

CANADA / JUDGMENT

R. v. Leobrera

2015 BCSC 1942

COURT

Supreme Court of British Columbia

DECIDED

14 October 2015

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2015 BCSC 1942 R. v. Leobrera IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Leobrera, 2015 BCSC 1942 Date: 20151014 Docket: 26624 Registry: Vancouver Regina v. David Michael Leobrera Before: The Honourable Madam Justice H. Holmes Oral Reasons for Sentence Counsel for the Crown: Edlyn Laurie Counsel for the Accused: Christopher S. Johnson Place and Date of Hearing: Vancouver, B.C. October 14, 2015 Place and Date of Sentence: Vancouver, B.C. October 14, 2015

- [1] THE COURT: Mr. Leobrera, I have considered the submissions that have been made by your counsel and by Crown counsel, as well as the materials I have been given, and I am satisfied that the sentence that counsel jointly propose is a fit sentence in all the circumstances.
- [2] Your offence (of producing methamphetamine) is a very serious one, for all of the reasons Crown counsel has outlined. The dangers associated with these types of labs are enormous. The dangers associated with the drug that was being produced are extremely damaging to individuals and to society as a whole. I expect that since the time of your arrest you have reflected on those dangers and on the consequences of your conduct.
- [3] There are mitigating circumstances to be considered. Your counsel has outlined those in some detail, and I will not repeat them.
- [4] In my view the sentence that is being suggested does appropriately reflect the sentencing principles that must apply. These, of course, include a consideration of the aggravating and the mitigating circumstances which counsel have outlined.
- [5] The sentencing principles that must be given the most weight in this situation are general deterrence (discouraging others from similar behaviour) and denunciation (sending the message that the community does not tolerate this type of conduct). A significant sentence is therefore required.
- [6] Your own rehabilitation is also of concern. From what counsel have told me, and from the letters of reference that you have put before the Court, it appears very likely that you are well on the road to rehabilitation, and that you are unlikely ever to find yourself in this type of situation or involved in criminal conduct again.

- [7] You are fortunate in having very strong family and community support. It is to your credit that members of your family and your community value you as an individual, and that they are prepared to give you their support. It appears from everything I have been told and have read that you are quite properly taking advantage of that support to move forward and get yourself on a much more positive path. I take into account in this regard the comments you yourself made to the Court.
- [8] The principle of sentencing parity requires me to take account of the sentence of three years' imprisonment imposed on a co-accused after his guilty plea. I am told that the co-accused had a similar level of involvement in the offence to your own, and in many ways a similar background.
- [9] In all the circumstances, I am satisfied that the proposed sentence is a fit one. Would you stand, please.
- [10] Mr. Leobrera, I sentence you to imprisonment for a period of three years.
- [11] There will also be some ancillary orders.
- [12] I am required to impose an order that prohibits you having possession of any weapons or ammunition for a period of ten years. That order is made under s. 109 of the Criminal Code.
- [13] I will also make an order requiring you to give a sample of a bodily substance that is suitable for DNA analysis. I am doing so under s. 287.051 of the Criminal Code.
- [14] Finally, I will make an order in the form to which the parties agree, requiring the forfeiture of lab equipment, drugs, and related items seized from the residence where the production was taking place.
- [15] Is anything else required?
- [16] MS. LAURIE: Crown directs a stay of proceedings with respect to all remaining counts, My Lady.
- [17] THE COURT: Thank you. Anything else, Mr. Johnson?
- [18] MR. JOHNSON: No, thank you, My Lady.
- [19] THE COURT: I signed the forfeiture order Madam Registrar. Is there anything else you need?
- [20] THE CLERK: No, My Lady.
- [21] THE COURT: All right. Thank you counsel for your very helpful submissions. We will now adjourn. Thank you. "The Honourable Madam Justice H. Holmes"

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