IN THE SUPREME COURT OF NOVA SCOTIA
Citation: R. v. L.R.F., 2005 NSSC 192

Date: 20050629
Docket: CR. No. 228086
Registry: Halifax

Between:

Her Majesty the Queen

-and-

L. R. F. and C. V.

Sentencing Decision

Editorial Notice

Identifying information has been removed from this electronic version of the judgment.

Judge: The Honourable Justice Robert W. Wright

Heard: June 28 and 29, 2005 in Halifax, Nova Scotia

Oral Decision: June 29, 2005

Written Decision: July 11, 2005

Counsel: Counsel for the Crown - Eric Woodburn and Leonard MacKay
Mr. F. - personally
Ms. V.- personally

Wright J. (Orally)

[1] **INTRODUCTION**

On May 12, 2005 C. V. and L. R. F. were convicted of a number of offences following a 10 week trial. In Ms. V.'s case, convictions were entered for abduction of a child in contravention of a custody order (s.282(1)(a)), use of a firearm while committing an indictable offence (s.85(1)(a)), assault with a weapon (s.267(a)), careless use of a firearm (s.86(1)), possession of a weapon dangerous to the public peace (s.88), possession of an unlicensed or an unregistered firearm (s.91(3)) and obstruction of a peace officer (s.129(a)). The jury was unable to reach a verdict on the remaining count of discharging a firearm with intent to prevent arrest or detention (s.244(c)).

[2] Mr. F. was convicted by the jury of four offences, namely, abduction of a child in contravention of a custody order (s.282(1)(a)), possession of a weapon for a purpose dangerous to the public peace (s.88), possession of an unlicensed or an unregistered firearm (s.91(3)), and obstruction of a peace officer (s.129(a)). As to the four remaining firearm use offences with which Mr. F. was jointly charged, the jury was unable to reach a verdict.

[3] **FACTS**

I will begin this sentencing decision with an outline of the material facts, as established by the evidence presented at trial and the findings of the jury, express or implied, that are essential to the guilty verdicts returned.

[4] On December 23, 2003 Mr. F. and Ms. V. had their first child together who they named M.C.F. They were then living temporarily at the home of Mr. F.'s mother, M. F., at [...] in Halifax. Both Mr. F. and Ms. V. had children in Ontario from previous marriages who had been the subject of bitter custody disputes and rancourous encounters with child protection authorities in that province.

[5] Acting on information mostly emanating from the child protection authorities in Ontario, the Children's Aid Society of Halifax served the offenders on January 13, 2004 with an application for a Supervision Order and a requirement that the parents undergo certain parental and psychological assessments. The application was returnable before the Supreme Court of Nova Scotia (Family Division) on January 15, 2004 and, if granted, would have left the child in the care of their parents subject to periodic visits by a child protection worker.

[6] When the application was convened on January 15th, only Mr. F. appeared before the court. After hearing Mr. F.'s representations coupled with his behaviour before the court, Justice Deborah Smith decided to issue an order placing the child in the temporary care and custody of the Children's Aid Society of Halifax. When a child protection worker, accompanied by a police officer, went to the [...] residence shortly thereafter to carry out the order, they discovered that Ms. V. had already fled with the child. Mr. F. claimed not to know their whereabouts.

[7] With the assistance of one of her supporters, Ms. V. and the child were driven to New Brunswick where they boarded a bus and eventually traveled out to Alberta where she stayed with relatives for awhile. She then decided to return to the [...] residence in Halifax with her child about mid-February where she continued to reside with Mr. F. and her mother-in-law.

[8] Meanwhile, the child protection proceedings continued in the Supreme Court (Family Division) with further hearings held on February 12, 2004 and March 22, 2004. Again, only Mr. F. appeared in court for those review hearings which resulted in the affirmation of the court's initial order that the child be placed in the temporary care and custody of the Children's Aid Society of Halifax. The order resulting from the February 12th hearing (which was affirmed by the order resulting from the March 22nd hearing) specifically required Ms. V. to bring the child before the court forthwith and imposed a similar obligation upon Mr. F. upon his becoming aware of the location of the child.

