

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.

LIBRARY HEADING

Editorial Notice

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Judge: The Honourable Justice Robert W. Wright

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

Oral Decision: June 29, 2005

Written

Decision: July 11, 2005

Subject: Sentencing - Abduction in contravention of a court order (s.282(1)(a)), obstruction of a peace officer (s.129(a)) and various firearms offences (s.85(1)(a),s. 267(a), s.88 and s.91(3)).

Summary: When the police attempted to forcibly enter the residence of the offenders on May 18, 2004 to apprehend a child under a child protection order, they were met with a shotgun blast through the front door which precipitated a tense 67 hour armed standoff. On the third day, the offenders emerged from the barricaded residence carrying the body of the child's grandmother on a makeshift stretcher (who had died during the standoff from natural causes). Ms. V. was at the front of the stretcher carrying her child and Mr. F. was at the back of the stretcher toting a loaded shotgun

strapped to his shoulder. The two offenders were forcibly taken into custody and the child was turned over to the Children's Aid Society of Halifax in accordance with the court order.

After a ten week jury trial, Ms. V. was convicted of 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)).

Mr. F. was convicted 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)).

Issue: Determination of a fit and proper sentence for each offender.

Result: Although Ms. V. had no previous convictions, the sentencing objectives of denunciation and deterrence and the seriousness of the offences called for a term of imprisonment. After considering the several aggravating factors (and there being no mitigating factors otherwise), the court imposed the following sentence:

- (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) offence - 1 year concurrent
- (e) for the s.91(3) offence - 2 months concurrent

With the acknowledgment of the Crown, the convictions entered for the s.86(1) and s.88 offences were stayed under the *Kienapple* principle.

A particularly aggravating factor in respect of Mr. F. was that he committed the abduction offence while still on the probationary segment of his sentence from having committed the very same offence in 2000 involving another child from a previous marriage. After considering the predominant sentencing objectives, the many aggravating factors present, and the absence of any mitigating factors, the court imposed the following sentence:

- (a) for the s.282(1)(a) offence - 3½ years
- (b) for the s.88 offence - 1 year consecutive
- (c) for the s.129(a) offence - 6 months concurrent
- (d) for the s.91(3) offence - 2 months concurrent

Both offenders were given double credit for the time they had respectively served prior to sentencing.

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