

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Dunphy*, 2015 NSSC 323

Date: 20151112

Docket: Halifax, No. CRH 439346

Registry: Halifax

Between:

Her Majesty the Queen

v.

Paul Howard Dunphy

SENTENCING DECISION

Revised Decision: The text of the original decision has been corrected according to the attached erratum dated November 13, 2015.

Judge: The Honourable Justice Suzanne J. Hood

Heard: November 12, 2015, in Halifax, Nova Scotia

Counsel: Jonathan Langlois-Sadubin, for the Federal Crown
Kevin Burke, Q.C., for the Defence

By the Court: (orally) Hood, J.

[1] So I have the Agreed Statement of Facts which is marked as Exhibit 1 in this matter and, as I say, it has been signed by both the Crown Attorney, counsel for Mr. Dunphy and Mr. Dunphy himself.

[2] The Orders for Forfeiture are before me - \$15,000 is in the hands of Mr. Burke to be provided to the Crown. In addition, there is a lengthy list of property to be forfeited and, again, Mr. Burke has indicated that his client has reviewed that and is content with that and, of course, with that having been done there was an Order to Revoke the Restraint Order which had been against the property.

[3] As Mr. Langlois-Sadubin has said, there is also a mandatory Firearms Prohibition which I have before me as well.

[4] These are experienced counsel who have been dealing with this matter for a lengthy period of time and I see no reason why the Court would not accept the joint recommendation that is before the Court for three years incarceration and to the Orders to which I have just referred.

[5] As Mr. Burke has said, Mr. Dunphy is 44 years old, married with children and has, by entering guilty pleas to the four counts on the Indictment, accepted

responsibility for his involvement in what appears to have been a lengthy and fairly complicated series of drug transactions in his various homes over the last number of years and I am satisfied that the period of custody for three years is definitely within the range and is appropriate in all of the circumstances in this case.

[6] There was only one thing you said that you thought you needed an Order from Mr. McGuigan for Ms. Butler, but since the property in which she has a matrimonial interest is being released from the Restraint Order, I'm not just sure what the purpose of that Order would be.

[7] Mr. Langlois-Sadubin: The purpose of that waiver is with respect to the partial forfeiture ...

[8] The Court: The \$15,000.

[9] Mr. Langlois-Sadubin: Right. I'll follow up with Mr. McGuigan. I don't anticipate any difficulty getting that.

[10] The Court: That's one loose end, right. Okay, so I'm satisfied that the joint recommendation hammered out by these experienced counsel over a lengthy period of time is an appropriate one in all the circumstances and I am prepared to accept the joint recommendation.

[11] Mr. Langlois-Sadubin: Thank you, so I supposed we can move on to the issue of Ms. Butler now that Mr. Dunphy has been sentenced. The Crown will be withdrawing the charge on the Indictment against Ms. Butler, and with respect to all the other Indictments before the Court this morning with Mr. Dunphy on it, some of them are with respect to Mr. Dunphy alone and some have co-accused, so the Crown would ask that all the charges relating to Mr. Dunphy be withdrawn but if there are any co-accused on those Indictments, those are to remain.

[12] The Court: Those are to continue. Certainly. Nothing to add to that, Mr. Burke, I take it?

[13] Mr. Burke: No, My Lady, we'll just await the issue on the lifting of the Order ... lifting the Restraint Order as I think My Learned Friend is going to provide copies to me ... this has to be registered to complete this matter.

[14] The Court: I'll sign that Order now.

[15] Mr. Langlois-Sadubin: If it pleases the Court ... if I can provide that Order later today. I just want to confirm the wording. No, I think it's fine. I only have two copies – for some reason I don't have three. If that's sufficient ...

[16] The Court: Yes, there are three of some, but not all. I have three of the lengthy list of forfeitures, and I have two with respect to the \$15,000, and I have three of the Restraint Orders. I'll sign the Prohibition Orders with respect to firearms under s. 109.

[17] I note that the Crown has withdrawn Mr. Dunphy from all the other matters – I don't know whether I need to list them all at this point. Perhaps I should for the record: CR No. 443871, CR 430504 (I think that was an Indictment just against Mr. Dunphy alone), CR 433041; CR 433072, CR 433380, CR 433887, CR 435159, CR 438127, CR 439895 and CR 433958. I think that's the sum total of all of them.

[18] Is there anything further counsel?

[19] Mr. Langlois-Sadubin: I think that's all. Just with respect to that waiver issue, I will ... I understand Ms. Butler spoke to Mr. McGuigan last night and was expecting me to have that this morning, so I will have that and she indicated she'll sign it this morning, so I'll just put that on the record as well.

[20] The Court: That concludes the matter. We're adjourned.

Hood, J.

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ERRATUM

Dated: November 13, 2015

PLEASE NOTE CRH No. SHOULD READ CRH439346, not 449346

