

CANADA / JUDGMENT

R. v. Gelowitz

2019 BCSC 914

COURT

Supreme Court of British Columbia

DECIDED

6 May 2019

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2019 BCSC 914 R. v. Gelowitz IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Gelowitz, 2019 BCSC 914 Date: 20190506 Docket: 33201-3 Registry: Williams Lake Regina v. Dominic David Joseph Gelowitz Before: The Honourable Mr. Justice Hori Oral Reasons for Sentence Counsel for the Crown: A.G. Varesi Counsel for the Defence: P.M. McGowan Place and Date of Hearing: Williams Lake, B.C. May 6, 2019 Place and Date of Judgment: Williams Lake, B.C. May 6, 2019

- [1] THE COURT: I understand that on January 29, 2019, Mr. Gelowitz entered guilty pleas to Counts 1, 7, and 8 of the indictment. I have heard submissions this afternoon on a joint submission for sentencing.
- [2] The offences to which Mr. Gelowitz has pled guilty are very serious offences. They involve the possession of firearms and they involve the possession of cocaine for the purposes of trafficking. These offences, as we all know in this day and age, impose an extreme amount of hardship and difficulty on society as a whole. So I must say that the offences for which you have pled guilty are very serious and we must take steps to deter and denounce that kind of behaviour in our society.
- [3] However, I have heard submissions on your behalf and read the letters of support that your counsel has provided to the court showing that you have a very supportive and loving family behind you and that they are in a position to support you going forward. I am also struck by the steps that you have taken to start your rehabilitative process, in terms of your education and in terms of your employment, since being released after being charged. You appear to have, based on what I have heard, a great deal of promise, and you must not squander that.
- [4] Based upon the submissions that I have heard, I am prepared to accept the joint submission on sentencing. So, in particular, the sentence to be imposed upon you, Mr. Gelowitz, is:
- a) on Count 1 - 30 months of jail time;
 - b) on Count 7 - 42 months' jail time, concurrent; and
 - c) on Count 8 - 44 months, plus five days jail, less credit for time served of two months and five days, concurrent.

- [5] I have not done the math, Mr. Varesi, but I understand that that totals 42 months of new time --
- [6] MR. VARESI: Yes.
- [7] THE COURT: -- for all three counts?
- [8] MR. VARESI: Yes.
- [9] THE COURT: In addition, there will be a 10-year firearms prohibition under s. 109 of the Criminal Code, and there will be an order for a DNA sample and registration under 487.051(3) of the Criminal Code.
- [10] Is there anything else?
- [11] MR. VARESI: Yes. Crown directs a stay of proceedings on the remaining counts. And, My Lord, in terms of forfeiture by agreement, what I've done is I've typed up how the exhibits are to be disposed of. So if this could be marked as the next document on sentencing, and I'd just ask Your Lordship to endorse it, and I'll prepare the order and forward it in due course. So if I may approach the --
- [12] THE COURT: Yes.
- [13] MR. VARESI: -- Madam Registrar?
- [14] THE COURT: So mark that Exhibit 2?
- [15] MR. VARESI: Yes, please. EXHIBIT 2 ON SENTENCE - Forfeiture Order re Indictment 33201-3.
- [16] THE CLERK: My Lord, with respect to the 10-year prohibition and DNA, can I clarify with the court which counts those prohibitions apply to?
- [17] THE COURT: Mr. Varesi?
- [18] MR. VARESI: To all -- all counts . . . [inaudible].
- [19] THE COURT: All counts --
- [20] MR. VARESI: They're all -- they all attract the firearms ban --
- [21] THE COURT: Yes.
- [22] MR. VARESI: -- and DNA. Thank you.
- [23] THE COURT: So, Mr. Varesi, you would like me to endorse this forfeiture order?
- [24] MR. VARESI: Yes, My Lord, and --
- [25] THE COURT: Mr. McGowan, any issue with that?

- [26] MR. MCGOWAN: No, we -- my friend and I have discussed this and this is being jointly proposed.
- [27] MR. VARESI: Yes, Your Lordship can simply indicate that the exhibits are to be disposed of as outlined in the --
- [28] MR. MCGOWAN: Exhibit 2.
- [29] MR. VARESI: -- Exhibit 2.
- [30] THE COURT: Let us do that. I will direct that the exhibits be disposed of in accordance with Exhibit 2.
- [31] MR. VARESI: Yes.
- [32] MR. MCGOWAN: Yes. Mr. Varesi can then prepare a formal order.
- [33] THE COURT: Yes.
- [34] MR. VARESI: Thank you. That's everything, from the Crown's perspective, My Lord.
- [35] THE COURT: And do you need anything from me in terms of the stays on the others?
- [36] MR. VARESI: No, the -- no, it was stayed on the record, so . . .
- [37] THE COURT: All right.
- [38] MR. VARESI: Thank you.
- [39] MR. MCGOWAN: Thank you, My Lord.
- [40] THE COURT: Thank you. That is it.
- [41] MR. VARESI: Thank you very much.
- [42] THE COURT: Thank you.
- [43] THE CLERK: Order in court. "Hori J."

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