
CANADA / JUDGMENT

R. v. Hundal

2008 BCSC 689

COURT

Supreme Court of British Columbia

DECIDED

12 May 2008

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2008 BCSC 689 R. v. Hundal

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Hundal,

2008 BCSC 689

Date: 20080512

Docket: X070320-3

Registry: New Westminster

Regina

v.

Gurpreet Singh Hundal

Before: The Honourable Mr. Justice Ehrcke

Oral Reasons for Sentence

May 12, 2008

Counsel for the Crown:

L. Kiner

M. C. Harrington

Counsel for the Accused:

D. Geller

Place of Hearing:

New Westminster, B.C.

- [1] THE COURT: The accused, Mr. Hundal, has entered a plea of guilty to a charge of kidnapping Rachna Jaswal in Surrey, British Columbia, on January 19, 2007, contrary to s. 279(1)(c) of the Criminal Code.
- [2] That offence is one of the most serious offences known to our law, as indicated by the fact that Parliament has prescribed a maximum penalty of life imprisonment.
- [3] Counsel for the Crown and counsel for the accused have made a joint submission that the court should impose a sentence of four years' imprisonment in addition to the 16 months he has spent in pre-sentence custody. Applying the usual rule that, apart from special circumstances, an offender should receive double credit for pre-sentence custody, giving effect to the joint submission would result in a sentence that is equivalent to a sentence of imprisonment for six years and eight months.
- [4] There was a co-accused involved in this offence, a Mr. Randhawa. He pleaded guilty in 2007 to kidnapping and robbery and was sentenced to imprisonment for 12 years and two months on the kidnapping and five years concurrent on the robbery. After taking his time in pre-sentence custody into account, that amounted to a sentence equivalent to 13 years for the kidnapping. He appealed that sentence to the British Columbia Court of Appeal, who reduced his sentence to ten years and two months on the kidnapping, which is equivalent to an 11-year sentence when the time in pre-sentence custody is factored in.
- [5] The issue before me is: what is the appropriate sentence for Mr. Hundal given the joint submissions of counsel and taking into account the sentence received by his co-accused, Mr. Randhawa?
- [6] The facts as outlined by learned Crown counsel are these: on January 19, 2007 at around 7:00 p.m., the Coquitlam police received a call from Rachna Jaswal's father. Mr. Jaswal informed them that he had received a call from an unknown male saying that he had kidnapped his 22-year-old daughter. He demanded \$500,000 ransom for her return. He warned Mr. Jaswal not to call the police or she would be killed.
- [7] Mr. Jaswal owns a number of furniture stores in Coquitlam, Surrey, and elsewhere. Rachna Jaswal had been working in the Surrey store on King George Highway at the time of her abduction. Because this kidnapping took place in Surrey, the Coquitlam police turned the investigation over to the Surrey police force.
- [8] The police in Delta and a Special Operations Unit set up surveillance on the homes of Mr. Randhawa and Mr. Hundal. These two men had been persons of interest in a similar investigation a year earlier, although I emphasize that no charges were ever laid in that case.
- [9] Surveillance was established on Mr. Randhawa's residence in a basement suite and also in a basement suite of Mr. Hundal which is about 600 feet away. Surveillance was also set up on the vehicles owned by those two men.

- [10] Over the course of the evening, Mr. Jaswal continued to receive telephone calls from Mr. Randhawa. Mr. Jaswal said that it was difficult for him to raise the \$500,000 ransom which had been demanded because it was a Friday night and the beginning of a weekend. Eventually, the ransom demand was lowered to \$70,000.
- [11] At 12:45 a.m., the police observed Rachna Jaswal running on 66th Avenue. Her hands were handcuffed behind her back. She was yelling. She had just gotten out of a car parked on the street about 150 to 200 feet from Mr. Randhawa's residence.
- [12] The police had checked the vehicle that she had been in a short while earlier and had noted that the hood of the car was warm, indicating that it had recently been operated, but the police had not at that time checked inside.
- [13] In the result, it is clear that Ms. Jaswal was under confinement for a period of almost seven hours, that is, from around six o'clock in the evening until 12:45 a.m. the next morning.
- [14] Before describing the circumstances of Rachna Jaswal's abduction, it is necessary to say something about events of the previous evening, that is, Thursday, January 18.
- [15] On that day, Rachna Jaswal and her older sister were both working in the family store in Coquitlam. At the end of the day, when they were ready to leave work, her sister noticed that her car had a flat tire. Someone from the business helped her to change it. They also observed a male walking away from the area. It has subsequently become clear that this was the co-accused, Mr. Randhawa. He admitted later that he had attempted to kidnap Rachna Jaswal's sister on that day. It appears that at least part of his motivation - that is, Mr. Randhawa's - was that he had worked for the family company previously and had been fired years earlier.
- [16] Returning to events of January 19, 2007. On that day, Rachna Jaswal was working at the Surrey store. At around 6:00 p.m. she left to go out to her car and started driving northward in the parking lot. Her attention was drawn by a male driver of another vehicle in a white van whom we now know was Mr. Randhawa. He alerted her that she had a flat tire and suggested that she pull over and park, which she did. Her left front passenger tire was indeed flat, and Mr. Randhawa purported to assist her in repairing it. He asked her to retrieve some tools from the white van. She became suspicious and made a point of memorizing the licence plate of the van, although it was partly obscured with mud. She also attempted to call BCAA, but before she could complete that call, Mr. Randhawa pushed her towards the van and a second male inside the van pulled her inside.
- [17] Although neither of the two men were masked, it was dark out and she could not see the other male well enough to make a positive identification of him at the preliminary hearing. However, as a result of Mr. Hundal's guilty plea, we now know that the man inside the van was Mr. Hundal.