[9] In finding Ms. V. guilty of the abduction charge (s.282(1)(a)) the jury implicitly found

that she was aware of the temporary care and custody order of the court and intentionally and unlawfully detained and concealed the child from the Children's Aid Society of Halifax, contrary to the terms of the custody order. Mr. F. was obviously directly aware of the existence and terms of the custody order, having appeared before the court on each of the hearings aforesaid. Both of them ignored the court orders completely.

[10] As it was bound to happen sooner or later, the offenders were spotted on the street on May 18, 2004 by a Sheriff's officer, of which the Halifax Police were soon notified. They immediately set up surveillance around the [...] residence to confirm that Ms. V. had returned with the child. Once they were satisfied from the surveillance that both Mr. F. and Ms. V. were in the house together with the child, they began to mobilize to carry out the orders of the court. They obtained a copy of at least one of the court orders from the Children's Aid Society before setting up a perimeter around the [...] residence. The police then began knocking on the front door of the house shortly after midnight. No one answered. The police also tried calling the residence, indeed a dozen times over the next two hours, leaving messages as to who they were and why they were there. Again, the offenders refused to answer.

[11] At some point, one of the police officers attempted to peer into a back window of the house when suddenly, the window pane was smashed from within (which Mr. F. acknowledged in his trial evidence that he had done). With the assistance of his wife, Mr. F. then proceeded to barricade the front and back doors of the house to keep the police at bay. The police were well aware of this manoeuvre from the sounds of drilling and hammering from within.

[12] Faced with that escalating situation, the police made a decision to bring in the Emergency Response Team (ERT) to take the lead in executing the court order. When the ERT members arrived at the scene, further attempts were made, by knocking and more telephone calls, to communicate with the occupants inside. Again, no one answered.

[13] The ERT members then decided to take action by what is known as a "breach and hold",

i.e., forcibly breaking down the front door with a battering ram and then holding their position at the front door with the intention of asking the occupants to come out and talk to them. They had no sooner started ramming the front door when a shotgun blast came through the window near the top of the door, narrowly missing Sgt. Hernden's head by a mere 4 to 6 inches. The shotgun pellets lodged in the front of the house across the street in and around a second storey window. The ERT members immediately retreated and the stand-off was on.

[14] For the next 67 hours, the police attempted to negotiate a resolution with the offenders by telephone. During that time, the offenders used the media attention to propagate their views on the corruption of the family law justice system in this country. Their demands or terms to achieve an end to the stand-off were unrealistic and unfeasible.

[15] During the stand-off, the offenders were expressly warned by the police not to exit the house carrying a weapon, to which Mr. F. responded "I only get one shot - big thrill". As the events unfolded, the offenders' hand was forced by the tragic death of Mr. F.'s mother who died of natural causes on the morning of the third day. The offenders then made the decision to exit the house carrying the body of Mr. F.'s mother on a makeshift stretcher with the intention of carrying her to a nearby church.

[16] As they emerged from the house, Ms. V. was at the front of the stretcher carrying her child in a snuggly strapped to her chest. Mr. F. was at the back of the stretcher carrying a telephone, with a loaded 12-gauge shotgun strapped to his shoulder. The police immediately converged upon the couple, demanding that Mr. F. put down the gun, which he did not do. Indeed, in the estimation of the nearest police officer, Mr. F. then made a motion toward the gun whereupon he was abruptly tackled by two police officers and forced to the ground. Ms. V. also resisted arrest and the two of them were forcibly taken into custody and formally arrested. The child was taken from Ms. V. by police officers who immediately arranged for her to be taken to hospital for an examination. Fortunately, she was unharmed. I might add that as recently as last week, following a final disposition hearing, an order was issued by the Supreme Court (Family

Division) placing the child in the permanent care of the Children's Aid Society.

[17] That completes my general outline of the facts surrounding the commission of these offences. I turn now to a review of the sentencing principles to be applied as codified in the provisions of the Criminal Code.

[18] **SENTENCING PRINCIPLES AND OBJECTIVES**

I begin with s. 718 which reads 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.

Section 718.1 reads as follows:

> A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

Section 718.2 reads as follows:

> A court that imposes a sentence shall also take into consideration the following principles:
>
> (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, ...

