

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: R. v. Arnel Wade Carter, 2004 NSSC 256

Date: 20041123
Docket: CR 216942
Registry: Halifax

Between:

Her Majesty the Queen

v.

Arnel Wade Carter

Judge: The Honourable Chief Justice Joseph Kennedy

Heard: November 23, 2004, in Halifax, Nova Scotia

**Sentencing
Decision:** November 23, 2004
Written Release: December 14, 2004

Counsel: Lance Scaravelli for Mr. Carter
Monica McQueen for the Crown

By the Court: (Orally)

[1] Before me, a thirty-four year old man charged, that he did on or about the 9th day of March, 2003, at or near Hammonds Plains, Regional Municipality of Halifax, Province of Nova Scotia, unlawfully have possession for the purpose of trafficking, cocaine. He pleaded guilty to that offence. There was a second weapons offence that the crown called no evidence on and obviously was a subordinate matter so I am not dealing with that charge.

[2] I have a pre-sentence report specific to Mr. Arnel Wade Carter. Not all bad. He's got prior record but it is "dated", except for the "obstruction that was 1998, it looks like everything is about ten years old. He's got "failure to comply", two "failures to comply", which crown makes reference to, but in fairness they are both ten years old, so he may have progressed since that time in some respects. Also, there's a reference to community involvement, specially working with young people in sports. The crown has suggested that this might be an attempt to put himself in a favourable position when he has to face the judge for what he otherwise was doing. And it might be, but you have to do a lot of planning to do that, more likely it is the common situation that we see so often, is that people do good things and they do bad things. It's not uncommon. Some people do nothing but bad things. Some people have never done a discernable good thing in their lives. We get quite

a few of those people also. More commonly we get, when we are dealing with matters on the criminal side, people who have done positive good things in their lives, continue to do good things, but have also done something bad, or they wouldn't be here.

[3] So let the record reflect please that I am fully aware of the pre-sentence report of Mr. Carter. I do know about his "priors", dated as they are, but still of some significance. I do know what the pre-sentence report says about his current, present circumstances that he has and that's a new business in the works that he would very much like to continue to participate in and would like the Court to sentence so that it can continue.

[4] He's got obligations. He's got kids. They are obligations, not only from the point of view of providing with them materially, but also providing them with a father and a father figure. Somebody that they can be proud of. Somebody they can emulate. Somebody they can use as an example, so that they will have a good life. That's what a lot of fathers try to do. Serve as role models for their children. That would be a good thing for Mr. Carter. I am sure that there are times when he's contemplated that, maybe that's what has motivated him in his efforts to participate in the coaching activities. But Mr. Carter is not here because he coaches, he's here because he was

involved in the crack cocaine business. Let's not beat around the bush about that. I've read the transcripts of the "interceptions" and I've been twenty-five years on this bench, and I know a conversation about drug, when I read one, when I hear one. I know how people in the drug business talk to one another; the circumspect language that they use. I have read hundreds of those transcripts. So I know what Mr. Carter was talking about and sure enough as a result of, falling into that wiretap and that's what happened to him, he fell into a wiretap. Unbeknownst to Mr. Carter, he is having conversation on a telephone that is being intercepted. That's why he is here today, that resulted in the stopping of the motor vehicle, and sure enough, Mr. Carter's in possession, that he by his guilty plea before this Court today, acknowledges, in "possession for the purposes of trafficking", the drug business. I noted there was an interesting comment right off the bat and that is, when there was conversation between Mr. Carter and Mr. Robin Williams, about what had happened to Dana Murphy, Mr. Carter expressed his surprise that he didn't get house arrest or something. "I thought he'd only get house arrest or something". On the contrary! Mr. Carter should be surprised if Murphy got house arrest. Doesn't Mr. Carter know what happens to people who traffick in crack cocaine in this Province,

traditionally? They do federal time. There it is. And the exception and the rarity and the surprise, would be those circumstances in which they don't. So maybe the message has been compromised, I don't know. But as long as I have been associated with this business, in dealing with this business, people who traffick in crack cocaine do federal time, or should expect to do federal time and I'd find it interesting to think that some might think otherwise.

- [5] I think I am dealing with a man who has a good side to him and is in many respects a pretty good man, but also a man who has been involved and has, by his guilty plea before this Court today, and on the totality of the information provided, including the transcripts, been involved in the crack cocaine business. I make reference to my brother Goodfellow's statement about that business in *R. v. Gray* (2002) unreported CR 165473 "Trafficking cocaine is a despicable crime that has far reaching consequences. The trafficker places his greed for the easy almighty dollar above all other considerations. The trafficker is a retailer of poison. Cocaine destroys lives and breeds crime." I spoke of the same situation in *R. v. Kenneth George Moore* (2003) unreported CR 156029, "What a miserable business it is. The business of human suffering and human degradation. What an awful

business” and I want on to provide anecdotes about what I have seen before this Court over the years, of people’s wasted miserable lives caused by addiction to cocaine and then crack cocaine, that cheap little people destroyer.

[6] In the case of Mr. Moore, he didn’t show up for trial and his counsel explained that to me by saying that he didn’t show up because he was afraid of going to jail, afraid of going to a federal institution judge, that’s why he didn’t show up. I responded to that, “I hope so. I would hope so. I would hope that there are people who fear federal institutions and who are anxious not to go to those places. And I would hope that the threat of going to a federal institution would have an affect on how they conduct their lives...” That’s what I said about Mr. Moore, “I hope so”.

[7] In the specific situation, Mr. Carter, although the request for a sentence of less than federal time, less than two years, made by his counsel, Mr. Scaravelli, is not a ridiculous one, given the totality of the man that I have before me, the fact that he’s not all bad, has not got a recent criminal record. In this specific situation, when I consider everything that I have to deal with, including and let’s not wonder what I consider to be the most important element - deterrence, the very significant element of deterrence when it

comes to the dirty business of trafficking in cocaine, I have considered the position put forward by defence and I consider in this specific, that a period of two years in a federal institution is appropriate and that's what the sentence is. Thank you.

Chief Justice Kennedy