
CANADA / JUDGMENT

R. v. Landrick

2020 BCSC 1888

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Supreme Court of British Columbia

DECIDED

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2020 BCSC 1888 R. v. Landrick

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Landrick,

2020 BCSC 1888

Date: 20201105

Docket: 27361

Registry: Vancouver

Regina

v.

Leonard James Landrick

Before: The Honourable Mr. Justice Skolrood

Oral Reasons for Sentencing

Counsel for the Crown:

J.B. MacFarlane

C. Risley

Counsel for the Accused:

J.S. Stowe

V.L. de Jong

Place and Date of Trial/Hearing:

Vancouver, B.C.

October 9, 2020

Place and Date of Judgment:

Vancouver, B.C.

November 5, 2020

Introduction

- [1] THE COURT: On November 20, 2019, a jury found Leonard Landrick guilty of two counts of second degree murder in connection with the deaths of Sandra McInnes and Neil Croker on or about July 9, 2017.
- [2] After the verdict was announced but before it was formally entered, counsel for Mr. Landrick advised that he wished to raise the defence of not criminally responsible on account of mental disorder ("NCRMD"). On November 22, 2019, following submissions from the parties, I made an order pursuant to s. 672.11 of the Criminal Code, R.S.C. 1985, c. C-46, that Mr. Landrick be assessed by the Forensic Psychiatric Services Commission at the Forensic Psychiatric Hospital in Coquitlam ("FPSC").
- [3] On January 27, 2020, the court and the parties received a psychiatric report authored by Dr. Kolchak of the FPSC in response to my order. On January 28, 2020, in light of the contents of Dr. Kolchak's report, counsel for Mr. Landrick advised that Mr. Landrick was no longer pursuing the NCRMD defence. The guilty verdicts were therefore formally entered. Mr. Landrick was back before the court on October 9, 2020, for sentencing.

Circumstances of the Offences

- [4] As the trial of this matter took place before a jury, it is my responsibility as the trial judge to find the necessary facts for the purposes of sentencing. As stated by Madam Justice Bennett in *R. v. Daigle*, 2017 BCCA 86 at paras. 18 and 19:
- [18] It is the task of a trial judge sitting with a jury to find the facts on which to base the sentence: *R. v. Ferguson*, [2008] 1 S.C.R. 96 at para. 18. The facts must be consistent with the jury's verdict (See *Ferguson* at para. 17; *R. v. Brown*, [1991] 2 S.C.R. 518 at 523).
- [19] In finding those facts, the judge may find any fact that was disclosed by the evidence, with the limitation that any disputed aggravating fact must be proved beyond a reasonable doubt. See *Ferguson* at para. 18, *R. v. Gardiner*, [1982] 2 S.C.R. 368 at 415-16.
- [5] Mr. Landrick, Ms. McInnes, and Mr. Croker all resided at 1835 Morton Avenue in the West End of Vancouver, which is also known as Ocean Towers. Mr. Landrick and Ms. McInnes were both very involved in the building, having served together on the co-op board at various times. Mr. Croker was the resident caretaker of the building.

- [6] In May of 2017, Mr. Landrick came to believe that he had been drugged by Ms. McInnes when he visited her suite to have a drink together. He also came to believe that while he was unconscious due to the drugs, he was sexually assaulted by Mr. Croker. In the weeks that followed the alleged assault, he made his allegations known to various people in the building, to the point where Ms. McInnes was concerned about his behaviour and about her safety.
- [7] I note that in fact the evidence did not establish that Mr. Landrick was drugged and sexually assaulted. Rather, his belief that these events occurred was the product of delusions.
- [8] Ms. McInnes and Mr. Croker were both killed in their respective apartments late in the night of July 8, 2017, or early in the morning of July 9. Both were stabbed multiple times and both were apparently in their respective beds when attacked.
- [9] Mr. Landrick testified at trial and denied committing the murders. He gave evidence about his actions on the night of July 8 and the morning of July 9. The jury did not believe his evidence. Rather, it is apparent that the jury found that Mr. Landrick gained entry to the suites of Ms. McInnes and Mr. Croker using spare keys that he had access to as a result of his volunteer position with the building. While the evidence did not establish who was killed first, it is clear that after killing the first victim, Mr. Landrick had to travel over at least 10 flights of stairs to reach the suite of the second victim, given that Mr. Croker's suite was located on the second floor and Ms. McInnes' on the 12th floor.

