
CANADA / JUDGMENT

R. v. Roach

2012 BCSC 2035

COURT

Supreme Court of British Columbia

DECIDED

21 November 2012

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

2012 BCSC 2035 R. v. Roach

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Roach,

2012 BCSC 2035

Date: 20121121

Docket: 75002-2

Registry: New Westminster

Regina

v.

Justin Roach

Corrected Judgment: The paragraph numbering of the judgment was corrected at now para. 7, page 3, on February 8, 2013.

Before: The Honourable Mr. Justice Schultes

Oral Reasons for Sentence

Counsel for the Crown:

A.M. Blunt

Counsel for the Accused:

P.S. McMurray

Place and Date of Hearing:

Chilliwack, B.C.

November 21, 2012

Place and Date of Judgment:

Chilliwack, B.C.

November 21, 2012

- [1] Mr. Roach is to be sentenced today for two offences, both of which occurred on January 10, 2010. The first one is attempting to rob Vir Singh Pannu with a knife in Mission, and the second is aggravated assault of Matthew Hudson-Grey in Maple Ridge.
- [2] According to the agreed statement of facts, Mr. Roach had taken some drugs earlier that day, believing that they were painkillers. The Crown accepts as one of the underlying facts of this sentencing that Mr. Roach was under the influence of a drug, or a combination of drugs, during the offences.
- [3] Mr. Roach then went to the Superstore in Mission. He loaded a cart with \$600 worth of groceries. There was no pattern or consistency to the numerous items that he placed in the cart. He was stopped trying to leave the store with the cart without paying for them. Employees described him as acting in a strange manner -- nervous and fidgety, like a person who was addicted to drugs. At one point he asked whether the store sold outdoor security cameras.
- [4] Later he was seen in the store again, this time with a package of markers in his hand. When he was asked if he had a receipt, he threw them on the floor and ran away. It appears that when he left the store he stole a paring knife, which was six inches long with a three-and-a-half inch blade. The reason for inferring that he stole this knife is that an empty package corresponding to it was found in the grocery cart that he had abandoned.
- [5] There is a Sikh temple nearby and Mr. Pannu is a priest who was walking on its grounds. Mr. Roach approached, brandished a knife at him and demanded that he hand over his wallet. Mr. Pannu ran away and said he was going to call the police. Mr. Roach did not follow. Mr. Pannu last saw him leaving the temple area, walking towards Lougheed Highway. That is where Mr. Roach encountered Mr. Hudson-Grey.
- [6] Mr. Hudson-Grey was attending BCIT for boiler-making training. He normally lived in the Okanagan but had moved to Maple Ridge for the training.
- [7] Mr. Hudson-Grey was driving his pickup truck back from the Okanagan. Mr. Roach had begun hitchhiking on the Lougheed Highway after his encounter with Mr. Pannu. Mr. Hudson-Grey's practice at that time was to give hitchhikers a ride. He stopped for Mr. Roach, who gave his first name and said he was going to Maple Ridge. There was uneventful small talk between them. Mr. Hudson-Grey followed the directions that Mr. Roach gave. They ended up in a dark alley.

