19, 2013, Mr. Dawson was sentenced to three years and two months of imprisonment less time served in pre-sentence custody, as follows: On information 217577, on counts one and two he received one year on each count concurrent and on counts five and six, six months' on each count concurrent to each other and concurrent to the sentence imposed on counts one and two; on information 217736, he was sentenced on counts one and two to one year on each of counts one and two to be served concurrently to each other, but consecutively to the sentence on information 217577; and on information 217828, he was sentenced to fourteen months' to be served consecutively to the sentence on information 217736, for a total sentence of three years and two months. In imposing that sentence, the sentencing judge granted Mr. Dawson two months credit for the 67 days he spent in custody prior to sentencing at an approximately 1:1 basis, for an effective sentence of three years from the time of sentencing. An enhanced credit of 1.5:1 ratio for time served in pre-sentencing custody would lead to a total credit of 100 days to be deducted from the three

years and two months total sentence. This leaves an effective sentence of 2 years, 10 months, and 20 days from the time of sentencing.

- [3] The Crown is not opposed to time being extended or to enhanced credit being given. It agrees Mr. Dawson is not disqualified from receiving such credit for any statutory reason. The Crown does not point to circumstances that make enhanced credit inappropriate or to rebut the inference that the appellant has lost eligibility for parole or early release.
- [4] The record does not indicate that Mr. Dawson did not act in a timely manner to pursue his appeal upon learning of the Summers decision.
- [5] In the circumstances, I would extend the time for filing the notice of application for leave to appeal to January 7, 2015, grant leave to appeal, allow the appeal, and vary the effective sentence to 2 years, 10 months, and 20 days from the time of Mr. Dawson's sentencing. The additional credit will also be attributed to the sentence imposed on information 217828 reducing it from one year to ten months, and 20 days. "The Honourable Madam Justice Garson" I agree: "The Honourable Madam Justice Bennett" I agree: "The Honourable Madam Justice Stromberg-Stein"

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