> (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
>
> (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
>
> (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
>
> (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders

[19] Dealing first with the s.282(1)(a) offence (abduction of a child in contravention of a custody order), it is evident from the case law that the sentencing objectives to be emphasized are that of denunciation of the unlawful act of contravening a court order and deterrence, both general and specific.

[20] The rule of law in this country cannot be eroded by citizens choosing to disobey a valid and subsisting order of a court of law of which they have knowledge, simply because they do not agree with it, no matter how emotionally charged their situation may be. If rights of appeal are exhausted without success, the parties to the dispute must live with the judicial outcome, rather than taking the law into their own hands. We would otherwise be living in a state of anarchy. Sentencing courts must make it clear, both to the offenders in this instance, and to other persons who might be like-minded to commit similar offences, that such flagrant disrespect for the law cannot be tolerated and will be met with serious penal consequences.

[21] **SENTENCING OF MS. V.**

Bearing these sentencing objectives in mind, I am also required to take into account any aggravating or mitigating factors relating to the individual offenders and the circumstances of the offences. Dealing first with Ms. V., instead of responding to the Children's Aid Society

application for a Supervision Order by setting out to demonstrate to the court that the child was not in need of protection, Ms. V. decided to run with the child to another province. This was planned and deliberate on her part to avoid the court, as was her continued defiance of the temporary care and custody orders of which she later became aware. Even after returning to Halifax, her further plan, in conjunction with Mr. F., was to leave the country altogether in July. Before they were able to do that, she and the child were detected. Once that happened, Ms. V. recklessly resorted to extreme violence to repel the police as they attempted to enforce the court order.

[22] Firing a shotgun through the front door at the police, who were in the lawful execution of their duty, escalated the abduction situation immensely. It precipitated a tense 67 hour standoff jeopardizing the lives and safety of others, including Mr. F.'s mother. Ms. V. also thereby placed the child in danger which was exacerbated by bringing the child out onto the porch roof at one point (presumably to seek more attention to her cause) and later carrying the child out of the house surrounded by police officers, with her husband carrying a loaded shotgun. Even then, she refused to surrender peacefully and had to be forcibly detained. These were extreme acts of defiance of both the police and the Supreme Court order they were authorized to carry out.

[23] This is not the first time that Ms. V. has fled the jurisdiction with her children in the face of an adverse custody order. The case of *R. v. V.* is reported at (2003) 177 C.C.C. (3d) 332 where the Ontario Court of Appeal overturned her acquittal of an abduction offence at trial and ordered a new trial to be held. While it follows that she has no prior convictions (for this or any other offences), the evidence of her previous flight with her triplets to Mexico (which she recounted at this trial) shows a propensity on her part for disregard of court orders which is relevant to the character and attitude of the offender. I recognize, however, that this prior episode is not to be treated as an aggravating factor akin to a prior conviction and cannot be used to increase the sentence beyond that proportionate to the offence for which she is now being sentenced.

[24] That brings me to a consideration of the sentencing objectives to be emphasized in

respect of the firearm charges of which Ms. V. has been convicted, the most serious of which are the use of a firearm while committing an indictable offence (s.85(1) and assault with a weapon (s.267(a). There is an abundance of case law demonstrating that when it comes to crimes of violence, the sentencing objectives of denunciation and deterrence, both general and specific, are paramount. Violence is not the answer when the police come calling, or in any situation for that matter, and usually makes matters worse as it certainly did here. Persons who engage in violence can expect serious penal consequences for their actions which will be stiffened when there are significant aggravating factors present. Aggravational here is the fact that the offenders had a shotgun at the ready, which Ms. V. was obviously prepared to use if the authorities tried to take custody of their child. Worse still is the fact that the shotgun blast fired by Ms. V. could easily have killed Sgt. Hernden or a person watching the commotion from the upstairs window in the house across the street where the pellets lodged. Incredibly, Ms. V. began laughing in the courtroom when Crown counsel spoke of the seriousness and near fatal consequences of her actions.

