

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. LeBlanc, 2010 NSSC 347

**Date:** 20100909

**Docket:** CRH 326639

**Registry:** Halifax

**Between:**

Her Majesty the Queen

v.

Jeremy Alvin LeBlanc

**Judge:**

The Honourable Justice Felix A. Cacchione

**Heard:**

September 9, 2010, in Halifax, Nova Scotia

**Written Decision:**

September 15, 2010

**Counsel:**

Shauna MacDonald and Richard Hartlen, for the Crown  
Patrick Eagan, for Jeremy LeBlanc

**By the Court:** (Orally)

[1] I am sentencing Jeremy LeBlanc who is 28 years old on one count of attempted murder.

[2] Mr. LeBlanc has a criminal record dating back to 1999 through to 2008. There was a respite there for a few years: some of them while he was in custody; others I acknowledge while he was not in custody. So, the only real break in his record is, save for a short time, when he has been in custody. It would appear to me Mr. LeBlanc that you have made a conscious decision to lead your life outside the parameters or the boundaries that are associated with others in society, that is respecting the law and not harming others.

[3] From the intercepts that we heard today and which I read before, it is quite unnerving to think that you could just drive around as if nothing was happening, very carefree, but talking about knocking somebody off, killing somebody. Worse, actually making plans to do it and carrying it out. It does not bode well for you. Certainly that kind of cavalier nonchalant attitude about somebody else's life is quite unnerving. It makes one think that you may have some psychopathic tendencies which I do not doubt you do.

[4] You have absolutely no respect whatsoever for anybody other than yourself, despite your acknowledgement or your apology to your mother, you do not give a damn. All you are interested in is moving Jeremy LeBlanc's criminal career forward. And this was a great opportunity - knock off big mouth Jimmy Melvin. Well you blew that. He is not dead. You are going to jail. You are going to jail for a long time. And the reason you are going to jail for a long time is the following aggravating factors.

[5] This did not take place in the middle of the woods when nobody else was around. It took place in an area where there are two large apartment buildings, multiple residential, single family dwellings, schools, baseball diamonds, basketball courts. And it is clear from the wiretap evidence, your words, that this was premeditated. Your plan was to kill him and you took steps to accomplish that plan. You are just lucky he did not die, because then you would be going away for 25 years without parole eligibility.

[6] Another aggravating factor is the time of day when this occurred. This was approximately a quarter to six in the afternoon. A time when people would be coming home from work, when kids who dawdled at school might be coming back from school. But that obviously played no part whatsoever in your consideration of what you were going to do that day. You heard, we all heard children in the background as Jimmy Melvin is talking to you. He is in a daycare centre, for God's sakes, and yet you are thinking, "Well when he comes out of here I'm going to get him to come down this path and I'll blow him away. Me or one of my cronies."

[7] The number of shots that were fired, six of them, 45 calibre slugs is a further aggravating factor. One of those made it into an apartment four stories above where this took place. You are just lucky there was nobody in that apartment. It is not uncommon, and in fact in the last few years there have been people who have suffered injuries as a result of bullets going through apartment walls and hitting somebody who is minding their own business watching television. But that did not really matter to you, just point and shoot. The problem is that this is happening every second day and the fools who are going around with these pistols, half of them do not know how to shoot a gun. So innocent people are put at risk because of these actions. It was clearly in my mind a callous, wanton and reckless disregard for the safety and lives of others.

[8] As I have said your attitude, as shown through the wiretaps, supports a finding of utter disregard for the lives and safety of others. People who had nothing to do with whatever dispute, real or imagined, existed between you and Mr. Melvin. Mr. Melvin suffered some injuries. They are significant injuries. I note that he had to wear a colostomy bag for over a year.

[9] Your prior record is not enviable. You are 28 years old and that record started 11 years ago which means you would have been - what 17 years old? So, what did you do? Did you just wake up one day and say "I don't want to work like everybody else. I'm going to make my living being a criminal. I'm just going to sell dope and you know beat up people and rob stores, and gosh if I get the chance I'll shoot somebody." Is that what you did?

