
CANADA / JUDGMENT

R. v. Dragusica

2010 BCSC 544

COURT

Supreme Court of British Columbia

DECIDED

26 March 2010

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2010 BCSC 544 R. v. Dragusica

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Dragusica,

2010 BCSC 544

Date: 20100326

Docket: X069200

Registry: New Westminster

Regina

v.

Ante Dragusica

Before: The Honourable Mr. Justice Schultes

Oral Reasons for Sentence

Counsel for the Crown:

B. Smith

Counsel for the Accused:

J. Hogan

Place and Date of Hearing:

New Westminster, B.C.

February 5, 2010 and

March 26, 2010

Place and Date of Judgment:

New Westminster, B.C.

March 26, 2010

- [1] THE COURT: On December 11, 2009, I convicted Mr. Dragusica of possessing methamphetamine for the purposes of trafficking contrary to s. 5(2) of the Controlled Drugs and Substances Act and possession of the property of Daniel Rylek, his identification, knowing it to have been obtained by an indictable offence contrary to s. 355 of the Criminal Code.
- [2] Mr. Dragusica has previously entered a guilty plea to the offence of personating the same Mr. Rylek, with the intention to gain advantage for himself, contrary to s. 403(a) of the Criminal Code.
- [3] I will begin by making the ancillary orders, which are not contested.
- [4] First, pursuant to s. 109(2)(a) of the Criminal Code, I will be making a firearms prohibition. Mr. Dragusica will be prohibited from possessing any firearm, prohibited firearm or restricted firearm, any crossbow or restricted weapon, ammunition and explosive substance for a period of ten years, and prohibited from possessing any prohibited firearm, restricted firearm, prohibited firearm, prohibited device and prohibited ammunition for life. Those are the standard terms of s. 109(2)(b).
- [5] Pursuant to s. 16 of the Controlled Drugs and Substances Act, I do find, on a balance of probabilities, that all of the items seized from Mr. Dragusica pursuant to this investigation were offence-related property and I order them to be forfeited to Her Majesty the Queen in right of Canada to be disposed of as the Minister thinks fit.
- [6] The methamphetamine offence is a secondary designated offence for the purposes of s. 487.051 of the Criminal Code and, applying the reasoning of our Court of Appeal in *R. v. Awasis*, 2009 BCCA 134, I find that the taking of samples for DNA analysis is in the best interests of the administration of justice. I order therefore that the number of samples of Mr. Dragusica's bodily substances that are reasonably required for the purposes of forensic DNA analysis be taken from him.
- [7] The Crown's case was proven by extensive admissions of fact supported by photographs or copies of the many exhibits that were seized during the course of the investigation.
- [8] In essence, on November 9, 2005, Mr. Dragusica rented a locker at Maple Leaf Storage in Coquitlam. To permit him to carry out this rental, he produced identification, a driver's licence and a social insurance card, in the name of Daniel Rylek. As a result, the locker was rented to him under Mr. Rylek's name and with an address on 84th Avenue, Surrey.