Circumstances of the Offender

- [10] Mr. Landrick is currently 76 years old. He was born and raised in Saskatchewan and then moved to British Columbia in 1963. He found work in a sawmill on Vancouver Island, which turned out to be the first stop in a lengthy career in the forest industry. With little in the way of formal training, Mr. Landrick worked his way up in the industry through a variety of positions, ultimately becoming a senior forest planner for Western Forest Products.
- [11] In the early 1970s, Mr. Landrick met his wife and they were together until her death in 2007.
- [12] In 1997, they purchased their unit at 1835 Morton Avenue in Vancouver. Given his employment history in the forest industry, particularly in the area of engineering, Mr. Landrick developed an interest in the maintenance of the building, particularly the boiler system. At the time of the offences, he was a long-time volunteer with the building, both as a board member and in connection with the boiler system.
- [13] Prior to these offences, Mr. Landrick had never been charged with a criminal offence.
- [14] Mr. Landrick has a number of health issues. Shortly after the offences were committed, on July 11, 2017, he was admitted to St. Paul's Hospital with congestive heart failure and he continues to be on medication for his condition. He also suffers from Type 2 diabetes.

- [15] In the period leading up to the offences, Mr. Landrick reported drinking relatively frequently, as well as occasional use of crack cocaine, something he had been introduced to by a friend.
- [16] As noted, Mr. Landrick experienced delusions in or about May 2017 that led him to believe that he had been drugged and sexually assaulted. Dr. Kolchak addressed Mr. Landrick's psychological condition in his report. He said:

Mr. Landrick was labouring under psychotic symptoms, specifically paranoid delusions and occasional hallucinations which led him to believe that he was a victim of a sexual assault perpetrated by the victims. He developed these symptoms approximately 5 weeks prior to the material time. These symptoms were induced and perpetuated by continuous use of crack cocaine and alcohol use. Although he reports he does not remember the events of the offense[s] I would suggest that it is not uncommon for people to experience amnesia for violent offenses in the context of both alcohol and other substances intoxication.

Impact on the Victims' Families and the Community

- [17] Impact statements were prepared by Ms. McInnes's sister, Cathy Miller, her nephew Cameron Miller, a cousin Nancy Friebe, and a close friend, Anita Spencer. There was also a community impact statement prepared by Donald Ogilvy on behalf of the Ocean Towers community where again Mr. Landrick, Ms. McInnes, and Mr. Croker all lived and where the murders took place.
- [18] Ms. McInnes was very close to her sister. Ms. Miller is five years older and helped care for Ms. McInnes when their father died at a young age. She and Ms. McInnes were planning to travel to England together very shortly after the date on which Ms. McInnes was killed. Ms. McInnes was also close to her nephew and supported him through various challenges. Both are understandably devastated, both by the fact of Ms. McInnes's death and the violent manner that it occurred. It is not something that they are likely to ever recover from.
- [19] Ms. McInnes's death has also been devastating to her extended family. Her cousin Ms. Friebe spoke about how close they were growing up and how she and Ms. McInnes remained close, even after Ms. Friebe moved to Alberta.
- [20] Ms. McInnes was an important part of the Ocean Towers community. Her friend, Anita Spencer, spoke about how much Ms. McInnes contributed to that community. Mr. Ogilvy also spoke about the significant impact the deaths of both Ms. McInnes and Mr. Croker had on the community.
- [21] Mr. Croker's family did not provide impact statements, but Crown counsel has been in contact with them and they advise that they, too, are devastated by the death of Mr. Croker.

[22] It goes without saying that any sentence imposed by the court on Mr. Landrick is unlikely to ease the pain experienced by the loved ones of Ms. McInnes and Mr. Croker as a result of their untimely deaths.

Principles of Sentencing

[23] The principles governing sentencing are well-established. Section 718 of the Criminal Code provides that the fundamental purpose of sentencing is to contribute to respect for the law and the maintenance of a just, peaceful, and safe society. It also lists a number of specific objectives that a sentencing judge must consider, which are:

- (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 or to the community.