**MR. LEBLANC**: Would you like me to answer that question?

**THE COURT**: Yes.

**MR. LEBLANC**: No Your Honour, that's not what I did.

**THE COURT**: No?

**MR. LEBLANC**: No.

### **COURT'S DECISION CONTINUED**

[10] Well it sure looks to me like you have not made any effort whatsoever to distance yourself from that kind of activity. You know, you are on bail and you commit offences. You are on release conditions saying you are not to possess firearms. What do you do - you possess firearms. To me that says: "You know judge you can talk all you want, but I don't care because I'm going to do what I want to do." You chose to possess a weapon despite being ordered by the court not to possess any weapons. That to me indicates a clear contempt of the process and of society. You walk along thinking "I obey my rules, not somebody else's rules." Unfortunately society does not work that way.

[11] People in this area, people in Halifax, in HRM are understandably concerned and upset about what appears to be an increasing use of firearms in populated public areas by persons who mindlessly and indiscriminately see the use of firearms as a means of settling their own disputes. And you know, if this was the Old West with a deserted road and just two people, gun slingers shooting at each other, it would not be nice, but it would not be as bad as what this is. What this City has become is that people are afraid that 20 year olds, 21 year olds, 19 year olds, who are looked at sideways are going to pull a pistol. They are going to be shot. Why are they afraid? Because they turn on the news and they see what's happening, this guy got shot over in Dartmouth, shots were fired in Spryfield, shots were fired in Cowie Hill. Every single day it seems that we hear about shots being fired.

[12] I said it before, in the matter of **The Queen and Johnston**, and I am going to say it again that the risk posed by such actions, such indiscriminate use of firearms is high and it is increasing in this City. A clear message must be sent to those in our community, those such as you Mr. LeBlanc who believe that, "you know I can live by the gun. I can settle my disputes by the gun." That message is that there will be severe consequences for the senseless use of firearms.

[13] I considered the principles under s.718 of the **Criminal Code**. Of all those principles in situations such as this, that is the indiscriminate use of handguns in public areas that are populated, densely populated, must be denunciation, closely followed by a need for both general and specific deterrence. General deterrence to others who decide “You know I think I am just going to take a gun today and go shoot somebody”, and to you Mr. LeBlanc because you have not learned. I have counted, I think it was 16 entries on your record. Now I am not sure that that reflects that actual number of charges, but just the number of entries. And you know, different things have been tried: probation, fines, short terms in custody, longer terms in custody. It has made no difference. You just came off a 29 month bit and you are right back into it. Worse, you are into it real big time.

[14] You know it is not a pleasure sending somebody to an institution. It really isn't. And it's not something that I take very lightly. I loathe having to do that to anyone because I know what the inside of those institutions is like. But there comes a point when somebody's behaviour and past track record, leaves me no option. You know, psychiatrists say that past behaviour is a good prognosticator or indicator of future behaviour, and if that is true Mr. LeBlanc, then you would be considered to be a very high risk of re-offending, if released.

[15] You know the fact that Jimmy Melvin, for whom I have no love loss, did not die, is simply good luck. He could have died. More importantly innocent people who were around could have died because somebody decided today is the day to get Jimmy Melvin. And what absolutely astounds me is the - how can I put it delicately - I won't, the stupidity of doing this knowing Jimmy's being tailed and you're being tailed and the heat's all around. Doesn't get much brighter than that, I can tell you that.

[16] This was a calculated, cold-blooded shooting. It was committed in a densely populated area which contained schools, basketball courts and day-cares and single family dwellings. The fact that you nonchalantly planned and executed this attempt murder with the use of a firearm with a complete disregard for the safety of others who had nothing to do whatsoever with any dispute between you and Mr. Melvin, to me indicates that you are probably going to be back once you get out. Back in a courtroom. You can shake your head, and you know I really do hope that things change for you. That you come to realize that this is not really a nice way of spending my life. Not seeing my kid. Not being able to hold my kid,

because I'm in the slammer. Maybe you will change. I hope you do. I really do. But my function here is to send out a message to protect the public and to make you aware that what you did is not condoned by law-abiding members of our society.

[17] People such as your self, Mr. LeBlanc, who chose to illegally possess and use firearms must know that there will be severe consequences for that action, that such actions will not be tolerated.