[25] Section 718(f) sets out the further sentencing objective of promoting a sense of responsibility in offenders, and acknowledgment of the harm they have done. Section 718(d) refers to rehabilitation of offenders. The reality, I conclude, is that there is little I can say or do in furtherance of those objectives because Ms. V. appears to have no appreciation of the wrongfulness or gravity of her actions, or the danger she put her child and others in. She continues to blame everyone else for her troubles - child protection agencies, the executive arm of government, lawyers and the judiciary alike in the ridiculous theory that these institutions act in collusion with one another to make babies available for sale or adoption to childless couples. She refuses to accept any responsibility for her own actions and without that, expresses no remorse for what she has done. In her continued defiance, she has defeated the request for a pre-sentence report by refusing to cooperate. I can identify no mitigating factors that might weigh in her favour, other than the fact that she has no prior convictions.

[26] A conviction under s.282(1)(a) for abduction of a child in contravention of a custody

order carries with it a maximum sentence of 10 years' imprisonment. The few cases which the Crown was able to locate indicate the usual range of sentence for this offence as being between 6 months and 2 years' incarceration although to state the obvious, there was nothing usual about the present case . Abduction of a child in contravention of a custody order, coupled with firearms offences committed in an armed standoff with police in resisting the order, is a rare combination.

[27] A conviction under s.85(1)(a) carries with it a maximum sentence of 14 years' imprisonment. It also carries a minimum sentence of one year of imprisonment (for a first offence) consecutive to any other sentence imposed for an offence arising out of the same series of events.

[28] A conviction under s.267(a) carries with it a maximum sentence of 10 years' imprisonment. The maximum for offences under s. 129(a) and 91(3) are 2 years and 5 years respectively.

[29] The Crown acknowledges that the convictions entered against Ms. V. under s.88 (possession of a weapon for a purpose dangerous to the public peace) and s.86(1) (careless use of a firearm) should be stayed under the *Kienapple* principle to avoid a multiplicity of convictions for the same unlawful conduct. I agree with that position and those two convictions shall be stayed accordingly.

[30] Otherwise, the submission of the Crown is that Ms. V. ought to be sentenced to a period of incarceration in a federal institution for a total of 3½ years (less credit at a multiplier of 1.5 for the time she served on remand in 2004 and the time served since being convicted; that would work out to a proposed credit of 150 days (100 days x 1.5).

[31] The suggested breakdown of the sentence is as follows:

(a) for the s.282(1)(a) offence - 1½ years
(b) for the s.85(1)(a) offence - 2 years consecutive
(c) for the s.267(a) offence - 1 year concurrent
(d) for the s.129(a) and s.91(3) offences - concurrent sentences as the court sees fit.

[32] The Crown also seeks the mandatory weapons prohibition order under s.109 and an order for a DNA sample under s.487.051.

[33] In asking for consecutive sentences, the Crown relies on s.85(4) as interpreted and applied (as s.83(2) as it formerly was) in *R. v. Flanders* (1984) 65 N.S.R. (2d) 171 (NSCA). The Crown also points out in support of its position that the abduction offence began some 4 months prior to the occurrence of the armed stand-off, and refers as well to the aggravating factors associated with it.

[34] The prepared statement which Ms. V. read in court on this sentencing hearing was not helpful or directed towards the issues to be decided. It was more of a political statement than a sentencing submission. When asked for her position on what would constitute a fit and proper sentence, she insisted she has done nothing wrong and should be set free, although she realizes that is not going to happen.

[35] Mr. F., presumably on his wife's behalf, referred the court to *R. v. Hayman* (1999) 135 C.C.C. (3d) 338 (Ont. C.A.) where Rosenberg, J.A. affirmed the principle that a first sentence of imprisonment, especially for a first offender, should be as short as possible and tailored to the individual circumstances of the accused, rather than solely for the purpose of general deterrence. Nonetheless, the seriousness of the offences committed, involving the reckless use of a firearm with near fatal consequences, compounded with the other aggravating factors identified, warrant a meaningful sentence.

