

CANADA / JUDGMENT

R. v. Vu

2017 BCCA 452

COURT

British Columbia Court of Appeal

DECIDED

14 December 2017

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COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Vu, 2017 BCCA 452 Date: 20171214 Docket: CA43035 Between: Regina Respondent And Van Van Vu Appellant Restriction on publication: A publication ban has been imposed under s. 486.5(1) and s. 486.5(9) of the Criminal Code restricting the publication, broadcasting or transmission in any way of evidence that could identify the victim, any witnesses or police undercover operators. This publication ban applies indefinitely unless otherwise ordered. Before: The Honourable Mr. Justice Lowry The Honourable Mr. Justice Groberman The Honourable Mr. Justice Fitch On appeal from: an order of the Supreme Court of British Columbia, dated July 24, 2015 (R. v. Vu, 2015 BCSC 1441, Vancouver Registry No. 26074) Oral Reasons for Judgment Counsel for the Appellant: T.D. Anderson Counsel for the Respondent: M.J. Sheardown Place and Date of Hearing: Vancouver, British Columbia December 14, 2017 Place and Date of Judgment: Vancouver, British Columbia December 14, 2017 Summary: Unopposed appeal of a sentence with leave to correct an arithmetical error in the calculation of credit for time spent in pre-trial custody.

- [1] LOWRY J.A.: This is an application for leave to appeal and, if leave is granted, an appeal from a total sentence of four years and eight months imprisonment imposed on the appellant following his conviction for conspiracy to kidnap, kidnapping, and assault causing bodily harm.
- [2] The sole issue that arises on this appeal relates to credit given for time the appellant spent in pre-trial custody. Due to an error in arithmetic made by Crown counsel the trial judge did not fully credit the appellant for time spent in pre-trial custody.
- [3] The appellant submits that the problem can be remedied by granting the appellant credit for an additional 38 days for time spent in pre-trial custody. The Crown concedes that it was responsible for the error made below and that the appellant should be credited for additional time spent in pre-trial custody.
- [4] In the circumstances we are agreed. Leave to appeal should be granted. The appeal is to be allowed and the sentence imposed reduced by 38 days. It is so ordered. "The Honourable Mr. Justice Lowry"

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