

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Billington*, 2013 NSPC 87

Date: 20130913

Docket: 2607670, 2601580, 2602315, 2627143,
2633409, 2646824, 2646825

Registry: Pictou

Between: Her Majesty the Queen

v.

Millan Douglas Billington

SENTENCING DECISION

Judge: The Honourable Judge Del W. Atwood

Heard: 19 September 2013 in Pictou, Nova Scotia

Charges: Section 137 *Youth Criminal Justice Act* x 6
Sub-s. 4(2) *Controlled Drugs and Substances Act*

Counsel: William Gorman, Counsel for the Nova Scotia Public
Prosecution Service
Bronwyn Duffy, Standing Agent for the Public
Prosecution Service of Canada
Douglas Lloy, Counsel for
Millan Douglas Billington

By the Court:

[1] The court has for sentencing Millan Douglas Billington who is before the court in relation to six (6) charges of Section 137 of the *Youth Criminal Justice Act*, and one charge of double-doctoring under the *Controlled Drugs and Substances Act*. All are summary matters.

[2] The mitigating factors are that Mr. Billington entered guilty pleas at a very early opportunity; also, Mr. Billington is a young man, born 9 September 1994, and, given his young age, he is not beyond the hope of rehabilitation, even though he suffers from an extremely serious drug-dependency disorder.

[3] Although Mr. Billington does have an extensive prior record that consists of 21 breaches of court orders, three (3) weapon offences, and one (1) charge for possession for the purpose of trafficking under the *CDSA*, I do not regard that youth record as an aggravating factor. However, I do treat it as circumstantial evidence of Mr. Billington's inability to comply with community-based sentences.

[4] The court applies the step factor as laid out by our Court of Appeal in *R. v. Bernard*.¹ This is Mr. Billington's first conviction as an adult, and the court is conscious that it must not impose a sentence that would crush the prospects of rehabilitation.

[5] The a major aggravating circumstance is that Mr. Billington committed an array of very flagrant violations of court orders that were meant to promote his rehabilitation. Mr. Billington's conduct, when he was served with his summons and tore it up, demonstrates a sense of impunity or a belief that the law does not apply to him. Obviously, any violation of a court order is a serious matter and the Court of Appeal of this Province has said that such violations should attract sentences that seek primarily to denounce and deter unlawful conduct.

[6] It is significant, as well, that the 24 May offences occurred while Mr. Billington was awaiting processing for the 10 May offence. The 19 July offence occurred while the May offences were outstanding. The 3 August offence was committed while the July and May offences were outstanding. And the September offences were committed while all of the preceding offences were outstanding.

¹2011 NSCA 53.

[7] There is a joint submission before the court for a two-year-plus-a-day federal sentence. In my view, this conforms to the principles of sentencing, particularly the need to denounce and deter this sort of conduct, and it follows the principle of sentencing parity taking into account the sentence imposed by this court in the case of *R. v. Dean*.²

[8] In accordance with *R. v. Adams*,³ I can state that, had each charge stood alone, the court would have contemplated five (5) months in relation to each charge, consecutive to each other. However, taking into account the principle of totality and keeping in mind the joint submission, the court will impose a sentence as follows:

[9] In relation to case #2607670, the breach from May 10th, there will be a four-month sentence of imprisonment, and that is the starting point sentence.

[10] Case #2601580, the 24th of May breach, four (4) months consecutive.

²2011 NSPC 40.

³2010 NSCA 42 at para. 28.

[11] Case #2602315, the second breach from May 24th, four (4) months consecutive.

[12] Case #2627143, the 19th of July breach, four (4) months consecutive.

[13] The breach from the 3rd of August, case #2633409, four (4) months consecutive.

[14] Case #2646824, the *CDSA* count from the 14th of September, four (4) months consecutive.

[15] And then case #2646825, the 137 breach tied into the *CDSA* charge, one (1) day consecutive, for a total sentence of two years plus one (1) day.

[16] Given the duration of the sentence, the court finds that the imposition of victim-surcharge amounts would work an undue hardship; therefore, the court declines to impose any victim surcharge amounts.

[17] I will direct that the warrant of committal be endorsed to recommend that Mr. Billington receive intensive substance-abuse counselling at the earliest opportunity.

[18] Anything further in relation to Mr. Billington, counsel?

[19] **Mr. Gorman**: No, thank you, Your Honour.

[20] **Ms. Duffy**: No thank you, Your Honour.

[21] **Mr. Lloy**: No, not from Defence.

[22] **The Court**: Mr. Billington, I'll have you accompany the sheriffs, please sir.

P.C.J.