[24] Section 718.1 states the most basic principle of sentencing, namely that the sentence imposed should be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[25] Section 718.2 sets out a number of additional principles, including that:

- (a) a sentence should be increased or reduced to [take] account [of] any relevant aggravating or mitigating circumstances
- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences 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 [a] less restrictive [sanction is] appropriate and
- (e) all [reasonable] sanctions, other than imprisonment should be considered with particular attention to the circumstances of Aboriginal offenders.

[26] No single sentencing objective takes precedence and it falls to the sentencing judge to determine which objective or objectives merit the greatest weight given the particulars of case, citing *R. v. Nasogaluak*, 2010 SCC 6.

- [27] Section 745 of the Criminal Code mandates that a person convicted of second degree murder shall be sentenced to life imprisonment without eligibility for parole for at least 10 years. Pursuant to s. 745.4, the court may substitute a number of years of parole ineligibility greater than 10 years, but not exceeding 25 years, having regard to the character of the offender, the nature of the offence, and the circumstances surrounding its commission, and to the recommendation, if any, of the jury.
- [28] Here the jury was asked, pursuant to s. 745.2 of the Criminal Code, whether it had any recommendation about the period of parole ineligibility for Mr. Landrick, but the jury declined to make a recommendation. The jury was not asked if it had a recommendation pursuant to s. 745.21(1), if it had a recommendation as to whether the period of parole ineligibility for the murder of Ms. McInnes should be concurrent with or consecutive to the period of parole ineligibility for the murder of Mr. Croker.

Positions of the Crown and the Offender

- [29] The Crown submits that a period of parole ineligibility of 15 years is warranted in the circumstances of this case. The Crown submits that while individual deterrence is not a significant factor here, given Mr. Landrick's age and circumstances, the principle of denunciation must take precedence, given the horrific nature of the crime.
- [30] The Crown cites a number of cases in support of its position:
- a) R. v. Koopmans, 2015 BCSC 2120: The offender was convicted of two counts of second degree murder, as well as one count of attempted murder. The murders occurred within a home and one of the victims was in bed when shot. The court imposed a 22-year period of parole ineligibility running concurrently on the two counts of second degree murder.
 - b) R. v. McCotter, 2014 BCCA 27: The Court of Appeal dismissed an appeal from a decision of the trial judge who set parole ineligibility at 20 years for two counts of second degree murder. The offender killed his former girlfriend and her partner. The court noted at para. 7 that it was common ground that in this class of case the period of parole ineligibility would be, at a minimum, 15 years.
 - c) R. v. Salehi, 2019 BCSC 698: The offender pled guilty to two counts of second degree murder of his former partner and her new partner. The murders took place in the former partner's home and involved a frenzied attack. The court imposed a 20-year period of parole ineligibility.
 - d) R. v. G.C.Z., 2015 BCSC 2518: The offender was convicted of one count of second degree murder for killing her mother. The evidence established that she suffered a psychotic disorder at the time of the killing, but it did not render her incapable of appreciating the nature and quality of her acts or of knowing they were wrong. The court imposed a period of parole ineligibility of 12 years.

- e) *R. v. Daigle*: The Court of Appeal upheld a period of parole ineligibility of 15 years for the offender who was convicted of killing her former partner. The court noted that in cases that may be closer to first degree murder, that if there are elements of planning and deliberation, the higher the period of parole ineligibility that is likely to be imposed.
- [31] The Crown submits that the case law supports a period of parole ineligibility of closer to 20 years, but that Mr. Landrick's age, health, and psychological issues warrant reducing the period to 15 years.
- [32] Mr. Landrick submits that a period of parole ineligibility of 10 years is more appropriate. He cites the following cases:
- a) *R. v. Brooks*, 2017 ONSC 439: The offender was convicted of second degree murder and the court imposed a period of parole ineligibility of 10 years. The offender was a resident of a long-term care facility where he beat another resident to death. He also attacked another resident, causing her serious injuries. The offender was 72 years old at the time of the offence and 76 at the time of trial. He suffered from dementia, as well as other illnesses. The court noted that even imposing the minimum 10-year parole ineligibility meant that it was unlikely he would ever be released from prison. I note that there was a joint submission of counsel in this case.
- b) *R. v. Hunter*, 2016 BCSC 796: The offender was convicted of one count of second degree murder. The victim, who was a friend and the drug dealer to the offender, was stabbed multiple times. The court imposed a period of parole ineligibility of 11 years. In doing so, the court gave relatively little weight to the fact that the killing took place in the victim's home.
- [33] Mr. Landrick submits that his mental health, age, and poor health all are factors that must be considered. With respect to mental health, Mr. Landrick cites *R. v. Badhesa*, 2019 BCCA 70, where the court noted at paragraphs 42 and 44:
- [42] When mental illness causes or contributes to the commission of an offence, it is a mitigating factor and a sentence may be reduced because the offender's moral culpability is attenuated. In these circumstances, general deterrence is a less weighty consideration because a mentally ill offender is not an appropriate medium for making an example to others: *R. v. Belcourt*, 2010 ABCA 319 at para. 8. Nor does specific deterrence or severe punishment play a significant role in the determination of a fit sentence. The former is meaningless when an offender is out of touch with reality and the latter may be disproportionate to the offender's degree of responsibility: *R. v. Batisse*, 2009 ONCA 114 at para. 38.
- [44] When assessing a fit sentence, the judge should attribute a degree of moral culpability to the offender commensurate with the magnitude of the mental illness and its overall role in the commission of the offence: *Ramsay* at para. 25. Where mental illness played a central role, the importance of deterrence and punishment should be given less weight and treatment and public protection concerns should be increased: *Batisse* at para. 38. This decreased