- [9] Mr. Rylek is an actual person who, earlier in 2005, had lived at the address that Mr. Dragusica provided. During a home invasion, Mr. Rylek's wallet, containing all of his identification, including the identification shown by Mr. Dragusica to rent the locker, was stolen from him.
- [10] Mr. Dragusica did not make the required payments for the locker after having rented it. So, in January of 2006, the manager of the storage facility sent a letter to Mr. Rylek about the overdue payments, since it had been rented under his name. Mr. Rylek advised the manager of the theft of his identification and of his lack of any involvement in renting the locker. The manager went to the locker, cut off the lock that had been put on by Mr. Dragusica and replaced it with a different one. He also removed the overlock, which is a second lock put on when an account becomes overdue, in order to prevent delinquent renters from removing their belongings until they have settled their accounts.
- [11] The manager detected a chemical smell inside the locker which caused him to call the police. They attended and found a boxed-up laboratory for producing methamphetamine and extensive documents and records associated with the production of that drug.
- [12] They also found 180 grams of methamphetamine, sufficient for 1800 street-level doses and having a value of about \$18,000 if sold at street-level prices. No issue was taken in the trial that this amount is consistent only with possession for the purposes of trafficking. The issue was whether Mr. Dragusica had knowledge of and control over the drug.
- [13] The police seized the drug, the boxed-up lab and all associated documents and equipment.
- [14] Mr. Rylek's name, address, phone and Hydro billing documents were found in a gym bag in the locker that also contained notes dealing with the purchase of equipment and chemicals for the production of methamphetamine. In addition to having rented the locker, Mr. Dragusica was linked to the lab by an e-mail address, password and company name that were found both in the materials stored with the lab and in papers found in his portfolio when he attended the storage locker.
- [15] On January 13, 2006, Mr. Dragusica phoned the manager of the storage facility, stating that he had returned from out of town and that he knew he was late paying for the locker. He asked if his "stuff" was still there. After being told how much he owed, Mr. Dragusica said he would drop by later that day or the following day.
- [16] On January 16th, Mr. Dragusica arrived at the office and paid the delinquent account in cash. In order to stall him and thereby give his wife a chance to call the police, the manager purposely gave Mr. Dragusica the wrong key for the overlock. As mentioned previously, the lock that had been on the locker had already been cut off and replaced by the manager. When Mr. Dragusica returned and advised that the key to the overlock did not fit and that his own key did not fit the main lock, the manager gave him the correct key for the overlock and a pair of bolt cutters for the main lock. By this time, the police had arrived and they arrested Mr. Dragusica.

- [17] Mr. Dragusica had come to the storage business by taxi. In the rear seat of the taxi he had arrived in the police found a portfolio. As I said earlier, an e-mail address, a password and a company name on documents that were found in that portfolio corresponded to the same information in documents associated to the production of methamphetamine that were found in the gym bag in the locker.
- [18] I disbelieved Mr. Dragusica's evidence that he was unaware of the meth lab being stored in the locker that he had rented and that he possessed Mr. Rylek's identification only because there was an outstanding warrant for his arrest for a bail breach at that time and he could not do anything using his own name. I found that the circumstantial evidence was consistent only with his knowledge of and control over the methamphetamine lab and with his knowledge that Mr. Rylek's identification had been stolen.
- [19] Mr. Dragusica is now 34 years old. He is originally from Ontario. He has a supportive mother who has taught psychology at a post-secondary institution in Prince George. He has a lengthy work history and he is currently a contractor and sub-contractor, handling various kinds of jobs in the construction industry such as drywalling and taping. He has been in a common-law relationship for the past one-and-a-half years and he provides financial and emotional support to his spouse, particularly in light of the recent death of her mother and her recovery from substance abuse.
- [20] Mr. Dragusica provided letters of support from his mother, his spouse and from employers in the construction business. His mother, Mrs. Melhina Dragusica, speaks movingly of the lessons that she says Mr. Dragusica has learned about his conduct during his lengthy pre-trial incarceration and of her hopes that he will be allowed to move forward and make a more positive contribution in the community following the imposition of sentence.
- [21] His spouse, Ms. Kozdra, speaks of her dependency on him at a fragile phase of her life, during which she has no remaining immediate family following the death of her mother. She also has struggled with heroin addiction in the past and relies on Mr. Dragusica to assist her in remaining drug-free. To complicate matters further, I am told that she is now pregnant.
- [22] A Mr. Fryer and a Mr. Bawtinheimer of Sunco Drywall provided a letter attesting to Mr. Dragusica's reliability as a drywalling subcontractor and the significant construction projects that he has worked on. Mr. Fryer has provided an additional letter which describes a job in Grand Forks that is imminent for Mr. Dragusica and which will require him to frame and then drywall a house within 28 days. Accommodation is said to have been booked for him and his crew and Mr. Fryer says it would be difficult to replace him on short notice.
- [23] Mr. Dragusica's involvement with the criminal justice system is somewhat unusual. He has a conviction from 2007 in Surrey for possession of a scheduled substance, contrary to s. 4(1) of the Controlled Drugs and Substances Act, for which he received a \$1,000 fine. His counsel advises the substance in question is the one popularly known as Viagra.

