
CANADA / JUDGMENT

R. v. Jones

2012 BCSC 816

COURT

Supreme Court of British Columbia

DECIDED

9 May 2012

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2012 BCSC 816 R. v. Jones

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Jones,

2012 BCSC 816

Date: 20120509

Docket: X072982

Registry: New Westminster

Regina

v.

Francoise Yvonne Jones

Before: The Honourable Madam Justice Fitzpatrick

Oral Reasons for Sentence

Counsel for the Crown:

S.D. Gerrie

Counsel for the Accused:

H.G. Stevenson

Place and Date of Hearing:

Vancouver , B.C.

March 30, 2012

Place and Date of Judgment:

New Westminster, B.C.

May 9, 2012

THE COURT:

Overview

- [1] The accused, Francoise Yvonne Jones, was charged with unlawfully producing marihuana and unlawfully possessing marihuana for the purpose of trafficking contrary to ss. 7(1) and 5(2) of the Controlled Drugs and Substances Act, S.C. 1996, c. 19.
- [2] The controlling issue at the trial which began in November 2011 concerned the admissibility of evidence obtained by the police arising from a search of Ms. Jones' residence. I ruled in favour of admitting that evidence and the evidence given at the voir dire was deemed, by agreement, to have been given at the trial. Thereafter, Ms. Jones elected not to call any evidence. Accordingly, on the basis of the evidence, I found Ms. Jones guilty and she was convicted in respect of both counts on December 16, 2011.
- [3] The appropriate sentence arising from the convictions remains to be determined.

The Facts

(a) Circumstances of the Offences

- [4] Late in the evening of August 1, 2008, Ms. Jones called 911 from her residence in Surrey, British Columbia. Her intention was to obtain an ambulance to deal with an altercation that she was having with her daughter who was visiting at the time.
- [5] As a result of that call, a member of the Surrey RCMP attended at the scene. At that time, Ms. Jones gave limited authority to the police officer to search the residence for the purpose of locating her daughter who was said to be "freaking out". The police officer did encounter Ms. Jones' daughter upon entering the residence. Nevertheless, the police officer then proceeded to search the residence to investigate the matter fully and ensure that there were no other public safety concerns relating to Ms. Jones or her daughter or anyone else at the scene.
- [6] After a voir dire at the trial, I found that the police were entitled to search the residence on the basis of the principles set out in *R. v. Godoy*, [1999] 1 S.C.R. 311.
- [7] Upon entering and searching the residence, the police discovered a marihuana grow operation in a bedroom on the second floor and also in areas of the basement. The police left the residence but later returned with a search warrant. The police seized 413 marihuana plants in various stages of growth.

- [8] I am advised by the Crown that there were no photographs of the marihuana grow operation, although a detailed listing of the materials and equipment seized was prepared. Based on a review of this listing, the Crown indicates that the usual grow operation equipment was present, although it is not possible to say what level of sophistication was involved in this operation.
- [9] In addition, I am advised by the Crown that there would have been a minimum recovery of one ounce per plant and that 25 pounds of marihuana could have been harvested from the plants. The Crown estimates that the total value of the marihuana crop was between \$46,000 and \$72,000 if sold at market price by the pound.
- [10] Ms. Jones was not the owner of the residence, but was occupying it on some other basis. She was, however, the sole occupant of the residence, although her daughter visited from time to time.
- (b) Circumstances of the Offender
- [11] Ms. Jones is currently 61 years of age and therefore, would have been approximately 58 years old at the date of the offence. Ms. Jones is currently single after three failed marriages. She has one daughter from her second marriage who is 28 years of age. She currently has no contact with her daughter.
- [12] While Ms. Jones was living in Surrey, B.C. at the time of the offence, she has since relocated to a smaller community in British Columbia.
- [13] Ms. Jones has substantial health issues as outlined in the pre-sentence report dated March 12, 2012. In the 1990s, she suffered significant injuries arising from a motor vehicle accident. Since the date of the offence, she suffered a fall at her home in 2010 which resulted in surgery being performed. Both of these injuries continue to plague Ms. Jones. In addition, she has been diagnosed with high blood pressure, arthritis, and degenerative disc disease. The report outlines that she currently takes substantial amounts of medication to address her medical issues.
- [14] Ms. Jones' current financial position can only be described as modest at best. She currently has a disability income of \$1,071.42 per month. She is not employed and there is no indication that she has been gainfully employed for many years now.
- [15] Ms. Jones has no criminal record.
- (c) Impact on the Community
- [16] Marihuana grow operations pose serious risks for the community principally relating to the risk of fire and violence. As noted by Mr. Justice Pearlman in *R. v. Giang*, 2010 BCSC 1016:
- [19] The impact on the community of marihuana grow operations is well known. Marihuana grow operations involving the use of high intensity, heat-generating lighting and exposed electrical wiring carry with them the risk of fire, both for the occupants of the house where

the grow-op is conducted and for adjacent residential property owners. There is also the potential for violence where the grow-op's product becomes the target of theft. Substantial police resources, which could be otherwise deployed, are dedicated to the investigation of marihuana grow operations.

