

SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Chan, 2011 NSSC 471

Date: 20111216
Docket: CR. No. 334922
Registry: Halifax

Between:

Her Majesty the Queen

-and-

Joseph Endelle Chan

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Judge: The Honourable Justice Robert W. Wright

Heard: December 16, 2011 in Halifax, Nova Scotia

Oral

Decision: December 16, 2011

Written

Decision: January 5, 2012

Subject: Sentencing - multiple firearm offences - principles of proportionality and totality.

Summary: The accused was found to be the perpetrator of a shooting at a barbershop/clothing store in Sackville, Nova Scotia which took place on April 8, 2010. When apprehended by police on another matter on April 14, 2010 the accused was found to be in possession of the same handgun as had been used in the shooting six days earlier.

The accused was found not guilty of the most serious charge of attempted murder on April 8th but was convicted of the 13 other charges contained in the indictment. The most serious of those convictions were for the offences of discharging a firearm with intent to endanger the life of a person (s.244) and possession of a restricted firearm

with ammunition (s.95(1)) which carried mandatory minimum sentences. The Crown sought an overall sentence of 16 years imprisonment while the defence recommended an overall sentence of eight years, less credit for time served on remand.

Issue: Determining a fit and proper sentence, having regard to the purpose and objectives of sentencing and the principles of proportionality and totality.

Held: The offences were divided into two groups for sentencing purposes, those which were committed on April 8, 2010 and those committed on April 14, 2010. In imposing individual sentences for each offence, some to be served consecutively and some concurrently, the Court initially arrived at a cumulative sentence of 13 years imprisonment (after imposing consecutive sentences of seven years for the s.244 offence, five years for the s.95(1) offence, and one year for the s.117.01(1) offence (possession of a weapon contrary to court order). However, the cumulative sentence was then reduced to 11 years imprisonment having regard to the principle of totality. In addition, the offender was given credit for 16 months served on remand on a one for one basis, resulting in a sentence of nine years and eight months to be served on a go forward basis. The Court also granted ancillary orders for DNA sampling and a weapons prohibition order for life.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER SHEET.