- [8] When he stopped his truck he saw that Mr. Roach was holding a knife in his right hand, 8 to 10 inches away from Mr. Hudson-Grey's face. Mr. Roach said, "One more thing, pal -- your wallet." Mr. Hudson-Grey grabbed Mr. Roach's right hand and began striking him in the face and chest with his other hand, while trying to direct the knife away from him. He ended up over top of Mr. Roach, but unfortunately Mr. Roach was able to keep control of the knife and used it to strike him. It is not clear which of Mr. Hudson-Grey's injuries occurred during this part of the assault, but Mr. Roach finally dropped the knife into the back seat and said, "My knife's down."
- [9] Mr. Hudson-Grey relaxed, as the assault stopped for a moment. Mr. Roach then began to behave in a highly unusual manner, screaming and kicking the dashboard and windshield in what looked to Mr. Hudson-Grey like a temper tantrum. Unfortunately, Mr. Roach was carrying a second knife. He lunged at Mr. Hudson-Grey, stabbed him on the left side and cut him several more times with this knife. Mr. Roach then got out of the passenger side without saying anything. Mr. Hudson-Grey, now realizing he was in need of medical assistance, drove away.
- [10] Mr. Roach was living with his mother in Maple Ridge at the time. He went home and she noticed he had a cut on his thumb. She described him as extremely confused, agitated, excited (but not a "joyous" type of excitement) and scared. She thought he was high on drugs.
- [11] She got the impression that he had been the victim of the robbery so they went to the Maple Ridge RCMP for him to report it. The officers there observed that he had duct tape on his cut hand. Although it was bleeding a lot he seemed oblivious to it. He was transported to hospital.
- [12] Eventually Mr. Roach's robbery report was matched up with Mr. Hudson-Grey and Mr. Pannu's complaints and he was identified as their assailant and arrested.
- [13] The investigators found two knives in Mr. Hudson-Grey's truck. The first one was behind the passenger seat on the floor, close to the passenger door. It resembled the one stolen from the Superstore. The second one was behind the passenger seat, near the middle of the floor. Its blade was an inch shorter. They both had black handles and looked like they were from the same manufacturer.
- [14] From the attack Mr. Hudson-Grey received lacerations on his head and neck, two lacerations on his upper chest, two lacerations above the nipple, two lacerations on his lower chest, stab wounds to his back, extensive left triceps lacerations and extensive left leg lacerations. He needed surgery involving 80 staples to close his wounds and was in hospital for eight days.
- [15] He described the impact of Mr. Roach's actions on him in the following way:

Physically: Multiple stab wounds and slashes requiring 80-plus staples to close. Punctured lung requiring drainage tube into my chest. Hole in my esophagus required a feeding tube that prevented me from eating solid food or drinking for seven days. Physical therapy to get walking again because muscles and tendons were cut. Future surgery may be required to repair tendons in arm that is still numb.

Emotionally: Complete loss of faith in humanity. I can't do any of the recreational sports I normally do, e.g. snowboarding, hiking, snowmobiling. Feeling left out of the loop with friends because I can't physically keep up. I have been wait-listed for counselling in my community.

Financially: At the time of this incident I was attending BCIT for Level 2 Boiler Making. I would have received a raise upon completion. I had to drop out due to missed time and physical ailments. Now I am collecting medical benefits making less than a quarter of my regular earnings.

I had to relocate back to the Okanagan after moving to Maple Ridge only a week prior. My truck required extensive cleaning and may still require professional detailing to avoid the smell. My clothes were obviously ruined as were other clothes in my truck too saturated to clean and I lost a silver chain of sentimental value.

My immediate family also incurred a financial loss because they needed to be there for me. I paid what I could to cover their expenses because I needed them there with me.

[16] Mr. Hudson-Grey's life has been changed in a very significant way by Mr. Roach's actions.

[17] The impact on Mr. Pannu was fortunately not as severe. When he goes out for a walk he still feels "a bit scared" of approaching strangers, which is quite understandable.

[18] The pre-sentence report describes Mr. Roach's background. He is now 24 years old. His parents separated when he was much younger. His father lives in Alberta and his mother lives here. His mother had a serious drug addiction. He did a lot of moving back and forth between his parents' homes, and a stable home life was lacking as he was growing up.

[19] He became a serious drug addict himself in his teens. He has a son, who is now five years old. He is on good terms with the boy's mother and hopes to enhance his relationship with his son in the future.

[20] Despite his erratic lifestyle and drug addiction, he had not acquired any criminal record until these convictions.

[21] In the past he has worked in the oil industry in Alberta, which is also where his father works, and he had a job here in the lower mainland as of the date of the pre-sentence report. He has only completed Grade 11.

[22] The pre-sentence report also indicated that he had been diagnosed with depression and was taking medication for it.

[23] He was on bail for these offences for a significant period of time. He then committed some breaches and ended up in custody. This sentencing was originally scheduled to take place in September and at that time the joint view of counsel was that he should be credited for five months of pre-sentence custody for the time that he was held on those breaches.