- [17] The Court of Appeal in *R. v. Koenders*, 2007 BCCA 378, noted that judges in other cases have identified these same risks in sentencing for the same offences: see paras. 26 and 31.

Legal Parameters

- [18] Pursuant to s. 7 of the Controlled Drugs and Substances Act, the maximum punishment for possession of marihuana is seven years. Pursuant to s. 5 of that Act, the maximum sentence for possession of marihuana for the purpose of trafficking is life imprisonment.
- [19] There are no minimum sentences applicable in respect of either of these offences.

Positions of the Crown and Defence

- [20] The Crown is not seeking a jail term. Rather, the Crown seeks a conditional sentence order for a period of 15 months. The proposed terms of the conditional sentence order beyond the compulsory conditions include:
- (a) that Ms. Jones attend for assessment and counselling directed by a conditional sentence order supervisor (the "CSO Supervisor");
 - (b) that a curfew be imposed for the first six months, subject to exceptions relating to receiving permissions from a CSO Supervisor or to obtain emergency medical or dental treatment; and
 - (c) that Ms. Jones be subject to certain inspection and searches by a CSO Supervisor or peace officers with respect to ensuring compliance with the curfew and ensuring that no re-offending has occurred or is occurring.
- [21] The Crown is also seeking an order that Ms. Jones provide a DNA sample. This is a secondary offence and as such, the Crown asks the court to exercise its discretion to order that a sample be taken in accordance with s. 487.051(3) of the Criminal Code, R.S.C. 1985, c. C-46.
- [22] The Crown seeks an order relating to a firearms restriction which in this situation is mandatory under s. 109(2)(a) of the Criminal Code. As such, no issue arises in that respect on this application.
- [23] Finally, the Crown sought a forfeiture order with respect to the materials and equipment seized from Ms. Jones' residence. The defence consented to that order which was granted on the hearing of this matter on March 30, 2012.

- [24] In light of Ms. Jones' limited financial resources, the Crown does not seek a fine. The defence also submits that the victim fine surcharge be waived and the Crown is agreeable to an order to that effect for the same reason.
- [25] Ms. Jones does not take issue with the proposition that a conditional sentence order can be granted in these circumstances. It is evident that the requirements of s. 742.1 of the Criminal Code are met in this case. There is no minimum sentence and the Crown is seeking a sentence of less than two years. It can readily be concluded that Ms. Jones serving a sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purposes and principles of sentencing.
- [26] The defence also concedes that a conditional sentence of 15 months is within the range of sentence that is appropriate in these circumstances. Nevertheless, the defence takes the position that the principles of sentencing can be adequately satisfied in this case by the imposition of a suspended sentence and probation. The defence submits that a probation order can be imposed that is substantially consistent with the mandatory and discretionary conditional sentence order conditions proposed by the Crown under s. 742.3 of the Criminal Code. Ms. Jones does, however, object to some of those proposed conditions, namely, the requirement to attend for assessment and counselling and also the inspection and search provisions.

Principles of Sentencing

- [27] Section 718 of the Criminal Code sets out the objectives that a sentencing judge is to consider in arriving at an appropriate sentence:
718. The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:
- (a) to denounce unlawful conduct;
 - (b) to deter the offender and other persons from committing offences;
 - (c) to separate offenders from society, where necessary;
 - (d) to assist in rehabilitating offenders;
 - (e) to provide reparations for harm done to victims or to the community; and
 - (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

- [28] Other sentencing principles applicable here are set out in s. 718.2:

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender ...
- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