[18] Mr. LeBlanc's guilty plea to attempted murder is an admission which was reaffirmed this morning when I questioned him that his intent on that day was to kill Jimmy Melvin, Jr. And I will quote what was quoted in the Crown's brief. Chief Justice Lamer's comments in **R. v. Logan**, [1990] 2 S.C.R. 731 where he said at para 20:

...The attempted murderer is no less a killer than a murderer: he may be lucky -- the ambulance arrived early, or some other fortuitous circumstance -- but he still has the same killer instinct.

[19] This was a very serious shooting with a handgun, planned in advance, committed in a public place by an individual with a lengthy criminal record, some of it including offences of violence. The fact that he was on release and in breach of his bail conditions is also an aggravating factor. It speaks against credit being given on a two for one basis for remand time. What you did Mr. LeBlanc, you did by choice. The lifestyle you have chosen to lead you have lead by choice. It is not a situation where you have some cognitive disability or some mental illness or some addiction that causes you to behave in that fashion, and that is what is really unnerving.

[20] I have come to the conclusion that the use of handguns in public places in HRM cries out for lengthy custodial sentences. Whether an offender has a prior record or no record at all, barring exceptional circumstances, the use of a handgun in a public place calls for a federal term of incarceration. The length of such sentence will be governed by the circumstances of the offence and the circumstances of the offender, but the primary message must be one of deterrence and denunciation.

[21] You know Mr. LeBlanc when I came into this courtroom this morning I had a very different number in mind in terms of the number of years you would serve. And then I reread the words of Judge Campbell in **R. v. Mykel Smith**, a young person, 2010 NSPC 53. And I will quote them, and I think it was good for me to reread them.

Courts [he says] cannot maintain the pretense of being so aloof as to be unaware of the level of public concern. At the same time, judges do not have the luxury of basing sentencing decisions on popular opinion. The sentence must reflect the seriousness of the offence, the callousness with which it was carried out and the moral culpability of the young person, yet a judge cannot respond emotionally. Shock, fear, and anger, may drive understandably outraged public reactions. But a sentencing judge must resist the temptation to allow those emotions to drive the legal result. The hand of the emotion has to stayed by the considerations of the law...

[22] So let me tell you two things, three things actually. The first is because of the nature of this offence, where it was carried out, the planning and premeditation that went along with it, I am not going to give you credit on a two for one basis. The second thing is that the number that I came in here with in my mind has been reduced by quite a few years because you were looking at close to a first degree 25 years. But that has to be tempered. I have looked at s.743.6 of the **Criminal Code** which allows me, based on the circumstances of the offence and the circumstances of the offender, to delay parole. Given that this offence was committed by somebody who has a criminal record, who was on bail conditions at the time, including a condition not to possess firearms, that it occurred in a densely populated area at a time of day when persons could be expected to be in the vicinity, the number of shots fired, the fact that one of those bullets entered the apartment building, a multi-storey apartment building, leads me to the conclusion that it is important to keep you off the streets for as long as I can.

[23] I am not looking at the 18 years that Crown counsel was looking for as a maximum. I have already told you I was not looking and I am not looking at the figure that I had in mind before I heard the submissions of counsel and the wiretaps. If you would stand please Mr. LeBlanc.

[24] The sentence of this is court is that you be incarcerated for a period of 16 years and I will order that you serve at least half of that sentence before you are eligible for parole.

[25] There will be an order prohibiting you from possessing any weapon for the duration of your lifetime, and you will also be subject to a DNA order, samples of your DNA will be taken. Anything further counsel?

**MS. MACDONALD:** Is that, just to clarify for the record, 16 minus the remand or...?

**THE COURT:** No. He is not getting credit for... He is getting credit on a one-for-one basis. There is no credit time. He is not being credited for any remand time.

**MS. MACDONALD:** So is that 16 on a go forward?

**THE COURT:** Sixteen years go forward.

[26] There are three other counts on this indictment that relate to Mr. LeBlanc.

**MS. LEBLANC:** We would be withdrawing those My Lord, as against Mr. LeBlanc.

[27] Counts 1, 5 and 7, as it relates to Mr. LeBlanc are withdrawn.

---

Cacchione, J.