

**IN THE PROVINCIAL COURT OF NOVA SCOTIA**

**Citation: R. v. Perrin 2011 NSPC 110**

**Date:** 20111220

**Docket:** 2252354/2252355

2252356/2399586

**Registry:** Amherst

**Between:**

Her Majesty the Queen

v.

Kyle Robert Perrin

**Judge:** The Honourable Judge Richard MacKinnon

**Oral decision:** 20 December 2011 in Amherst, Nova Scotia

**Written release  
of oral decision:** 22 February 2012

**Charge:** THAT HE on or about the 19<sup>th</sup> day of December A.D. 2011 at, or near Crossroads, Nova Scotia, did break and enter a certain place to wit a dwelling house situate at 4312 No. 2 Highway, Crossroads, NS and did commit therein the indictable offence of theft contrary to section 348(1)(b) of the Criminal Code;

AND FURTHERMORE on or about December 19, 2011 at Parrsboro did while bound by a conditional sentence order made by Provincial Court at Amherst, Nova Scotia on October 25, 2011 without reasonable excuse breach the following

condition(s) of the order: Keep the peace and be of good behaviour. (Case numbers 2252354, 2252355 and 2252356)

**Counsel:**

Mr. Bruce Baxter, for the crown

Mr. Joshua Cormier, for the defence

**By the Court:**

[1] Kyle Robert Perrin is before the court for disposition with respect to a breach of a conditional sentence order. That conditional sentence order was imposed on October 25<sup>th</sup>, 2011. That conditional sentence order was a sentence imposed with respect to the following offences: breach of probation contrary to section 733.1 of the *Criminal Code* by failing to report, breach of probation under section 733.1 by not completing community service work, and breach of probation under section 733.1 of the *Code* by not paying restitution. The conditional sentence order was for a period of 90 days.

[2] Those breaches of probation arose out of Mr. Perrin being before the court on August 23<sup>rd</sup>, 2010. At that time Mr. Perrin was placed on probation as a term of a conditional discharge, and he was required to report to a probation officer in Amherst, he was required to perform ten hours of community service work, and he was required to make restitution to the court for the benefit of Oxford branch of Scotiabank in the amount of \$180. He breached that order and was sentenced for that order to the, or was sentenced for three breaches of the same order to 90 days under a conditional sentence order.

[3] When you commit an offence while on a conditional sentence order, Mr. Perrin, that's a serious matter. When you commit the offence of break, enter and theft while on a conditional sentence order, that is a much more serious matter because that is a much more serious offence, as Mr. Baxter, the crown attorney, has indicated. The punishment for break and enter into a dwelling house can include a sentence of life imprisonment. There's a reason for that, Mr. Perrin, because members of the public should be able to expect that their houses are not going to be broken into, that their stereo equipment is not going to be stolen, that all of the copper piping in their houses is not going to be ripped out by persons who go about and enter their dwelling houses and steal those items and do damage to their houses at the same time. So the public has to be protected, and that is what the courts attempt to do in imposing dispositions when a person breaches their conditional sentence order.

[4] Based on the circumstances of your case, you are 21 years of age. You are employed. But you were subject to a conditional sentence order and you breached that conditional sentence order, and there has to be consequences when a person breaches a conditional sentence order. A conditional sentence order is serving a

sentence, or serving a jail sentence in the community, and when you breach the terms of that order, as I say, there has to be consequences for the person that breaches that order.

[5] With respect to your situation, Mr. Perrin, I conclude that the only appropriate disposition with respect to the breach of the conditional sentence order is to order, pursuant to section 742.6(9)(d), and I am going to terminate the conditional sentence order and direct that you be committed to custody until the expiration of the sentence. Yesterday there was 35 days remaining to be served on the conditional sentence order. Today I expect that there is 34 days remaining to be served on the conditional sentence order.

[6] With respect to the break and entry charge, Mr. Perrin, I have to take into account those principles as set out in the *Criminal Code* under section 718, and those principles are as follows:

The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (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 and to the community.

[7] 718(a) is particularly important “to denounce unlawful conduct” when the offence is a break and entry offence. 718(b) is also important with respect to this type of offence, because courts have to deter offenders and other persons from committing offences. The other factors that I have to take into account are that I have to impose a sentence which assists in rehabilitating offenders, which provides reparations for harm done to victims and to the community, and which promote a

sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

[8] Based on all of the circumstances of your case, Mr. Perrin, and based on the fact that you entered a guilty plea to this charge at an early opportunity, which is a mitigating factor, hopefully that tells me that not only are you accepting responsibility for what you did, but that you are a person who can be specifically deterred, and you are a person who can be rehabilitated. And so I conclude that those things should be taken into account in determining what is an appropriate sentence.

[9] With respect to the breach of the conditional sentence order, I have already indicated that you are going to serve 34 days in custody.

[10] With respect to the break and entry charge, I conclude that it's necessary to impose a further period of custody. There will be one month in custody, consecutive to the conditional sentence time that remains to be served.

[11] In addition to that one month in custody, Mr. Perrin, because of your age, because of your lack of significant record for similar types of offences, and because I conclude that surely there are good prospects for your rehabilitation, I am going to impose a period of probation of 18 months, with the following conditions: you are to keep the peace and be of behaviour, appear before the court when required to do so by the court, and notify the probation officer in advance of any change of name or address or telephone number, and promptly notify the probation officer of any changes of employment or occupation.

[12] You are to report to a probation officer at 26-28 Prince Arthur Street, Amherst, Nova Scotia within ten days from the date of expiration of your sentence of imprisonment and thereafter as directed by your probation officer.

[13] You are to not associate with or be in the company of any person known to you to have a criminal record, *Controlled Drugs and Substances Act* record or Youth Justice Court record, unless you have the written permission of your probation officer to associate with such an individual, or unless your association with any such individual is incidental to your attendance at employment or at a program of counseling in which you are participating, or unless that person is a member of your immediate family.

[14] You are to make reasonable efforts to locate and maintain employment or an educational program, as directed by your probation officer.

[15] Those are the conditions of the probation order, Mr. Perrin. Hopefully the sentence that I am imposing will have the desired effect under section 718 of the *Criminal Code*, and that is that the sentence will deter you and others from committing these types of offences, and also that the sentence will effect rehabilitation, so that you are not before the courts again. You now have a record for a break and entry offence, and that will be taken into account if you do appear before courts in the future. Good luck, Mr. Perrin. Anything else with respect to that matter, counsel?

**MR. BAXTER**: There was the DNA order.

**THE COURT**: DNA order. There will be an order requiring you to provide a sample of your DNA for the national DNA databank, Mr. Perrin. Thank you.

**PCJ**