- [24] At the time that the present offences were committed, he did not have any prior convictions. However between May 2004 and June 2007 he spent a very significant amount of time in pre-trial custody on this and several other serious charges. Except for the guilty plea to the offence I have just described, which it appears was an included offence to one of the other matters with which he was charged, and this present matter of which I have convicted him, none of the others resulted in convictions. It almost goes without saying, but I must emphasize it anyway, that the charges that did not result in convictions but which led to pre-trial incarceration have no relevance to this sentencing proceeding and are simply part of the factual background.
- [25] Crown counsel has very helpfully prepared a chronology of Mr. Dragusica's detention dates and the various charges that he was facing during each time period. It is agreed by counsel that eight months and five days of pre-trial custody, consisting of the period January 16 to September 21, 2006, are attributable to the present charges and that the usual two-for-one credit should be given for this custody.
- [26] Crown seeks a sentence of 32 months imprisonment for Mr. Dragusica, which would, in effect, be a sentence of four years imprisonment once credit for pre-trial custody is applied. Crown counsel arrived at that submission by the following analysis: it was submitted that the appropriate effective sentence should, in theory, be one of five years' imprisonment, consisting of three years for the possession for the purposes of trafficking offence, and two years consecutive to that for the offences of personating Mr. Rylek and possessing his stolen identification. Moderating that somewhat, in accordance with the principle of totality of sentence, leads therefore, in the Crown's submission, to a global sentence of four years, less the agreed credit for pre-trial custody.
- [27] Counsel for Mr. Dragusica submitted that this range was excessive having regard to the actual circumstances of this offence and Mr. Dragusica's background and present situation. His counsel takes the view that further imprisonment may not be required in all the circumstances and that if it is the court should consider imposing a sentence that can be served in the community.
- [28] In support of its position, the Crown highlighted some aggravating facts of this case. First of all, the stored lab represents a sophisticated and large-scale drug production operation. There was a significant amount of expensive custom-made laboratory equipment which would have had to have been obtained from scientific glassblowers, among other sources. There was also an extensive body of sophisticated scientific literature dealing with the efficient production of the drug. Although 180 grams of methamphetamine is the amount actually produced and the amount that I have convicted Mr. Dragusica of being in possession of for the purposes of trafficking, the capacity of the lab, given the amount of source material, the handwritten production notes and the equipment available, was suitable for production at the multi-kilogram level.

- [29] I emphasize, however, that the capacity and sophistication of the production operation functions simply as the context within which the offence of possession for the purposes of trafficking is found to be taking place. I am mindful that Mr. Dragusica has been convicted of the possession offence and not of the offence of production.
- [30] Second, the portfolio that Mr. Dragusica left in the taxi contained a very large number of personal documents such as bills, credit applications and other material containing detailed information relating to various individuals to whom he has no legitimate connection. There was also a template for a driver's licence with a blank space for the holder's photo. The Crown submits that the context within which the specific offences of possessing Mr. Rylek's identification and personating him were committed is a very large-scale scheme of identity theft. In emphasizing the seriousness with which the public and Parliament view identity theft, Crown counsel points to recent legislation creating the specific offences of identity theft and fraud.
- [31] Once again, of course, I rely on this information solely for context within which the specific offences of which Mr. Dragusica has been convicted occurred. He is not being sentenced, nor does the Crown suggest that he should be, for that overall context.
- [32] Crown counsel relied on a number of helpful sentencing authorities to establish the appropriate range of sentence.
- [33] In *R. v. Van Der Heyden*, [1998] B.C.J. 2891 (S.C.), the accused entered guilty pleas to four counts of conspiracy to traffic in restricted drugs - MDA, MDMA, LSD and DMT. He was involved in operating what was described as a massive lab in a warehouse and \$6.5 million worth of restricted drugs were found and seized. The accused held a Ph.D. and was one of the province's most capable field researchers in his area of scientific expertise. He received a sentence of five years imprisonment.
- [34] In *R. v. Russell and Grenfal*, 2000 BCSC 27, Mr. Russell, the accused whose circumstances are relevant here, pleaded guilty to conspiracy to traffic methamphetamine and trafficking in MDMA and MDEA. Mr. Russell was involved in a conspiracy to set up a methamphetamine lab and also in the importation of other drugs from Europe. He had all the necessary chemicals and equipment for the methamphetamine lab but it was not actually set up because of a dispute with the person who was to operate it, hence the conviction for conspiracy. He was 54 years old and had no criminal record. He received four years' imprisonment concurrent on each count.
- [35] In *R. v. Bamdad*, 2005 BCSC 755, the accused was found guilty of four counts: production of methamphetamine and ecstasy as well as possession of those substances for the purposes of trafficking. He was found to have operated a sophisticated methamphetamine lab in the basement of a residence. It was discovered when it caught fire and burned him. The exact amount of drugs produced could not be determined because of the effects of suppressing the fire, but given the source materials, the lab was found to have a large capacity. Mr. Bamdad was 34 and had no criminal record. He was described as an intelligent and educated