emphasis on deterrence and punishment is consistent with the proportionality principle, which is the sine qua non of a just sanction: *R. v. Safarzadeh-Markhali*, 2016 SCC 14 at para. 70; *Ellis* at para. 183.

[Emphasis in original.]

See also *R. v. Forner*, 2020 BCCA 103 at para. 43.

- [34] With respect to age, Mr. Landrick cites *R. v. M.(C.A.)*, [1996] 1 S.C.R. 500, where the court directed that the sentencing judge must be mindful of the age of the offender when applying the relevant principles of sentencing, and further that the "sentencing judge should generally refrain from imposing a fixed-term sentence which so greatly exceeds an offender's expected remaining lifespan, that the traditional goals of sentencing, even general deterrence and denunciation, have all but depleted their functional value" (at para. 74).
- [35] Mr. Landrick also refers to a 2019 report authored by the Office of the Correctional Investigator entitled "Aging and dying in prison: an investigation into the experiences of older individuals in federal custody", that found that the needs and rights of older individuals are often not well-respected within prison settings.

Discussion

- [36] In considering the appropriate period of parole ineligibility, as I noted earlier, s. 745.4 of the Criminal Code requires me to consider the character of the offender, the nature of the offence, and the circumstances surrounding its commission. I would add that it is important to remember that a period of parole ineligibility only determines when Mr. Landrick will be eligible for parole, not that he will, in fact, be granted parole.
- [37] Again, Mr. Landrick is currently 76 years old and in generally poor health. Prior to these offences, he had led a productive life and had never been charged with a criminal offence. He was an active volunteer in the Ocean Towers community. He has a relatively recent history of substance abuse and has been diagnosed with mental health issues which played a significant role in the commission of the offences.
- [38] In terms of the nature of the offences, the murders of Ms. McInnes and Mr. Croker were brutal and vicious. They were attacked in their beds while they were in particularly vulnerable and defenceless positions. There was also an element of planning involved in the offences, in that Ms. McInnes and Mr. Croker were targeted by Mr. Landrick and the murders took place in two different locations.
- [39] Considering all of the relevant factors, including the character of the offender, the nature and circumstances of the offences, the submissions of counsel, the case authorities relied upon, and the principles governing sentencing, I find that a period of parole ineligibility of 13 years is a fit and proper sentence in this case.

[40] Accordingly, Mr. Landrick, you have been convicted of second degree murder in the deaths of Sandra McInnes and Neil Croker. For each count of second degree murder, I sentence you to life imprisonment with no possibility of parole for a period of 13 years. These sentences will run concurrently.

[41] I also make the following ancillary orders:

- pursuant to s. 487.051 of the Criminal Code, you will be required to provide a DNA sample;
- pursuant to s. 109 of the Criminal Code, there will be a lifetime prohibition against possessing firearms and other restricted weapons as specified in that section.

[42] Those are my reasons. I want to thank counsel for your very helpful submissions in this process and throughout the entire proceeding.

"Skolrood J."

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