[36] All things considered, I have concluded that the recommended sentence of 3½ years'

imprisonment is a fit and proper sentence and I impose it on Ms. V. accordingly. The increased time for the s.85(1)(a) offence over the one year minimum is justified by the several aggravating factors present. I consider this sentence to be proportionate to the gravity of the offences and the degree of her responsibility. It also accords with the principle of totality of a sentence involving multiple offences.

[37] I need only add that I would impose a sentence of one year for the s.129(a) conviction and two months for the s.91(3) conviction, both to run concurrently. Ms. V. is also to be given double credit for the time served on remand in 2004 and since her conviction on May 12th , which represents a total credit against her 3½ year sentence of 200 days (100 x 2).

[38] I am also required to grant the mandatory weapons prohibition order under s.109 and DNA sample order under s.487.051.

[39] **SENTENCING OF MR. F.**

I now turn to the sentencing of Mr. F.. The comments I made earlier in this decision about the sentencing objectives to be emphasized when dealing with a s.282(1)(a) offence have equal application, of course, to Mr. F.. The aggravating factors surrounding this offence earlier mentioned have similar application to Mr. F. for the most part, given his role and conduct throughout the abduction period with the exception, of course, that he was not convicted of being a party to any of the use of firearms offences in repelling the police as they attempted to enforce the custody order.

[40] I interject here that I am left with a reasonable doubt from the trial evidence over whether Mr. F. actually went for his gun with the intention of using it after emerging from the [...] residence, notwithstanding his bravado on the telephone with the police shortly beforehand. The establishment of that fact was not essential to the jury's verdict of guilty on the s.88 offence and accordingly, I do not take it into account as an aggravating factor on sentencing.

[41] There is, however, another aggravating factor pertinent only to Mr. F. in relation to the s.282(1)(a) offence which is very significant. Not only was Mr. F. convicted in 2000 of the same offence for abducting another child of his from a previous marriage, contrary to a custody order of the Ontario Superior Court, he was (and I so find from Exhibit S-1), still on probation following a two year prison sentence when the abduction offence in the present case was committed. The probation order included a weapons prohibition condition (see Exhibit S-1 and the sentencing decision of Haines, J. reported at [2000] O.J. No. 3457). Mr. F.'s appeal from conviction and sentence was dismissed by the Ontario Court of Appeal (see *R. v. F.* (2003) 177 C.C.C. (3d) 557).

[42] Mr. F. obviously did not get the message. He deliberately, indeed contemptuously, disobeyed the three orders issued by the Supreme Court of Nova Scotia (Family Division) placing his child in the temporary care and custody of the Children's Aid Society in Halifax. He admitted having perjured himself in those other proceedings when he lied to the court about his knowledge of the whereabouts of Ms. V. and the child. When their whereabouts were eventually discovered by the police on May 18, 2004, Mr. F. refused to answer the police door knocks and telephone calls, broke out a window near a police officer and barricaded the house to prevent the police from enforcing the order. He put the child at risk during the ensuing stand-off which was exacerbated by bringing her out of a window onto the front porch roof, mocking the police, and later emerging from the house with the child and Ms. V. on the third day, complete with loaded shotgun, into a very tense and volatile situation. Even then, Mr. F. did not surrender peaceably and had to be forcibly detained.

[43] I also observe that Mr. F. has a few other prior convictions (including possession of a narcotic, failure to appear and obstruction of a peace officer), but those are not overly significant and I attach little weight to them. What I do attach a great deal of weight to is the repeat offence under s. 282(1)(a) while still on probation. Once penal sanctions have already reached the custodial stage, the only choice a court really has is to increase the severity of the custodial sanction the next time around.

[44] Before addressing that further, more needs to be said about the other convictions, and particularly that under s.88 for possession of a weapon for a purpose dangerous to the public peace. Again, the sentencing objectives to be emphasized for such a weapons offence are denunciation and deterrence, both general and specific. Protection of the public is the ultimate goal through the accomplishment of these objectives. Here, Mr. F. was expressly warned by the police not to exit the house carrying a weapon to which he replied, "I only get one shot; big thrill". In an act of self indulgence and outright recklessness, he soon after emerged with Ms. V. and the child and his deceased mother on a stretcher, toting a loaded shotgun over his shoulder into a dense neighbourhood surrounded by police. He thereby put not only his wife, his child, and himself at risk, but also members of the public and the police. Even when ordered to drop the gun, he did not do so and had to be tackled and forcibly detained. All of these factors aggravated an already tense and volatile situation where it is indeed fortunate that no one got hurt.

