
CANADA / JUDGMENT

R. v. Glasgow

2011 BCSC 840

COURT

Supreme Court of British Columbia

DECIDED

28 April 2011

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2011 BCSC 840 R. v. Glasgow

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Glasgow,

2011 BCSC 840

Date: 20110428

Docket: X074275-2

Registry: New Westminster

Regina

v.

Daon Gordon Glasgow

Corrected Judgment: The front page of the judgment was corrected by the addition of Q.C. to Crown counsel's name on July 7, 2011.

Before: The Honourable Mr. Justice G. R. J. Gaul

Oral Reasons for Judgment

Counsel for the Crown:

R. Bonner, Q.C.

Counsel for the Accused:

N. Nozick

Place and Date of Trial/Hearing:

New Westminster, B.C.

April 28, 2011

Place and Date of Judgment:

New Westminster, B.C.

April 28, 2011

- [1] THE COURT: The accused, Daon Glasgow, has pleaded guilty to one count of manslaughter using a firearm, contrary to s. 236(a) of the Criminal Code. He is now before me for sentencing.
- [2] The facts relating to this offence are accurately described in the Crown's written submissions on sentencing and for ease of reference I will reproduce them here:

On March 27, 2010, at 1808 hours, members of the Surrey R.C.M.P. responded to a report of shots fired at the McDonald's restaurant located at 11011 Scott Road, Surrey B.C. Upon police arrival, the victim Terry Blake Scott was located inside the restaurant suffering from a single gunshot wound to the chest.

Efforts were made by police and witnesses to render CPR while awaiting the arrival of emergency health services and fire rescue. Scott died shortly after police arrival. Initial witness interviews and a review of video surveillance indicated the following sequence of events:

At 1757 Scott entered the restaurant with an unidentified male who was later identified as Mr. Glasgow at which time they went immediately towards the men's washroom.

Scott and Glasgow entered the washroom together after being buzzed in by McDonald's staff. Moments later, a physical altercation was heard coming from the washroom.

At 1759 a single gunshot was heard. Scott emerged from the men's washroom clutching his chest and collapsed on the restaurant floor. Glasgow came out of the washroom and fled out the north door and ran towards a nearby subway restaurant.

Glasgow then ran past the railway tracks in an industrial area southwest of the McDonald's restaurant and was lost from sight.

Based on police and forensic investigation including cell phone text analysis and security video at McDonald's Glasgow was identified as the suspect.

Text messages between Scott and Glasgow clearly indicate that the two men had negotiated the sale by Scott of a quantity of hashish (believed to be 5 ounces) to Glasgow for the sum of \$1000.00.

Subsequent police investigation revealed that some hashish was found in the washroom where the shooting occurred and a larger quantity was apparently dropped along Glasgow's escape route. The firearm was never recovered but the bullet removed from the deceased was consistent with being fired from a .38 special or .357 magnum handgun.

The deceased died from a gunshot that entered his chest travelled through a valve in his heart, travelled down the body grazing a kidney, through the liver and coming to rest just under the surface of the skin on Scott's back.

Among the items recovered from the deceased's person was the sum of \$945 in cash and his cell phone which contained text messages to and from Glasgow from the afternoon of March 27, 2010.

Glasgow was identified by his parole officer as the person in the McDonald's video with Mr. Scott.

Glasgow was arrested on April 23, 2010 by police and has remained in custody since that date.

[3] The Crown and the defence jointly submit that a sentence of ten years in prison would be appropriate in the circumstances of this case.

[4] During the course of their submissions, counsel referred me to the following case authorities:

- 1) R. v. C.A.M., [1996] 1 S.C.R. 500;
- 2) R. v. Bernier, 2003 BCCA 134;
- 3) R. v. Archibald (1992), 15 B.C.A.C. 301 (B.C.C.A.);
- 4) R. v. E.H., 2005 BCCA 3;
- 5) R. v. Bourque, 2005 BCSC 1459;
- 6) R. v. Nelson, (Dec. 7, 2007) (B.C.S.C.);
- 7) R. v. Crossley, 2005 BCSC 1297;
- 8) R. v. Thomas, 2007 BCSC 1530;
- 9) R. v. MacDonald, 2006 BCPC 485;
- 10) R. v. Nowacki (1998), 104 B.C.A.C. 312 (B.C.C.A.);
- 11) R.v. Aburto, 2009 BCCA 446;
- 12) R. v. Kenworthy, 2009 BCCA 197;
- 13) R. v. Glover, 2002 BCCA 271.

