

SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Christie, 2011 NSSC 146

Date: 20110408

Docket: CRH 336502

Registry: Halifax

Between:

Her Majesty the Queen

and

Clinton James Christie

SENTENCING DECISION

Judge: The Honourable Justice Gerald R. P. Moir

Heard: April 8, 2011

Written Decision: Oral decision transcribed, edited, and signed on
April 14, 2011

Counsel: Timothy O'Leary, for Provincial Crown
Brad G. Sarson, for defendant

Moir, J. (Orally):

[1] Well, this is a sad case because Mr. Christie is a drug addict and has done things because of his addictions that caused him to spend most of his adult life in prison. He is twenty-nine years of age.

[2] The court is particularly concerned that his worst addiction, his addiction to dilaudid, was developed in prison. So, he had access to drugs in prison and access to that highly addictive drug. There is a good side to this story because Mr. Christie appears to be dealing with his addiction now.

[3] Mr. Clarke, the victim, is a man in his seventies. He was a neighbour of Mr. Christie's mother. Mr. Christie had been a visitor in his apartment. That gives one some idea of the kind of desperation that motivated Mr. Christie on March 10, 2010 when he broke into Mr. Clarke's apartment. He came in through a window. Mr. Clarke was at home. After being confronted by Mr. Clarke, Mr. Christie stole money and cigarettes from him and ripped out the telephone connection.

[4] He has a substantial criminal record of thirty-eight convictions. He is serving nine months at present. He has been in jail since June of 2010. His record

includes numerous break and enters. I am told that they were into vehicles. Again, one sees the consequences of drug addictions.

[5] The Crown submits the mitigating factors are the guilty plea, Mr. Christie's age, and the fact that the offence was fuelled by drugs where we now have some reason to be hopeful of rehabilitation. The defence adds that Mr. Christie now seems to be coming to grips with his habit. He seems to understand it and, for the first time, is acknowledging that he has a problem.

[6] The Crown and defence recommendations are close, three years and two and a half years. Three years would be more usual, but his confronting his addictions is a reason to give Mr. Christie some credit.

[7] In the circumstances, I am satisfied that a sentence of two and a half years is sufficient, keeping in mind totality and the need to achieve an appropriate balance between deterrence and rehabilitation. I think that the imposition of six months below what may be usual should encourage Mr. Christie to stay on the course that he now follows and to try to come out of prison with his addiction under control. It is something that is always going to be there in his being, he knows that better

than I do. So, it is a question of how he can avoid getting at drugs when he is in prison and when he gets out.

[8] I think the court should recognize the effort that is being made. I accept what Mr. Christie told me this morning about that.

[9] The court recommends that while in federal custody, Mr. Christie be provided with whatever programs are available to deal with his addiction and, by all possible means, he be kept away from the drug traffic that apparently goes on in Canadian prisons.

[10] The sentence will be consecutive to the sentence now being served. There will be a DNA Order. A restitution order is not appropriate in the circumstances in this case. The Court also waives the victim fine surcharge.

J.