[45] In going through the sentencing analysis, I am unable to identify any mitigating factors whatsoever. Like Ms. V., Mr. F. appears to have little appreciation of the seriousness of his unlawful conduct or the danger he put his child in. Like Ms. V., he blames everyone but himself for his plight, shares the same collusion theory, and neither accepts any responsibility for his actions, nor feels any remorse. Mr. F. too has defeated the request for a pre-sentence report by refusing to cooperate with anyone. The futility of furthering the sentencing objectives of promoting a sense of responsibility in the offender, and assisting in his rehabilitation, is laid bare when he refuses to take any responsibility for his actions or take any constructive steps to help himself.

[46] Because of the many aggravating factors present in this case, notably the repeat offence under s.282(1)(a) while still on probation and those associated with the weapons offence, the submission of the Crown is that Mr. F. ought to be sentenced to imprisonment for a total of six years (less credit at a multiplier of 1.5 for the thirteen months and one week served since his arrest).

[47] The suggested breakdown is as follows:

(a) for the s.282(1)(a) abduction offence - 5 years

(b) for the s.88 weapon offence - 1 year consecutive

(c) for the s.129(a) and s.91(3) offences - concurrent sentences as the court sees fit.

[48] The Crown also seeks the mandatory weapons prohibition order under s.109 of the Code.

[49] In asking for consecutive sentences, the Crown notes that the abduction offence began some 4 months before the occurrence of the armed standoff that spawned the other charges, and refers to the aggravating factors surrounding them.

[50] Mr. F.'s submission on sentencing is that he ought to be given either time served or house arrest (that is to say, by implication, a conditional sentence). Both are out of the question where the circumstances here call for a sentence of incarceration in excess of two years (which eliminates consideration of a conditional sentence under s.742.1 nor, may I add, would the court have any confidence that Mr. F. would ever comply with court imposed conditions in any event). Mr. F. did allow that if he were to be given federal time, he might engage in counselling programs, albeit on his terms of being satisfied that any assessor be provided with complete and proper information to which he would be privy.

[51] While I recognize, as indicated earlier, that the court has no other choice in this situation but to increase the severity of the custodial sanction for the repeat offence, it is my view that a jump to a 5 year sentence from the earlier 2 year sentence in Ontario, or the 1½ year sentence imposed on Mr. V. as a first offender, is a notch too far. I have concluded that a fit and proper sentence is to order Mr. F. to be incarcerated for a total of 4½ years, comprised of 3½ years for the s.282(1)(a) offence and one year consecutive for the s.88 offence. I agree for the reasons advanced by the Crown as to why these sentences should be made consecutive. I impose that sentence accordingly.

[52] Mr. F. is also sentenced to 6 months imprisonment for the s.129(a) offence and 2 months for the s.91(3) offence, both of which are to run concurrently with the others.

[53] I consider this sentence to be proportionate to the gravity of the offences and the degree of his responsibility. It also accords with the principle of totality where multiple offences have been committed.

[54] Mr. F. is also to be given double credit for the thirteen months and one week already served since his arrest, which makes for a total credit against his 4½ year sentence of 26½ months.

[55] I am also required to grant the mandatory weapons prohibition order under s.109.

[56] **CONCLUDING COMMENTS**

Lastly, I want to record my recommendation that both offenders be offered psychiatric counselling programs while incarcerated. Their cooperation in engaging in such programs may appear to be a dim prospect at the moment, but it is still worth the try for me to make this recommendation.

[57] I want to add, lest there be any doubt about it, that in imposing these sentences against Mr. F. and Ms. V., I have not factored in their contemptuous conduct at trial, which ranged from the belligerent to the bizarre once they became self-represented. It is well established that that is not an appropriate consideration for a sentencing judge to take into account. I need only further add before concluding this decision that in the circumstances of this case, no victim surcharge will be ordered.

J.