- [18] Once inside the van, Rachna Jaswal was assaulted. She was punched in the head and face. She was choked. Her foot was bruised in the process of closing the van door. She had a cut lip, a sore neck and swollen face.
- [19] While inside the van she noticed that the man whom we now know as Mr. Hundal waved something that looked like a handgun, although there is no evidence as to whether it was an actual handgun or an imitation or a toy, but it was something that looked to Rachna Jaswal to be a handgun. Whatever the item was, it was never pointed directly at her. Later, in searching the van, the police found a toy package which would have contained a plastic toy gun and plastic handcuffs. No actual gun was ever found.
- [20] Inside the van, Rachna Jaswal was handcuffed with metal handcuffs behind her back. Those handcuffs were later recovered by the police and have been marked as an exhibit in these proceedings. It turns out that they are a "toy". I put the quotation marks around toy because one might well wonder why any parent would want their children playing with such an item as that. In any event, they are not plastic; they are metal. They are relatively heavy, and I have no doubt that anyone who is not a police officer or security guard would believe these to be genuine handcuffs if they were applied to them, particularly behind their back where they could not examine them closely. It should be noted, however, that because they are not "real" handcuffs, they have a lever which will release the cuffs without use of a key, but of course only if the person on whom the cuffs are placed is aware of that lever, and clearly Rachna Jaswal was not so aware.
- [21] In addition to being handcuffed, Rachna Jaswal was blindfolded. Mr. Randhawa took her cell phone as well as her wallet containing her identification. As they drove in the van, she believed that they were headed to a warehouse in Abbotsford. Along the way, she heard him call her father on the cell phone. She cried and said they were serious.
- [22] Eventually, she was taken not to a warehouse in Abbotsford, but rather to Mr. Randhawa's basement residence. She was carried inside by Mr. Hundal and was put on a low bed. She was offered water but refused to take it for fear that she might be drugged. The tape on her mouth was removed, but not the handcuffs or blindfold. Mr. Hundal washed the blood from her face while obtaining from her the PIN number for her bankcard. As a result, Mr. Randhawa used the card and the PIN to obtain \$160.00 from her bank account. He also took \$150.00 U.S. and some Canadian cash from her purse, which he apparently used to pay his rent to the landlady upstairs.
- [23] Ms. Jaswal was left alone with Mr. Hundal for several hours and was later taken, blindfolded, from the basement suite to a car. There, she was placed in the back seat and covered with a blanket. The two males drove with her in the back seat of the car and at one point stopped somewhere and bought pizza, which they consumed in the car. Eventually, the car stopped and they left her alone in the back seat. She eventually managed to get the blindfold off, saw that the car doors were unlocked, opened the car door, and ran into the street yelling, which resulted in the police who had set up surveillance noticing her and picking her up.