[5] The present offence has a mandatory minimum sentence of four years in prison. Based upon the case authorities cited, the range of sentence for an offence of this nature is between seven and thirteen years in prison.

[6] In formulating and imposing a sentence, I am obliged to consider the purpose and objectives of sentencing as they are articulated in s. 718 to 718.2 of the Code. As noted in s. 718.1:

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

- [7] There are a number of aggravating circumstances in Mr. Glasgow's case. To begin with, he has a reasonably significant criminal record, that includes:
- a) Convictions in April 2006, for the unauthorized possession of a prohibited or restricted weapon, obstructing a peace officer, failing to comply with an undertaking and failing to comply with a recognizance. He was sentenced to sixty days in jail on each count to be served concurrently;
 - b) Later in August 2006, Mr. Glasgow was convicted and sentenced to two years in prison for possession of an illegal narcotic for the purpose of trafficking;
 - c) In April 2008, he was again convicted of possession for the purpose of trafficking and sentenced to a nine-month custodial term.
- [8] Another aggravating feature of Mr. Glasgow's case is the fact that he was on parole for his earlier drug offences when he committed the present offence. He was also in possession of a handgun contrary to a court-ordered lifetime prohibition from possessing firearms that had been previously imposed on him.
- [9] In my opinion, the fact that Mr. Glasgow brought a loaded handgun to a restaurant during the dinner hour when families could reasonably be expected to be present and discharged the weapon is a particularly aggravating circumstance.
- [10] The consequences of Mr. Glasgow's actions have been devastatingly painful for the Scott family. I have read the victim impact statement prepared by Mr. Scott's parents. Clearly the Scotts are a grieving family. However, to their enormous credit they appear to be a forgiving family and one that will not allow bitterness or hatred to enter into their lives on account of the tragic loss of their son. I was particularly impressed by the portion of the victim impact statement where Mr. and Mrs. Scott urge and encourage Mr. Glasgow to become a better person.
- [11] There are mitigating circumstances that favour Mr. Glasgow and point to the fact that he is not beyond rehabilitation. He has pleaded guilty and by doing so he has acknowledged his culpability. He has also expressed a genuine remorse for the pain and loss he has caused to the Scott family. The letters of reference that have been filed in support of Mr. Glasgow suggest that he has the potential to turn his life around and become a contributing member of the community.
- [12] Considering the objective and principles of sentencing that I must, and keeping in mind the range of sentence that the jurisprudence indicates is appropriate for this type of offence, I accept the joint submission and agree that a sentence of ten years in prison is appropriate in this case.

- [13] Mr. Glasgow, you will stand.
- [14] Mr. Glasgow, you have pleaded guilty to committing manslaughter using a firearm.
- [15] There are aggravating circumstances to the offence you committed. There are also mitigating circumstances. You have just heard me recount them.
- [16] Most significantly, your actions resulted in the death of Mr. Scott.
- [17] I find that denunciation and deterrence are important considerations in this case. I also accept that your rehabilitation is a valid consideration as well.
- [18] By pleading guilty you have recognized your responsibility for having committed this offence. I have listened carefully to what your lawyer has said on your behalf and I accept that you are remorseful and wish to rehabilitate yourself.
- [19] Having taken into consideration all of the circumstances of this case, I am of the view that you should be sentenced to ten years in prison.
- [20] You have been in custody on this charge since your arrest in April 2010. For that period of pre-sentence custody, I will deduct one year off of your sentence. Consequently, I sentence you to serve nine years in prison.
- [21] You may be seated.
- [22] The Crown has also sought a number of ancillary orders, all of which are mandatory in nature.
- [23] Pursuant to s. 109 of the Code, Mr. Glasgow is prohibited from possessing any firearm, crossbow, restricted weapon, ammunition and explosive substance for life. He is also prohibited, pursuant to the same section, from possessing any prohibited firearm, restricted firearm, prohibited weapon, and prohibited ammunition for life.
- [24] With respect to providing a DNA sample, pursuant to s. 487.051(1) of the Code, I am making an order authorizing the taking from Mr. Glasgow for the purpose of forensic DNA analysis any number of samples of one or more of his bodily substances that are required for that purpose by the means of the investigative procedure described in s. 487.06(1) of the Code.
- [25] In light of the lengthy term that Mr. Glasgow will be serving in prison, I find the imposition of the victim surcharge is not realistic in this case. Consequently, no such order will be made.
- [26] I thank counsel for their helpful submissions.
- "G.R.J.Gaul, J."

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