man, but he had become addicted to drugs and had a precarious immigration status. Mr. Justice Ehrcke determined that the appropriate sentence was one of two years less one day which, after applying credit for pre-trial custody, resulted in an actual sentence of 15 months imprisonment. Mr. Justice Ehrcke found that a conditional sentence was inappropriate, given the need to emphasize deterrence and denunciation for these types of offences.

- [36] In *R. v. Scott*, 2006 BCSC 678, the accused was convicted of production and possession of marihuana and ecstasy. He was found to be one of the operators of a clandestine drug lab that was discovered in the basement of a home he was renting. The lab was moderate in size, but had the capacity to manufacture other drugs. The marihuana growing operation was relatively small. The accused was 34 and was employed as a site superintendent in a large construction operation and was a valuable employee. He received four years for the production and possession of ecstasy offences and eight months' concurrent for the marihuana-growing and possession.
- [37] In *R. v. Renaud*, 2006 BCCA 526, the Crown appealed a three-year sentence that had been imposed against a 26-year-old accused with no criminal record for producing methamphetamine, possessing it for the purposes of trafficking and obstructing a peace officer. The offence involved a methamphetamine lab that had produced 6.1 kilograms of the drug, worth half a million dollars at street value, with a capacity to produce more. Mr. Justice Donald said the following, beginning at paragraph 10:

There can be no doubt that methamphetamine is a terrible scourge and that production of it ultimately causes severe and lasting harm to users of the drug, and that clandestine drug laboratories pose a grave danger of explosion, fire and release of toxic gases. The offence will usually require a penitentiary sentence. Beyond that, I would not venture an opinion. This Court will have the opportunity to review the sentences in *Bamdad*, *Iverson* and *Scott*, as mentioned, and a trend based on a variety of different fact patterns may emerge. I would not want to make general pronouncements that may interfere with those appeals.

- [38] Paragraph 11 of the judgment:

The dangers of methamphetamine production were explicitly recognized by the sentencing judge. The Crown quarrels with the judge's weighing and balancing of the various factors, both in mitigation and in aggravation of the offences. I am not persuaded that the judge was unreasonable in his treatment of the relevant factors. It was for him to assess the weight of the representations that Mr. Renaud was remorseful, that his values had changed, and that he enjoys family support in bringing his life around. While it is true, as the Crown submits, that there was little objective independent support for these representations and the judge expressed some reservations, in the end the judge was satisfied that they were genuine.

- [39] Paragraph 12:

I cannot say that the imposition of a three-year sentence in this case was unreasonable, having regard to the fact that the respondent is a young first-time offender with what the trial judge obviously felt were good prospects for rehabilitation.

[40] In *R. v. Au*, 2006 BCCA 533, the Court of Appeal dealt with a Crown appeal from sentence of, among others, 34 months for possession of four kilograms of methamphetamine. Mr. Au was 31 years of age and had no criminal record. He was subsequently found in possession of cocaine and four kilograms of ecstasy as well as a handgun, after having been released on the methamphetamine possession offence. His sentence for the methamphetamine offence was increased to 42 months on appeal.