Mitigating and Aggravating Factors

- [29] The age of Ms. Jones and her significant health issues clearly stand as mitigating factors in her favour.
- [30] In addition, she has no criminal record and, as emphasized by the defence, she has not re-offended since the date of the offence, some three-and-a-half years ago. There is no indication that she has engaged in any other criminal activity since that time. I consider that she poses a low risk to the community.
- [31] The pre-sentence report indicated that Ms. Jones could not be assessed on her attitude and understanding regarding the offence "due to her position on the outcome of the trial". While somewhat obscure, I took this to mean that she disagreed with my ruling on the voir dire and thought that she should have been acquitted. Nevertheless at this hearing and through her counsel, Ms. Jones expressed her remorse to the court indicating that she was sorry for her illegal activity and she would never allow herself to put herself in that same position again.
- [32] Some of the cases address an early guilty plea as a mitigating factor. Ms. Jones did not plead guilty at the commencement of the trial, but I accept the submissions of her counsel that there were significant issues concerning the admissibility of the results of the warrantless search. In those circumstances, it was reasonable for her to advance those arguments and I do not see that a lack of a guilty plea in that situation should stand as a mark against her. In fact, the Crown does not submit that that should be the case.
- [33] There are various aggravating factors. Ms. Jones was the principal operator in respect of this operation. Unlike other offenders who had a more limited role in the marihuana grow operation (see Giang at para. 51), she stands as the principal moving force behind this illegal operation.

- [34] The Crown submits and I agree that as she was not the owner of the property, she deliberately put the property of the owner of this house at risk in terms of potential consequences from the grow operation itself. In addition, as in *Giang*, this operation was conducted in a residential area and as such, exposed the entire neighbourhood to the above noted risks of fire and violence: see *Giang* at para. 50. Finally, other persons visiting the house including her daughter were similarly exposed to these hazards.
- [35] As conceded by Ms. Jones' counsel, this mid-sized commercial operation was motivated by profit. Financial need as opposed to greed may have been the motivating factor here. However, any need to supplement her modest income does not stand as any justification for the commission of this offence. This was a planned and deliberate crime and not one resulting from a lack of judgment or heightened emotions.

Case Law

- [36] Given the differing opinions between the Crown and the defence as to the appropriate sentence (conditional sentence versus suspended sentence/probation), the Crown relies in large part upon the comments of the Supreme Court of Canada in *R. v. Proulx*, [2000] 1 S.C.R. 61. In that case, the Court stated that a conditional sentence achieves the objectives of Parliament relating to rehabilitation, denunciation and deterrence and in particular, in respect of the later two objectives constitutes a punitive sanction:
- [22] The conditional sentence incorporates some elements of non-custodial measures and some others of incarceration. Because it is served in the community, it will generally be more effective than incarceration at achieving the restorative objectives of rehabilitation, reparations to the victim and community, and the promotion of a sense of responsibility in the offender. However, it is also a punitive sanction capable of achieving the objectives of denunciation and deterrence. It is this punitive aspect that distinguishes the conditional sentence from probation, and it is to this issue that I now turn.

[Emphasis in original]

...

- [99] The conditional sentence facilitates the achievement of both of Parliament's objectives. It affords the sentencing judge the opportunity to craft a sentence with appropriate conditions that can lead to the rehabilitation of the offender, reparations to the community, and the promotion of a sense of responsibility in ways that jail cannot. However, it is also a punitive sanction. Indeed, it is the punitive aspect of a conditional sentence that distinguishes it from probation. As discussed above, it was not Parliament's intention that offenders who would otherwise have gone to jail for up to two years less a day now be given probation or some equivalent thereof.

[100] Thus, a conditional sentence can achieve both punitive and restorative objectives. To the extent that both punitive and restorative objectives can be achieved in a given case, a conditional sentence is likely a better sanction than incarceration. Where the need for punishment is particularly pressing, and there is little opportunity to achieve any restorative objectives, incarceration will likely be the more attractive sanction. However, even where restorative objectives cannot be readily satisfied, a conditional sentence will be preferable to incarceration in cases where a conditional sentence can achieve the objectives of denunciation and deterrence as effectively as incarceration. This follows from the principle of restraint in s. 718.2(d) and (e), which militates in favour of alternatives to incarceration where appropriate in the circumstances.

[37] Accordingly, a conditional sentence order will generally include punitive conditions such as house arrest or a curfew to reflect these objections: see Proulx at para. 36. At para. 114, the Court also stated that:

a conditional sentence may provide sufficient denunciation and deterrence, even in cases in which restorative objectives are of diminished importance, depending on the nature of the conditions imposed, the duration of the conditional sentence, and the circumstances of the offender and the community in which the conditional sentence is to be served.