[24] We have a report by Dr. LaTorre, a psychologist, on behalf of the Forensic Psychiatric Services Commission. Dr. LaTorre applied the HCR-20 risk assessment tool to Mr. Roach's background personal factors and came to quite a negative conclusion. His opinion is that Mr. Roach presents a relatively high risk of violent recidivism if he is released into the community without effective treatment and supervision.

[25] After reviewing Dr. LaTorre's report for the September sentencing date, Mr. Roach's counsel then sought an adjournment to obtain a report from Dr. Lohrasbe, a forensic psychiatrist, in an effort to moderate and give context to Dr. LaTorre's risk assessment. (There was also the possibility of bringing in some other charges on which Mr. Roach was being held in custody to be dealt with on the new sentencing date. I gather that counsel were not able to arrange that).

[26] Mr. Roach told Dr. Lohrasbe that the drugs that he had taken before the offences were methamphetamine, one cap of ecstasy, "some acid" (LSD), and 12 tablets of Valium from the mother of his then girlfriend, which were 10 milligrams each.

[27] Dr. Lohrasbe's primary diagnosis is substance abuse and dependence. He explained:

[W]ith a mother who was drug dependent and drug dealing he was exposed to that sub-culture from a very early age. Unfortunately, the habits, values and companions associated with the drug trade encourage an anti-social way of life. To the extent that he has participated in that sub-culture, he has absorbed some of those traits. However, he does not have a history of the broad behavioural dysfunction typically with an early onset of a range of aggression and law breaking that is diagnostic of an anti-social personality disorder. He is not psychopathic.

[28] As far as concerns about mental illness, Dr. Lohrasbe elaborated on the previous diagnosis of depression and Mr. Roach's report of "indistinct auditory hallucinations" at times:

It is possible that increasing his dose of Seroquel at higher doses as an effective antipsychotic will eliminate those symptoms. The possibility of a mood disorder or a more substantial psychotic disorder cannot be dismissed, as they may be masked by his current medications. It is not uncommon for depression and psychosis to be present among individuals of long histories of severe substance abuse. However, at this time he does not have a mood disorder.

[29] After applying the HCR-20 risk assessment himself and differing with Dr. LaTorre on the application of some of its criteria, Dr. Lohrasbe stated:

Hence my application of the HCR-20 portrays a somewhat more optimistic survey of the risk factors that are relevant in this case and the degree to which they are present. Additionally, Mr. Roach is a young man in transition to the responsibilities of adulthood and capable of maturity

and personal growth. Given Mr. Roach's background and in particular his unstable childhood, there is a relative lack of anti-social history. His lone act of severe violence occurred within the context of having consumed a cocktail of drugs that collectively are unpredictable in their behavioural consequences. The behaviours reported by witnesses leading up to the predicate offences clearly point to the role of extreme drug misuse. His actions were unlawful and aggressive, but disorganized and chaotic, and the acute role of a malfunctioning brain was obvious. What emerges from the history then is the central role of substance abuse and dependence and any ongoing risk for criminal or violent behaviour, much more than in most offenders. Put simply, if Mr. Roach remains abstinent his risk for violence falls to very low levels. That risk rises if he returns to substance abuse and all its accompaniments (physiological, psychological and social).

- [30] Dr. Lohrasbe concurred with the kinds of treatment programs that Dr. LaTorre recommended, and offered the opinion that they are more likely to be available in a federal correctional setting -- that is, while serving a sentence of at least two years.
- [31] The Crown's position on the original sentencing date was that, giving appropriate weight to Mr. Roach's youth, his guilty pleas, and his lack of a prior criminal record, and also crediting for him five months of pre-sentence custody, a sentence of two years less a day followed by two years' probation was appropriate. My understanding is that at that time it would have been a joint submission.
- [32] However, based on Dr. Lohrasbe's comments about benefits of programs in the federal system and on some follow-up enquiries with an official in the federal system, the Crown's position has been modified slightly to seek a sentence of two years' imprisonment, plus the original two years' probation.
- [33] Crown counsel has gone to some length to explain the principled basis for his submission. He has canvassed the case authorities and provided a range of sentence that runs from two years less a day to about six years, depending on which particular aggravating and mitigating factors are present. I accept that this correctly states the usual range.
- [34] Obviously, ranges are helpful because they ensure that the courts comply with the requirements of similar sentences for similar offenders in similar offences. But as the authorities also emphasize, ranges are not meant to be straightjackets. A fit sentence must reflect the particular circumstances of the offence and the offender, as well as the principles that are in greatest need of emphasis in those circumstances.
- [35] R. v. Craig, 2005 BCCA 484 is a roughly analogous case in which an intoxicated offender assaulted a former romantic partner by stabbing her repeatedly in the lower abdomen, inflicting serious injuries that required emergency surgery and blood transfusions. He was an older man and he had an unrelated and very dated criminal record. The sentencing judge had declined to impose a conditional sentence and imposed a one year sentence of actual imprisonment instead.