[41] In *R. v. Iverson*, 2007 BCCA 3, the accused appealed concurrent sentences of six years for convictions for producing methamphetamine and ecstasy and for possession for the purposes of trafficking of both substances. A laboratory was discovered with large quantities of each drug, having street values in the millions of dollars. It was the lab with the largest quantity of drugs that the Crown's expert had ever investigated. The appellant was a 55-year-old heroin addict with no previous convictions. He was found to have played an integral role in the manufacturing process. Nonetheless, the sentences were reduced to five years.

[42] In *R. v. Francis*, 2008 BCCA 309, the accused appealed a sentence of 30 months for possession of methamphetamine for the purposes of trafficking and a sentence of six months concurrent following a conviction for the same offence with respect to marihuana. Four hundred grams of methamphetamine, worth between \$31,000 and \$39,000 if sold by the gram, were found in Ms. Francis's residence, which she shared with her co-accused. She was 54 years old and had one dated prior drug conviction. Her involvement in the offence was described as "purely commercial" in contrast to her partner, who needed money and drugs for his addiction.

[43] The following passages from the reasons of Madam Justice Ryan are helpful, beginning at paragraph 21:

In this Court counsel for the Crown, Mr. Prior maintained that there is a dearth of sentencing cases emanating from this Court that deal with the range of sentence imposed for possession of methamphetamine for the purpose of trafficking.

That dearth is reflected in the fact that the majority of the cases I have referred to either deal with production or with concurrent offences of production and possession. To continue with the quote from Francis:

He noted that many of the cases deal with methamphetamine production or cases where the accused possessed, along with methamphetamine, other Schedule 1 drugs such as cocaine and heroin. As such, he said, it is difficult to state what range of sentence has been deemed to be fit. That said, Mr. Prior candidly accepted that the sentence in this case is a substantial one. Mr. Prior submitted that the sentencing judge in this case deliberately imposed a significant sentence to address the methamphetamine problem in her community. Mr. Prior's position in this Court was

that the sentencing judge had rightly decided that the scourge of methamphetamine in her community with its attendant violent, aggressive behaviour had to be denounced through sentences which communicate society's condemnation of the conduct of the appellant in possessing this dangerous drug for sale and that the range of sentence she was presented with would not achieve that goal.

[44] I adopt everything said by the trial judge about the seriousness of the crime in the community. Paragraph 22:

I agree with counsel for the Crown. The sentencing judge in this case catalogued the evils of methamphetamine which are becoming more apparent to the courts with its increased use. The sentencing judge referred to the highly addictive qualities of the drug, the physical damage it causes to the user including brain damage, psychological damage and associated violent behaviours. She noted that its use was on the increase in her community.

[45] I adopt all of those findings.

In my view, the sentencing judge was right to address this sentencing in the way she did.

[46] Paragraph 24:

In my view, if it can be said that this sentence is at the higher end, or outside the range imposed for similar offences committed by similarly situated individuals, it is, for the reasons I have given, not unfit.

[47] The sentence was upheld.

[48] The Crown also provided some sentencing authorities on personation and possession of stolen identification offences as well as the text of the new legislation establishing the offences of identity theft and identity fraud. Crown counsel frankly conceded that the specific fact patterns in the cases were not applicable to Mr. Dragusica's convictions, because they involve multiple offending for the most part, but submitted that I can consider them as demonstrating the overall seriousness with which the courts view identity theft related offences and also to confirm the legitimacy of a judge considering the prevalence of identity theft in the community when considering issues of denunciation and deterrence.

[49] I agree with those submissions and I will consider those authorities for that purpose, but I do not find any benefit in quoting them directly in my judgment.

