

CANADA / JUDGMENT

R. v. Stan

2024 BCCA 415

COURT

British Columbia Court of Appeal

DECIDED

11 December 2024

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2024 BCSC 415 R. v. Stan COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Stan, 2024 BCCA 415 Date: 20241211 Docket: CA50044 Between: Rex Respondent And Emil Marian Stan Appellant Before: The Honourable Madam Justice Bennett The Honourable Mr. Justice Grauer The Honourable Justice Winteringham On appeal from: An order of the Provincial Court of British Columbia, dated June 17, 2024 (sentence) (R. v. Rusu, Surrey Dockets 255808-2-C and 24936-1). Oral Reasons for Judgment The Appellant, appearing in person (via videoconference): E. Stan S. Sturdza (Interpreter) Counsel for the Respondent: E. Purtzki Place and Date of Hearing: Vancouver, British Columbia December 11, 2024 Place and Date of Judgment: Vancouver, British Columbia December 11, 2024 Summary: Sentence appeal from a sentence of 18 months for a sophisticated shoplifting scheme. Appeal dismissed. The sentencing judge committed no error in principle and the sentence was not demonstrably unfit.

- [1] BENNETT J.A.: Emil Stan applies for an extension of time and leave to appeal a sentence of eighteen months (in addition to six months credit for time served) and two years probation imposed for 10 offences arising from a sophisticated shoplifting scheme. Over an eight-month period, Mr. Stan and his co-accused, Nicoleta Rusu, stole thousands of dollars of high-end products from Shoppers Drug Mart and Lululemon. The total value of the thefts is approximately \$40,000. Ms. Rusu wore clothing modified to conceal stolen items, and they used jamming devices to disable the security systems when they departed the store.
- [2] Ms. Rusu was sentenced in a different proceeding, and received a 12-month sentence as a result of a joint submission, after pleading guilty to five-counts. Mr. Stan's sentencing hearing was contested: the Crown sought a three-year sentence less the pre-trial custody, while the defence counsel essentially sought a sentence of time served, which was around six months credit for pre-trial custody.
- [3] Mr. Stan, who is self-represented on the appeal, submits that the sentence is unfit and that the parity principle should apply to reduce his sentence in line with that of Ms. Rusu. Mr. Stan, who is from Romania, has a lengthy criminal record from the time he lived in the United Kingdom, as well as outstanding charges in eastern Canada. Ms. Rusu has no criminal record.

- [4] Mr. Stan was an electrician, but apparently fell into debt due to gambling and a failed business. He borrowed money from unsavoury people. He says he committed the thefts in order to pay back the loan sharks who were demanding their money. There is an outstanding warrant to deport Mr. Stan. He has consented to deportation.
- [5] The parity principle, which is codified in Criminal Code, R.S.C., 1985, c. C-46, s. 718.2(b), states that "similar offenders who commit similar offences in similar circumstances should receive similar sentences". The difficulty with Mr. Stan's submission is that he is not a "similar offender". A significant point of difference is Mr. Stan's lengthy criminal record for related offences, whereas Ms. Rusu was sentenced as a first offender. In addition, Mr. Stan offended while he was on judicial interim release on other offences, which is an aggravating factor. In my view, those differences alone are sufficient to justify the differential and higher sentence imposed on Mr. Stan. In my view, the sentencing judge did not err by misapplying the parity principle.
- [6] Mr. Stan also submits that the sentence is demonstrably unfit.
- [7] Mr. Stan is a prolific and sophisticated offender. He has a long criminal record for committing similar offences. The sentencing judge carefully calculated fit sentences for each offence, resulting in a sentence of three years, applied the totality principle and concluded that three years was cumulatively too long, and reduced the sentence to two years. He then applied the credit for pre-trial custody, which was approximately six months.
- [8] A review of cases in this Court, cited by the Crown, show that the sentence that was imposed is entirely fit. (R. v. Drake, 2019 BCCA 170; R. v. Mack, 2008 BCCA 520; R. v. Gibbs, 2007 BCCA 241). See also R. v. Lacasse, 2015 SCC 64 at para. 52.
- [9] The extension of time to appeal is unopposed. I would grant the extension of time to appeal, grant leave to appeal and dismiss the appeal.
- [10] GRAUER J.A.: I agree.
- [11] WINTERINGHAM J.A.: I agree.
- [12] BENNETT J.A.: The extension of time to appeal is granted, leave to appeal is granted, and the appeal is dismissed. "The Honourable Madam Justice Bennett"

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