[38] It is this punitive aspect of a conditional sentence order that distinguishes such a sentence from a probation order, which is primarily a sentencing tool to address rehabilitation: see Proulx at paras. 23-39, 103 and 127, point 2.

[39] The Crown refers to a number of cases which involve similar offences and provide some guidance on the appropriate sentence in these circumstances.

[40] In Koenders, the Court of Appeal following Proulx, confirmed that there is no presumption in favour of or against a conditional sentence: para. 12. Sentencing is undeniably an individualized process given the particular facts and circumstances involved. Nevertheless, it must be kept in mind that sentences in similar circumstances and with similar objectives should be consistent in accordance with the policy objective outlined in s. 718.2(b) of the Criminal Code. The Court emphasized that important factors in the case will include whether the operation was a commercial one and also the circumstances of the offender.

[41] After reviewing a number of cases concerning these offences, the court in Koenders summarized what an appropriate range of sentence might be depending on the relevant circumstances:

[37] As these cases indicate, there are multiple factors that go into the determination of whether conventional incarceration or a conditional sentence is appropriate. However, I will not review all of the other cases that have made their way to this Court. Where conditional sentences or very short sentences of incarceration have been imposed for the commercial production of marihuana it is possible to find a collection of mitigating personal circumstances. In many cases, there has been a guilty plea coupled with a joint submission.

In other cases, there are health or age issues. Yet again in others the appellant has played a very minor role.

.....

- [42] In the end, the gravity of the offence must be examined along with the personal circumstances of the offender. The cases reveal, with some anomalies, that when dealing with the principal of a large scale, purely commercial operation, with few if any mitigating factors in the personal circumstances, this Court has imposed or sustained a period of at least one year of conventional incarceration. Where less serious offences are involved, and there are mitigating circumstances, this Court has determined that a strict conditional sentence can properly address the goals of denunciation and deterrence.
- [42] In the present case, there are various mitigating factors as above and Ms. Jones' operation can be classified as "mid-level": see Koenders at para. 18.
- [43] The facts in *R. v. Gan*, 2007 BCCA 59, are similar to the facts here. Mr. Gan was an older person with no criminal record. He had health issues. He also pled guilty and had expressed remorse. His was a larger operation than the one here and he had also caused a fire by reason of an electrical bypass. The Court of Appeal overturned the sentencing judge and imposed a conditional sentence of 12 months in place of the jail sentence.
- [44] In *Giang*, Mr. Giang was an older person and the operator of a mid-sized grow operation in a residential area with an electrical bypass. Pearlman J. concluded an extensive review of the case law and found that a range of between 10 to 15 months of imprisonment will generally apply to an offender with a commercial grow operation with no prior criminal record: see para. 59. In the circumstances of that case, the Court rejected the Crown's submission that a term of imprisonment was warranted and sentenced Mr. Giang to a conditional sentence of 15 months with house arrest for the first 12 months. Mr. Giang's ex-wife, Ms. Le, who was in ill health and who did not exercise the same degree of control in relation to the grow operation, received a conditional sentence of ten months with eight months of house arrest.
- [45] Finally, the Crown refers to the decision in *R. v. Nguyen*, 2011 BCSC 1596. Mr. Nguyen was a younger man with a family. He was not involved in the setting up of the mid-level grow operation, but he benefited financially from it. Other mitigating factors included that he had no criminal record and that he had pled guilty and expressed remorse. There were also aggravating factors such as an electrical bypass, although that was not known to Mr. Nguyen. Mr. Justice Joyce sentenced Mr. Nguyen to a 15-month conditional sentence with a curfew for the first 12 months.

Reasons

- [46] The defence submits that a probation order is appropriate in these circumstances and focuses on the provisions of s. 718.2(d) and (e) of the Criminal Code:

- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
 - (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.
- [47] While such a result may properly address the sentencing objective of rehabilitation, I am not satisfied that it properly addresses the equally important objectives of denunciation and deterrence. The Supreme Court of Canada in Proulx has clearly stated that there is a difference between a probation order and a conditional sentence order in that respect. The appropriate range of sentence is, as noted in Giang, between 10 to 15 months and the only consideration at that time is whether that is to be served in jail or in the community under a conditional sentence order.
- [48] I was not referred to any authority by the defence where a suspended sentence/probation order was granted in similar circumstances to this case.
- [49] Accordingly, I am satisfied that a conditional sentence order is appropriate in this case. As mentioned above, Ms. Jones' present circumstances including her age, health and lack of criminal record, weigh heavily in her favour in that regard. The objective of rehabilitation can be achieved by serving that sentence in the community. Again, I consider that there is a low risk of her re-offending.
- [50] A conditional sentence order which includes a restriction or curfew on Ms. Jones for the first six months also addresses the objectives of denunciation and deterrence in respect of these offences. The aggravating factors referred to above support that these punitive measures should be included.
- [51] It cannot be ignored that there is some risk, albeit low, that she may re-offend, particularly given her continuing financial circumstances which presumably drove her to this path in the first place. This risk also supports the restrictive measures in the conditional sentence order. In that respect, I would also accede to the submissions of the Crown that the proposed search and inspection provisions in the conditional sentence order are appropriate. I note that various authorities provided to me by the Crown included restrictions in conditional sentence orders similar to what is proposed here: *R. v. Bui*, 2001 BCCA 471 at para. 13; and *R. v. Nguyen*, 2001 BCCA 461 at para. 8. Both offenders sentenced in *Giang and Nguyen*, 2011 BCSC 1596, were also ordered to present themselves at the door to ensure compliance with the house arrest or curfew.
- [52] While these searches and inspections are an imposition on Ms. Jones' privacy, they are reasonable measures to ensure that she is complying with the curfew and that she is not re-offending. Her conviction lessens any expectation of privacy that she may previously have held. Again, although I agree that the risk of Ms. Jones re-offending is low, the imposition of these conditions is appropriate to protect the community: see *Proulx* at paras. 70-72.

- [53] The Crown also sought a condition that would require Ms. Jones to attend for assessment and counselling as directed by a probation officer. This was recommended in the pre-sentence report, but there was no rationale presented and, in particular, it was not clear what the counselling would entail. To the extent that Ms. Jones' financial circumstances caused her to seek other forms of income, although illegal, I have doubts that counselling will solve that dilemma. I agree with the defence that the condition concerning assessment and counselling by a CSO Supervisor is not necessary or reasonable in the circumstances.
- [54] The final matter concerns the submissions of the Crown that I should order Ms. Jones to provide a DNA sample pursuant to s. 487.051(3) of the Criminal Code. As the trafficking offence is a secondary offence, it falls within my discretion to consider whether that is appropriate in this case and to make such an order if I am satisfied that "it is in the best interests of the administration of justice to do so". The section requires me to consider the person's criminal record, whether they were previously found not criminally responsible on account of mental disorder for a designated offence, the nature of the offence, the circumstances surrounding its commission, and the impact such an order would have on the person's privacy and security of the person. The section also requires that reasons for its decision be provided.
- [55] The Crown relies on *R. v. Awasis*, 2009 BCCA 134. In that case, the sentencing judge had rejected a request that a convicted cocaine dealer provide a DNA sample. The Court of Appeal extensively analyzed factors to be considered on the issue, even where the nature of the offence (i.e., trafficking) was not one where DNA evidence would likely be relevant. The Court concluded that there were other broader societal interests and objectives at play - notably deterrence, the ability to exonerate innocent persons, and the integrity of the DNA databank - that dictated a more expansive view of the utility of such an order.
- [56] The Court concluded that accepting that there was a reduced expectation of privacy, there were legitimate reasons to make the order that DNA be provided by the offender:
- [58] The judge accepted that a convicted offender had a reduced expectation of privacy with respect to her identity and that the sampling process is minimally invasive. The privacy interests of the accused were "not a major consideration here" (para. 29).
- [59] There is now a series of cases where DNA orders have been made for secondary offences, including the trafficking of controlled substances: see *R. v. Boskoyous*, 2008 ABCA 359; *R. v. Dew*, 2008 MBQB 159; *R. v. Fryer*, 2008 BCCA 378; and *R. v. Harrison* (11 June 2008), Vancouver Registry No. 24436 (S.C.). These cases have uniformly rejected the argument that the subject crime would not be amenable to investigation using DNA evidence, and have placed a high importance on the utility, in a broad sense, of maintaining the DNA data bank.