[50] In this case, I think the aggravating factors are:

1. That the scale and sophistication of the drug operation within which Mr. Dragusica possessed the methamphetamine;
2. His degree of involvement in the laboratory, which is shown to be beyond merely arranging to store it by the relationship between documents that were stored within the lab and those that were found in his possession;

3. The very serious danger that the production, sale and use of methamphetamine poses to this community, as has been forcefully and repeatedly stated in the cases;
4. Mr. Dragusica's cavalier use of Mr. Rylek's identification to secure the storage locker, which caused at least embarrassment to Mr. Rylek and could have subjected him to, among other risks, collection proceedings by the storage locker company;
5. The context of his possession of that identification and personation of Mr. Rylek being his possession of personal material belonging to many other individuals, suitable for the adoption of that information for the purposes of identity theft;
6. The harm to innocent individuals such as Mr. Rylek that is caused by the appropriation of their identities for criminal purposes.

[51] The mitigating factors are:

1. The absence of a serious related criminal record;
2. Mr. Dragusica's relative youth;
3. His available employment;
4. His committed relationship and family responsibilities;
5. The apparent absence of any further offending, at least as reflected by new charges, since his release from custody in June of 2007, about two years and nine months ago.

[52] Overall, I think the cases provided by the Crown tend to involve convictions for production of methamphetamine, more significant quantities of it, or extensive proven involvement in the actual production process.

[53] In Scott, there were aggravating features in the accused's misrepresentations to the court about his work history and his ongoing blame of others for the offence, even following his conviction, that appear to have pushed that sentence into a higher range than what I would have expected on its facts.

[54] Ultimately, I find the most helpful cases to be Bamdad and Francis, which resulted in sentences of 15 months (two years less a day minus the pre-trial custody) and 30 months respectively. In the case of Francis I noted that the court determined that an admittedly high sentence was not unfit, but did not purport to establish that sentence as any form of benchmark within the range of fit sentences.

[55] I think that, situating this case within the range established by the Crown's cases, a somewhat lower sentence than what is being sought by the Crown is called for.

- [56] Ultimately, while sentencing authorities are essential in identifying the usual range of sentence for similar offences and in situating the accused appropriately within that range, sentencing must ultimately be an individualized process based on the circumstances of the offence and the offender and the principles of sentencing embodied in the Criminal Code that deserve the greatest emphasis in light of the specific circumstances.
- [57] Given the prevalence of and harm caused by these offences in our community, general and specific deterrence and denunciation must be paramount considerations. The message must go out to those inclined to participate in this type of activity that the courts will not countenance it.
- [58] However, given Mr. Dragusica's relative youth, limited record, family support and responsibilities and ongoing ability to be productively employed, it would be unwise to dismiss rehabilitation as a meaningful consideration. I find that rehabilitation, as a sentencing principle, should moderate the effect of the other applicable principles somewhat. Put another way, a sentence that put the opportunity to be productively employed beyond his reach would be counter-productive both for him and for the protection of the public in the long term.
- [59] Applying these principles here, I think that an appropriate sentence, had there been no pre-trial custody, would have been one of two years less a day for the possession of methamphetamine, one month for the possession of the identification, and three months for the personation.
- [60] I do not agree with the Crown's submission that the latter two sentences should be served consecutively to the drug offence. It appears clear to me that those offences were committed to facilitate the storage of the lab and are inextricably bound up with Mr. Dragusica's possession of it.
- [61] Because I am contemplating a sentence in the provincial range, I must consider whether a conditional sentence would be appropriate here or not. In Bamdad, Mr. Justice Ehrcke found that the production and possession of methamphetamine and ecstasy were offences in which the needs of general and specific deterrence are particularly pressing, as that term was used by the Supreme Court of Canada in the landmark case of *R. v. Proulx*, 2000 SCC 5 and that those needs cannot be met by anything short of actual incarceration. Consequently, he declined to impose a conditional sentence.
- [62] I think Mr. Justice Ehrcke's analysis and conclusion will almost always be applicable to a case involving methamphetamine, given its widespread harmful effects. However, in the particular circumstances of this case, in view of the offence being one of possession for the purposes of trafficking only, as opposed to production, albeit in the context of a sophisticated operation, the lengthy period of pre-trial incarceration, the lengthy apparently offence-free gap between the offence and the present time, Mr. Dragusica's pressing family obligations and ongoing productive employment, I have concluded that the sort of harsh and punitive sanctions that are available in a conditional sentence, and the imposition of a

lengthier sentence than would otherwise be attached to actual incarceration, both of which were endorsed by Chief Justice Lamer, as he then was, in Proulx, can sufficiently deter Mr. Dragusica and others from like conduct and reflect society's collective condemnation of this activity.

