

CANADA / JUDGMENT

R. v. Karaim

2023 BCSC 2117

COURT

Supreme Court of British Columbia

DECIDED

23 October 2023

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2023 BCSC 2117 R. v. Karaim IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Karaim, 2023 BCSC 2117 Date: 20231023 Docket: 42045-2 Registry: Courtenay Rex v. Alina Marie Karaim Before: The Honourable Mr. Justice Verhoeven Oral Reasons for Sentence Counsel for the Crown: T.I. McFadgen Counsel for the Defence: B. Movassaghi Place and Date of Trial/Hearing: Nanaimo, B.C. October 23, 2023 Place and Date of Judgment: Nanaimo, B.C. October 23, 2023

- [1] THE COURT: This is a sentencing decision. The Circumstances of the Offences
- [2] The circumstances of the offences are set out fully in the published oral reasons for conviction that I made earlier this year, indexed as 2023 BCSC 502.
- [3] The offences are those set out in the indictment, four counts of possession of controlled substances for purposes of trafficking, including methamphetamine, cocaine, heroin/fentanyl, and GHB. The Crown submissions make reference to those offences and Ms. Karaim's criminal record and the relevant sentencing principles. In the interest of saving time, I am not going to review the Crown submissions in full. I had them marked as Exhibit 2 on this sentencing. The Circumstances of the Offender
- [4] There is no pre-sentence report. Upon Ms. Karaim's conviction, I ordered a presentence report. Ms. Karaim did not cooperate with the presentence report writer. She failed to attend the interviews. But after a couple of failures in that respect, I decided that it was appropriate to proceed with sentencing, in any event.
- [5] The sentencing was delayed because Ms. Karaim did not attend the hearing. The sentencing hearing was adjourned to another date, which is today's date.
- [6] It is apparent that Ms. Karaim's problems recently stem from drug addiction.
- [7] In terms of personal circumstances of the offender, defence counsel advises that Ms. Karaim is 42 years of age as of next month. She is local to Vancouver Island, achieved grade 11, began a nursing program but did not complete it, has largely been living on disability payments and unemployment in recent years. She has two children, aged 15 and 19, who are residing with her ex-husband. The overwhelming personal circumstance that is relevant is her drug addiction. I can easily infer that her drug addiction played a substantial role in the

trafficking offences of which she was convicted. There were obvious signs of drug addiction displayed during the trial which was delayed and adjourned on a number of occasions for reasons associated with Ms. Karaim being affected by drugs. Discussion

- [8] The Crown's position is that a sentence of two years plus one day is the appropriate disposition, and that it should be noted that the sentence is consecutive to any other sentence she is serving. The Crown asks for some ancillary orders, as well.
- [9] Currently Ms. Karaim is in custody in a provincial institution. The advantage of a federal sentence would be that there are probably better programs available in a federal institution. Ms. Karaim has indicated in her comments to the court that she intends to take full advantage of those programs and hopes to make positive changes to her life. Rehabilitation remains a factor in sentencing in this case. She takes full responsibility for the offences of which she has been convicted.
- [10] Her criminal record is not substantial for cases of this nature. There are a number of offences, mostly failure to comply type offences, though there are other offences, as well, including a break and enter, a mischief offence, an impaired driving offence, a possession of controlled substance offence, another break and enter, another possession. There are no prior trafficking offences on the record.
- [11] As the Crown notes, the primary sentencing objectives are denunciation and deterrence. The Crown also notes that rehabilitation remains a factor, and as I have indicated, I agree with that.
- [12] The defence position is that the proposed sentence of two years plus one day is appropriate. Ms. Karaim has indicated she personally agrees with that, as well. The authorities show that the range for offences of this kind involving fentanyl is 18 to 36 months, always to be considered in the context of the particular circumstances of the case, however.
- [13] I am satisfied that the sentence that is proposed is appropriate. As noted during the course of the submissions, *R. v. Anthony-Cook*, 2016 SCC 43 may not exactly relate because this is not a joint submission relating to a guilty plea or resolution, but nonetheless I give considerable weight to the fact that the Crown and defence agree on the appropriate sentence.
- [14] So taking into account all the relevant factors and principles and purposes of sentencing, I agree with the sentence.
- [15] So the sentence to be imposed -- Ms. Karaim, you are on video but nevertheless would you mind standing up.
- [16] All right. So, Ms. Karaim, the sentence I impose is two years -- two years plus one day, and that starts from today. As you heard, there is no credit for time served that is relevant here.

- [17] I am also imposing the ancillary orders that the Crown has asked for. So those are a lifetime prohibition against possession of firearms under s. 109 of the Criminal Code; secondly, an order for provision of DNA; and thirdly, forfeiture of some of the items that were referred to at the trial. That would be the items seized by the police on the occasion in question.
- [18] Okay? You understand all that?
- [19] THE ACCUSED: Yes, I do.
- [20] THE COURT: All right. You may be seated.
- [21] CNSL B. MOVASSAGHI: Sorry, My Lord, I failed to mention one factor. Given the amount of jail time Ms. Karaim will be doing, and she has been in custody for a little while, and prior to that not having any stable employment, if the court would consider waiving the victim fine surcharges -- or surcharge.
- [22] THE COURT: Right. Any submission on that, Mr. McFadgen?
- [23] CNSL T. MCFADGEN: No, Mr. Justice.
- [24] THE COURT: Right. Yes, in the circumstances I will waive the victim fine surcharge. I am satisfied that it would work an undue hardship and be contrary to the principles of rehabilitation or the pursuit of that objective in this case, and Ms. Karaim has no ability to pay it.
- [25] Anything further?
- [26] CNSL B. MOVASSAGHI: No.
- [27] THE COURT: Well, thank you both for your submissions. Thank you, Ms. Karaim. We are concluded today.
- [28] THE ACCUSED: Thank you. Thank you very much.
- [29] THE CLERK: Justice, I may have missed it but the jail that is consecutive to the sentence she is currently serving?
- [30] CNSL B. MOVASSAGHI: She is not actually serving a sentence right now.
- [31] THE COURT: Yes. So the word consecutive probably is not necessary. There is no deduction. It is a sentence of two years plus one day without -- without any credit of any kind.
- [32] CNSL B. MOVASSAGHI: And I take it it goes without saying, concurrent on each count?
- [33] THE COURT: Oh, pardon me.
- [34] CNSL T. MCFADGEN: Yes, that is what it --
- [35] THE COURT: I should have said that.
- [36] CNSL T. MCFADGEN: That is what it should be.

[37] THE COURT: The sentence is concurrent on all four counts. "Verhoeven J."

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