[36] The Court of Appeal concluded that this sentence did not address the needs of deterrence and denunciation sufficiently and imposed the sentence of two years' imprisonment that the Crown had sought at trial. In addition, Madam Justice Kirkpatrick made comments at para. 15 that, if we substitute "a cocktail of street drugs" for "drinking", would apply equally here:

I am not persuaded that the respondent's intoxication is a significant mitigating factor. He had been drinking to excess but that did not cause him to do what he did. It may have reduced his inhibitions, but it did not reduce his moral blameworthiness for his violent attack and the injuries he caused to the victim: see *R. v. Packwood* (1993), 31 B.C.A.C. 155, [1993] B.C.J. No. 1628 (Q.L.) (C.A.), and *R. v. A.P.M.*, [1995] B.C.J. No. 2213 (Q.L.) (C.A.).

[37] In other words, drug abuse explains Mr. Roach's behaviour, but it does not excuse it or reduce his moral blameworthiness.

[38] Mr. Roach's counsel has come to a slightly different result in terms of what the final sentence should be. It has been two months since the original sentencing date and he submits that this time should also be credited to Mr. Roach. This would result in a sentence of high provincial time. If it were not for the additional time that has passed since the original sentencing date, he would be urging that I follow the original joint submission for a sentence of two years' less a day.

[39] In response to the Crown's modified position, he suggests that the Court should also take notice of the actual effect of a federal sentence on Mr. Roach. Notwithstanding any helpful programs that may be available in the federal system, placing a young man of diminutive stature who has no previous criminal history in an institution with those who are serving sentences of two years to life would actually undermine his rehabilitation, by exposing him to the constant threat of physical harm and promoting his association with hardened criminals.

[40] On the mitigating side, the considerations have already been provided very fairly by the Crown. Mr. Roach is a young man, who has no previous criminal record. He has entered guilty pleas; he has accepted complete responsibility for the offence, there is no qualifying of what he is alleged to have done to the victims. Those are all significant factors.

[41] On the aggravating side, Mr. Roach recklessly consumed drugs in amounts and varieties that he had to have known would render him completely unable to control his behaviour. Further he attempted to rob a second victim after failing with the first one. His dealings with Mr. Hudson-Grey, while bizarre in some aspects, also had elements of subterfuge, such as giving directions to a dark alley and producing a second knife and using it to continue the assault after representing that he had disarmed himself. While his mind may have been working bizarrely, it was certainly still working to achieve unlawful and dangerous purposes in quite cunning ways.

