

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Glasgow*, 2015 NSSC 197

Date: 2015-06-26

Docket: CRH No. 427969

Registry: Halifax

Between:

Her Majesty the Queen

v.

Vincent Glasgow

Judge: The Honourable Justice Patrick Duncan

Heard: June 26, 2015, in Halifax, Nova Scotia

Written decision July 8, 2015

Counsel: Timothy MacLaughlin and Heidi Collicut (Articled Clerk), for
the Crown

Patrick Atherton, for the Defence

By the Court:

Facts

[1] Mr. Glasgow has entered a plea of guilty to the offence that he, on or about 25 April 2013, at or near Dartmouth, Regional Municipality of Halifax, Province of Nova Scotia, did unlawfully have in his possession for the purpose of trafficking, Cocaine, a substance included in Schedule I of the **Controlled Drugs and Substances Act**, S.C. 1996, c. 19, and did thereby commit an offence contrary to Section 5(2) of the said **Act**.

[2] I have some familiarity with this matter, having dealt with a pre-trial motion brought by the defence with respect to the validity of the search warrant. The facts are fresh in my mind.

[3] The police entered Mr. Glasgow's residence. There was one other person present. Police seized 55 grams of crack cocaine and \$6,850.00 cash. They also seized cell phones, a pager, a scale and packaging materials.

[4] The operative aspect of this, of course, with respect to the offence itself is that while it is sometimes characterized as a non-violent crime, we understand very well that narcotics and in particular crack cocaine has a well understood relationship with anti-social behaviour by people who become addicted to it or those who are engaged in the trade. Sometimes that anti-social behaviour becomes violent and it does, as the Crown alluded to this afternoon, have a particular association with people's lives being ruined - turning into people who will lie, cheat and steal from anyone, including their families, because the addiction is so strong that they have to get money to purchase cocaine.

[5] These are not new things, we understand them very well but why they are worth repeating in each instance is because the Court of Appeal, which sets out the ranges of sentences that might be available for this type of offence, have said repeatedly, and it has been agreed to by other courts, this Court included, that it is the type of drug that attracts special attention, if you will, in terms of what the starting point should be considered for an appropriate sentence.

[6] The goal is to deter, among other sentencing principles, it is certainly to deter other people of like mind that are in similar circumstances. It is to deter Mr. Glasgow himself from repeating this type of offence. I will come back to the principles of sentencing in a moment, but I think it bears repeating at the outset that when we talk about a two-year sentence, which has been agreed upon by the parties, (and I will say upfront quite candidly, I am prepared to accept that recommendation) I think it is important that I say why.

[7] A two-year sentence is not a light sentence. A Federal institution brings with it a lot of challenges to a person who has to serve their time in that atmosphere. We accept that a period of incarceration for two years in a Federal institution has a deterrent value or it is hoped to have a deterrent value to all age groups, including senior citizens, and those who recently acquired senior citizenry, such as Mr. Glasgow.

[8] Having read the pre-sentence report, Mr. Glasgow has demonstrated that he has gone a very long period of time without re-involving himself in this type of activity. There is every reason to believe that Mr. Glasgow will not do it again. However, there is a price to pay, as one must understand, for what Mr. Glasgow did.

[9] When we talk about deterrence, the two years is also intended to tell Mr. Glasgow to not do this again. The sentences only increase from here on in for similar types of behaviour or more criminal conduct.

[10] I have read the pre-sentence report. I noted, as the Crown has pointed out, the fact that Mr. Glasgow entered a guilty plea and Mr. Glasgow has accepted responsibility. I acknowledge as well that there are varying degrees of responsibility in these matters. I have enough information and am satisfied that the plea is warranted.

[11] The amount and the circumstances certainly support the conclusion that it is for the purposes of trafficking and that the motivation for the offence by all appearances appears to be one of profit.

[12] There are some comments in the pre-sentence report that would suggest that there may have been a “need” aspect of it. We often talk about the motivation being “need or greed”. Mr. Glasgow indicated to the Probation Officer that his

conduct was borne out of the element of need, which has some relevance here. According to the pre-sentence report, Mr. Glasgow has a history of fairly steady employment, notwithstanding the fact that Mr. Glasgow's formal education is pretty limited.

[13] I have noted, as has the Crown, that Mr. Glasgow has demonstrated over the years a commitment to helping those in his family: his mother, who I understand is quite elderly and relies on Mr. Glasgow to some extent. As well, I noted the comments of Rana Saharty, his daughter-in-law, and his relationship with her. I noted Mr. Glasgow's sister's comments as well. These people who know Mr. Glasgow the best have offered positive comments and genuinely so.

[14] Similarly, Mr. Glasgow's employer indicates that Mr. Glasgow is seen as a trusted employee and a person that he would continue to employ as long as he is able to.

[15] Mr. Glasgow's financial situation, at least as of today, is modest but he was, at least up to this point, able to manage. It was sufficient funds to manage his lifestyle.

[16] Turning back to the "need versus greed" issue. Some people are motivated by addiction. Mr. Glasgow did not have that issue. That is a good thing in the sense of what it suggests for Mr. Glasgow's future. We should not expect to see Mr. Glasgow back committing offences because he has addiction problems to address.

[17] Similarly, Mr. Glasgow left a positive impression with the person who prepared the pre-sentence report. So overall, there are many reasons to believe that Mr. Glasgow will not be back before the court, that Mr. Glasgow is not somebody who needs a very lengthy period of incarceration to tell him not to do this again; but there is a consequence that I have spoken of already.

[18] I have considered the applicable sentencing authorities. The range of sentencing certainly includes the two years that has been recommended. I have identified what I believe to be the aggravating and mitigating circumstances and the principles of sentencing as set out in s. 718 of the **Criminal Code**.

[19] I have reviewed s. 718.2 and there are no deemed aggravating circumstances in my review of the material and there is no pre-trial custody to take into consideration.

[20] In summary, I am satisfied with the recommendation that has been put forward as an appropriate one having regard to all of the circumstances of the offence and of the offender.

Sentencing

[21] Therefore, I sentence Mr. Glasgow to a period of two years in a Federal institution.

[22] In addition to that, Mr. Glasgow is prohibited, pursuant to s. 109 of the **Criminal Code**, from possessing any firearm; prohibited firearm; restrictive firearm; prohibited weapon; prohibited device; cross-bow; restricted weapon ammunition; prohibited ammunition; and explosive substance beginning today for life. Further, you have week to surrender to a Peace Officer, Firearm's Officer or Chief Firearm's Officer anything that is in fact in your possession that is prohibited by this Order.

[23] Also, Mr. Glasgow will provide a sample of bodily substance for the purposes of DNA analysis.

[24] Having regard to the Victim Fine Surcharge, Mr. Glasgow is going to a Federal institution. Given what I have read in the pre-sentence report, it seems to me that it is unlikely that Mr. Glasgow will have an income. In my view, it is not a practical consideration to seek that he pay a Victim Fine Surcharge so I am waiving it in these circumstances. I note that this offence predates the enactment of the current s. 737 of the **Criminal Code**.

[25] Finally, I have before me a request by the Crown for an Order to forfeit the sum of \$6,850.00 which was alleged to have been seized during the course of the search. It appears that the money is offence related property based on the information I have before me at this point.

[26] I am prepared to entertain an Order by consent for the forfeiture of those funds. If the parties are unable to agree on the form of order then I will retain jurisdiction for the purposes of resolving any outstanding disputes.

[27] If counsel agree to the Forfeiture Order then they can send it to me at the court. If counsel are unable to agree to the Forfeiture Order, then a date will have to be set for a hearing as to the disposition of the money.

Duncan, J.