- [57] The defence contends that there were extreme circumstances in Awasis that justified the order in that the offender had serious addiction problems and was continuing to re-offend. This is in contrast to the personal circumstances of Ms. Jones in this case. However, the Court did not consider that a controlling factor in its analysis of what was in the "best interests of the administration of justice" which encompassed broader concerns, as noted above.
- [58] In similar circumstances, a request for DNA samples was made by the Crown and ordered by the court in Giang at para. 86. I note that the same request was rejected by the court in R. v. Nguyen, 2011 BCSC 1596, based on the court's view that it was unlikely that Mr. Nguyen's DNA sample would assist in implicating or exonerating him in the future. However, there was no mention in the latter case that Awasis was referred to the court for consideration.
- [59] Having considered the matter, I am satisfied that the order for Ms. Jones' DNA sample is appropriate. Her expectation of privacy has been reduced due to her conviction. In addition, the procedure is, I am told, minimally invasive in requiring a swab of a Q-Tip from inside the cheek. Such a sample also serves the broader purposes identified in Awasis, although I acknowledge that the likelihood of Ms. Jones re-offending is not high.

Final Decision

- [60] For the foregoing reasons, I accept the submissions of the Crown that a conditional sentence order is appropriate in these circumstances. However, I have decided that a 13-month term for that order is also appropriate here. Accordingly, a conditional sentence order is granted with the usual mandatory conditions for a 13-month term.
- [61] The substance of the discretionary conditions sought related to the curfew and I have found that the provisions sought by the Crown are sufficiently punitive in these circumstances. I have already addressed and accept as appropriate the other conditions sought relating to inspections and searches. I have rejected the proposed condition relating to counselling.
- [62] Ms. Jones, would you please stand.
- [63] I sentence you to a conditional sentence of 13 months to be served concurrently with respect to both counts. The conditions of that sentence are as follows:
1. You will keep the peace and be of good behaviour.
 2. You will appear before the court when required to do so by the court.
 3. You will report to a conditional sentence order supervisor, who I will call a CSO Supervisor, at Castlegar Community Corrections at 440 Columbia Avenue, Castlegar, British Columbia:
 - (a) by telephone at 1-877-365-8518 within two working days or such longer period as the court may direct; and

- (b) thereafter when required by the CSO Supervisor and in the manner directed by the CSO Supervisor.
- 4. You will remain within the jurisdiction of the court unless written permission to go outside that jurisdiction is obtained from the court or the CSO Supervisor.
- 5. You will notify the court or the CSO Supervisor in advance of any change of name or address and promptly notify the court or the CSO Supervisor of any change of employment or occupation.
- 6. You will notify your CSO Supervisor of your address and telephone number and not change that address or telephone number without prior notice to the CSO Supervisor.
- 7. For the first six months of the order, you are not to be outside of your residence from 9:00 p.m. to 6:00 a.m. each day, except as set out below (the "Curfew").
- 8. When required to be inside your residence in compliance with the Curfew, you may only be outside your residence as follows:
 - (a) where written permission has been given by your CSO Supervisor (the "Permitted Exception to Curfew");
 - (b) for the purpose of receiving emergency medical or dental treatment, in which case you must go directly to the nearest hospital or dental clinic ("Emergency Treatment");
 - (c) when outside of your residence pursuant to the Permitted Exception to Curfew, you must carry a copy of the written permission from your CSO Supervisor with you at all times and present it to a peace officer upon request; and
 - (d) if you leave your residence during the Curfew for Emergency Treatment, you must provide your CSO Supervisor with written confirmation from medical or dental personnel of the reason for the absence from your residence. This must be provided within 24 hours or on the next business day, whichever is later.
- 9. You will present yourself at the door of your residence for any CSO Supervisor or peace officer who attends for the purposes of confirming your curfew compliance or for the purpose of entering your home to determine if other conditions of the conditional sentence order are being complied with.
- 10. You will permit one or more peace officers to enter upon and/or search without reasonable grounds or warrant and without your consent, your person, your residence, vehicle, or other property you own or possess to search for controlled drugs or drug-related equipment, but not more frequently than once per calendar month.
- 11. You will abstain from possessing any fertilizer, hydroponic equipment, or other equipment particularly suited for use in growing marihuana.

- [64] There will be an order pursuant to s. 109(1)(c) and s. 109(2)(a) of the Criminal Code prohibiting Ms. Jones from possessing any firearm, crossbow, restricted weapon, ammunition and explosive substance for a period of ten years from today's date in respect of both counts.
- [65] There will be an order pursuant to s. 487.051(3) of the Criminal Code that Ms. Jones attend within five business days at the nearest RCMP detachment and present herself to a peace officer for the purpose of providing that peace officer with a DNA sample.
- [66] Finally, there will be an order that the victim fine surcharge is waived with respect to both counts.

"The Honourable Madam Justice S.C. Fitzpatrick"

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