- [42] He has been a very severe drug addict and the critical question is whether he is going to use drugs or not in the future. I accept Dr. Lohrasbe's opinion that Mr. Roach's future offending is directly connected to whether he is able to remain abstinent from drugs.
- [43] This is no longer a joint submission, but counsel differ only on the rehabilitative benefits of a federal sentence and the extent to which pre-sentence custody should be credited. I conclude that, subject to the resolution of those disputes, counsel have correctly identified where this case should fall within the range for aggravated assault. Really the decision comes down to whether the sentence should be two years, or something slightly less within the provincial range.
- [44] Crown counsel has found through his inquiries that there is a fast-tracking program for offenders serving short sentences such as the one he is seeking for Mr. Roach, but neither Dr. Lohrasbe's report nor Crown counsel's inquiries really give me the evidence that I would need to identify and compare the most suitable programs in the provincial and federal systems. Before I could impose a federal sentence primarily on the basis of the availability of more suitable treatment programs, I would need to know a lot more about what is actually provided in each system.
- [45] On the other hand, it is an accepted sentencing principle that whenever possible a penitentiary term should be avoided for youthful offenders who are serving their first significant periods of incarceration.
- [46] Dealing with the pre-sentence custody, these offences actually occurred before the proclamation of the Truth in Sentencing Act in February of 2010, but I have not looked behind counsels' calculation in the agreed statement of facts that five months of pre-sentence custody should be credited. I infer that the Crown took that credit into account in reaching its original position of two years less a day. Because Mr. Roach has been also detained on other matters since the original sentencing date, I am not going to increase the credit for time served beyond what was agreed to by counsel at that time.
- [47] Dealing first with the ancillary orders -- and you do not need to stand for these, Mr. Roach -- pursuant to s. 487.051(1) of the Criminal Code, I order that the number of samples of one or more bodily substances that is reasonably required for forensic DNA analysis be taken from Mr. Roach.
- [48] Secondly, pursuant to s. 109(2) of the Criminal Code, I prohibit him from possessing any of the items set out in that subsection for ten years as sought by the Crown.
- [49] Mr. Roach would you now stand, please.
- [50] On Count 4, taking all of these things that I have discussed into account, I sentence you to two years less a day imprisonment. On Count 2, I sentence you to six months imprisonment, to be served concurrently. Following that, you will be on probation for two years:
1. You will keep the peace and be of good behaviour.

2. You will report to Court as and when required.
 3. You will report to a probation officer forthwith and not more than 72 hours following your release from custody and thereafter as and when directed.
 4. You will reside in a residence approved of by your probation officer and you will not make any change in that residence without the prior written approval of your probation officer.
 5. You will provide your probation officer with such proof as he or she may reasonably require from time to time of the suitability of your residence and any persons there with whom you may be residing.
 6. You are to seek and maintain employment or attend an employment readiness program.
 7. You are to attend, participate in, and successfully complete any treatment program or counselling as may be directed by your probation officer including but not limited to substance abuse counselling.
- 8 You are not to possess or consume any substances as defined in the Controlled Drugs and Substances Act, except for drugs and substances that are prescribed to you by a qualified medical practitioner. In that case you are to consume them only in the manner directed by the medical practitioner.
9. You are not to have any contact, directly or indirectly, with Vir Singh Pannu or Matthew Hudson-Grey.
 10. You are not to be found within a two-block radius of any residence, place of employment or place of education known by you to be occupied by either of those persons.
 11. You are not to possess any weapons as defined by the Criminal Code including no knives except that during the preparation and consumption of food or during the course of your employment at your workplace you may possess knives solely for those purposes.
- [51] It is in your hands now Mr. Roach. You have caused serious harm but you have done the right thing by accepting responsibility for it. I hope that is a beginning that you can build on. Thank you.
- [52] MR. BLUNT: My Lord, sorry, I believe I heard My Lord say that it was on Count 2 that you imposed two years less a day.
- [53] THE COURT: Yes.
- [54] MR. BLUNT: Count 2 - I presume My Lord meant to say Count 4.
- [55] THE COURT: Okay, so I just have - I don't have an Indictment. So could you pass it up and I will correct that. Thank you. I just have the two charges. Sorry.
- [56] MR. BLUNT: Okay. Sorry.

- [57] THE COURT: Okay, so the plea - the plea was to Counts 2 and 4?
- [58] MR. BLUNT: Yes, so I think when My Lord said Count 2 -
- [59] THE COURT: Yes, Count 2, attempted robbery, is six months concurrent and Count 4, aggravated assault, is two years less a day.
- [60] MR. BLUNT: Yes.
- [61] THE COURT: Does that work?
- [62] MR. BLUNT: Yes.
- [63] THE COURT: All right, thank you.
- [64] MR. BLUNT: And the Crown directs a stay of proceedings on the remaining counts.
- [65] THE COURT: I thank counsel for their helpful submissions.

The Honourable Mr. Justice T.A. Schultes

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/12/20/2012BCSC2035cor1.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-roach-2012>

Prepared on 29 October 2026 · Esheria