- [24] The fingerprints of both Mr. Randhawa and Mr. Hundal were found on the pizza box in the car. That car was owned by Mr. Randhawa.
- [25] The police observed another car owned by Mr. Hundal; this was a red Celica. They observed that car parked at Mr. Hundal's residence, and they saw a man leave the car and walk into the basement suite. The police then entered the basement suite and were confronted by Mr. Hundal's wife and children. They asked where Mr. Hundal was, and they found him in his underwear. He was placed under arrest.
- [26] The police found a pile of men's clothing in the kitchen and observed that they felt warm, suggesting that they had recently been worn and were very recently removed. There was blood on the sleeve of Mr. Hundal's jacket, and DNA from that blood was found to match that of the complainant. Her blood was also found inside the van. There was a small key in the jacket which fit the handcuffs that had been applied to Ms. Jaswal.
- [27] The Crown filed victim impact statements provided by Rachna Jaswal and also by her father. Those statements very poignantly describe the devastating effect that this crime has had on her and her family. In a crime like this, there are financial consequences from the loss of work, but as is typically the case, the far more serious consequences are the psychological consequences of fear, both at the time and fear which persists months and years after the event.
- [28] In his submissions, defence counsel noted that he is in agreement with the Crown's recitation of the facts, but he adds these submissions about Mr. Hundal's personal circumstances. He is 35 years old and a Canadian, having come to Canada about ten years ago. He has basically been employed ever since coming to Canada and runs his own maintenance business. He has a wife and a five- or six-year-old daughter. He has no criminal record, and he has the support of his extended family on both sides.
- [29] Today, through his counsel, he has expressed his remorse and offered his apology to the victim and her family. I accept that his expression of remorse is sincere and that his prospects of rehabilitation are good.
- [30] The difficult question confronting me is whether the discrepancy between the proposed sentence for Mr. Hundal and the higher sentence received by his co-accused, Mr. Randhawa, can be justified by the difference in their culpability and their personal circumstances.
- [31] I agree with counsel's submissions that Mr. Randhawa is more culpable than Mr. Hundal because he was the planner and instigator of this offence. He is the one who had a grudge against the victim's family as a result of a previous firing. It is he who tried to kidnap the victim's older sister on the previous evening, and there is no suggestion that Mr. Hundal had any involvement in that attempt. Mr. Randhawa does have not the good record of employment that Mr. Hundal has, nor does he have the strong family support enjoyed by Mr. Hundal.

- [32] Counsel have referred me to a number of sentencing authorities for kidnapping. These include: *R. v. Deo*, 2007 BCCA 626; *R. v. Hiltz* (1998), 115 B.C.A.C. 315; *R. v. Lowman*, 2006 BCSC 1565; *R. v. Nickerson*, 2006 BCSC 1390; *R. v. Poon*, 2006 BCSC 1824; *R. v. Wong*, 2008 BCCA 64 which is an appeal from the previously mentioned case of *R. v. Poon and Wong*.
- [33] Many of these cases were considered by the British Columbia Court of Appeal in Mr. Randhawa's appeal. There, the Court of Appeal noted that the circumstances of many of those cases were somewhat more serious than the case at bar. The Court of Appeal also noted that the usual range for the crime of kidnap for ransom starts at nine or ten years' imprisonment and goes up to life imprisonment.
- [34] Were it not for the joint submission of counsel, I would have imposed a higher sentence than the effective sentence of six years, eight months which has been proposed. However, I also agree that Mr. Randhawa is more culpable and should properly receive a higher sentence than Mr. Hundal. I am mindful that a court should be very careful before departing from a joint submission of counsel on sentence. While a sentencing court is not bound by such a joint submission, the reality is that counsel undoubtedly know their case well and often take factors into account that a court may not be fully aware of. In particular, the Crown must take into account any problems it may have in proving its case if it were to go to trial. Here, Crown counsel points out that the case against Mr. Hundal is purely circumstantial, there being no positive eyewitness identification.
- [35] In all the circumstances, I am going to impose the sentence jointly proposed by counsel.
- [36] Mr. Hundal, would you please stand. You have committed a most serious crime that will have lasting effects on your victim and her family. Were it not for your guilty plea and the joint submission of counsel, I would have imposed a higher sentence than you are about to receive. You are sentenced to an additional four years in prison over and above the time you have already spent in custody, for an effective sentence of six years and eight months' imprisonment. In addition, you will be subject to a firearms prohibition order under s. 109(2) of the Criminal Code for a period of 15 years. You will also be required to provide a DNA sample forthwith pursuant to s. 487.051 of the Criminal Code. As you have no current ability to pay a victim fine surcharge, that is waived.
- [37] Is there anything further?
- [38] MR. KINER: Yes, My Lord. Under 109 (2)(b), you are also I think required to -- it is mandatory that you prohibit him from any prohibited firearm, restricted weapon, prohibited weapon, prohibited device and prohibited ammunition for life. I take it that you are imposing that.
- [39] THE COURT: Yes, I am imposing that, Mr. Kiner.
- [40] MR. KINER: Thank you.
- [41] THE COURT: it is a mouthful to go through the whole wording of s. 109, but that was implicit, and I thank you for making that clear on the record.

[42] MR. KINER: I appreciate that.

[43] THE COURT: Is there anything further?

[44] MR. KINER: And I am directing stays of proceedings on the balance of the counts on the Indictment.

[45] THE COURT: Thank you, Mr. Kiner.

[46] MR. KINER: Thank you, My Lord.

[47] THE COURT: Thank you, Ms. Harrington and Mr. Geller.

[48] MS. HARRINGTON: Thank you, My Lord.

The Honourable Mr. Justice W. F. Ehrcke

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/Jdb-txt/SC/08/06/2008BCSC0689.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-hundal-2008>

Prepared on 28 October 2026 · Esheria