- [63] It is my hope that the average citizen, being fully informed of the facts of this case, would agree that a person in Mr. Dragusica's situation is more useful to society drywalling houses and supporting his family than incarcerated, provided that the sentence still brings the unacceptability of involvement with this drug home to him and others in other meaningful ways.
- [64] My sentence is, therefore, as follows. Please stand, Mr. Dragusica. On count 2, I sentence you to two years less a day imprisonment. On count 3, I sentence you to six months' imprisonment. On count 4, I sentence you to three months' imprisonment. These are all to be served concurrently to each other, and all will be served conditionally pursuant to s. 742(1) of the Criminal Code, subject to the following conditions.
- [65] First, the mandatory conditions: You will keep the peace and be of good behaviour. You will appear before the court when required to do so. You will report to a supervisor within two working days after the making of this conditional sentence order, and thereafter when required by the supervisor and in the manner directed by the supervisor.
- [66] You are to remain within the jurisdiction of the court unless written permission to go outside that jurisdiction is obtained from the court or the supervisor, and you are to notify the court or the supervisor in advance of any change of name or address, including - and this is my additional language - including all temporary changes of address that may become necessary during the course of your employment for attendance at construction locations, and promptly notify the supervisor of any change of employment or occupation. In other words, if you are going out of town to work, the supervisor has to hear about that and approve it advance.
- [67] The additional conditions will be as follows:
1. At whatever address you are residing from time to time, either permanently or while attending at a construction location as approved by your supervisor, you must be continuously within that residence between the hours of ten o'clock p.m. and five o'clock a.m. seven days per week. I have allowed for the early start because I anticipate that construction work may begin early in the morning.
 2. You must present yourself at the front door of all such residences on the demand of a peace officer in order to demonstrate your compliance with the previous condition.
 3. In addition to the hours within which you must be within your residence as I have provided, during the other hours of the day, you may only be outside your residence for the purposes of working; shopping for food or personal necessities for yourself, your spouse, Ms. Kozdra, or your child; attending medical, dental or counselling appointments or emergency medical

or dental treatment for those purposes on behalf of yourself, your spouse, Ms. Kozdra, or your child; or travelling directly to or from any of those activities. You must immediately furnish such proof as may reasonably be required by a peace officer at any time that you are engaged in one or more of the above activities when you are outside the residence.

4. You must abstain absolutely from the consumption of alcohol or illicit drugs and from drugs that require a physician's prescription except that you may consume drugs as prescribed by a licensed physician in the manner prescribed.
5. You must perform 60 hours of community work service under the supervision of your supervisor within the first year of this sentence.
6. You will provide for the support and care of Ms. Kozdra and your child. You will furnish such reasonable proof as your supervisor may require from time to time that you are in compliance with this provision.

[68] Mr. Dragusica, I have given you the opportunity that you have sought to be at large in the community. If you breach any of these conditions and the matter comes before me, I will likely exercise my discretion to order that the remainder of your sentence be served in custody. This is your opportunity. You will not get another one from me.

[69] MR. HOGAN: My Lord, the two days, that allows him to be in till Monday, I presume.

[70] THE COURT: That is business days.

[71] MR. SMITH: I was just going to suggest, My Lord, it might be useful that there be a condition that he carry a copy of the order at all times when he is outside of his residence.

[72] THE COURT: Any objection? That is a reasonable suggestion.

[73] An additional condition will be whenever you are outside your residence, you will carry a copy of this order on your person and you will present it to any peace officer who requests it when required.

"Schultes J."

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