

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. LeBlanc, 2013 NSSC 189

**Date:** 20130614

**Docket:** CRBW.415146

CRBW 415672

CRBW.415671

**Registry:** Bridgewater

**Between:**

Her Majesty the Queen

v.

David James LeBlanc

**Restriction on publication:** Pursuant to S. 486.4 of the Criminal Code

**Judge:** The Honourable Justice C. Richard Coughlan

**Heard:** June 14, 2013 at Bridgewater, Nova Scotia

**Written Decision:** June 21, 2013. (Oral decision on Sentence June 14, 2013.)

**Counsel:** C. Lloyd Tancock, Crown Counsel  
Michael Taylor, Defence Counsel

**By the Court:**

[1] On May 23, 2013 David James LeBlanc plead guilty to eight offences.

1. That he, between June 1, 2010 and August 31, 2010 did make child pornography contrary to section 163.1(2) of the **Criminal Code**.

2. And that he at the same time and place touched for a sexual purpose a person under the age of sixteen years directly with a part of his body - his hands contrary to section 151 of the **Criminal Code**.

3. And on July 5th, 2010 he unlawfully made available child pornography - digital images contrary to section 163.1(3)(a) of the **Criminal Code**.

4. That he on or about September 18, 2012 kidnapped R.K.J.C. with intent to cause him to be confined against his will contrary to section 279 (1.1)(b) of the **Criminal Code**.

5. That between September 17 2012 and September 24, 2012 he without lawful authority confined R.K.J.C. contrary to section 279 (2) of the **Criminal Code**.

6. That between September 17th, 2012 and September 24, 2012 he did commit a sexual assault on R.K.J.C. contrary to section 271 of the **Criminal Code**.

7. That between September 17, 2012 and September 24, 2012 he knowingly uttered a threat to R.K.J.C. to cause death to R.K.J.C. contrary to section 264.1(1) of the **Criminal Code**.

8. That between September 17, 2012 and September 24, 2012 being at large on an undertaking to keep the peace and be of good behaviour, did without lawful excuse fail to comply with that condition by engaging in criminal activity contrary to section 145(3) of the **Criminal Code**.

[2] An Agreed Statement of Facts of these offences has been placed before the court - they are horrendous. The Agreed Statement of Facts will be appended to my decision.

[3] With regard to the offences which occurred in 2010, Mr. LeBlanc took pictures of a five year old boy and fondled the bum and penis of the five year old boy. He uploaded pornographic images of the two young boys aged two and five years to an American website.

[4] The facts with regard to the five offences which occurred in 2012 which involved a 16 year old victim are as follows. On September 17th R.K.J.C. was offered a painting job by Mr. LeBlanc, which he accepted. R.K.J.C. went with Mr. LeBlanc to Upper Chelsea on the pretext of getting painting supplies. Once at a remote location Mr. LeBlanc and his partner, Wayne Cunningham, confined R.K.J.C., took his clothing from him, photographed him, sexually assaulted him and forced him to perform sexual acts on them.

[5] At a point, R.K.J.C. was left alone and escaped but was later located by the two men, forced to return with them to the cabin and again confined, including being chained by the wrists and ankles to bolts in the floor and ceiling. Over the next several days he was repeatedly sexually assaulted and threatened with death if he did not cooperate. The sexual assaults included masturbation, fellatio and anal intercourse. Eventually R.K.J.C. escaped.

[6] I have had the opportunity to read the victim impact statements provided and hear the statements read, the statements show the long lasting effects of Mr. LeBlanc's offences on R.K.J.C. and his family. The violence committed by Mr. LeBlanc has had a profound impact on R.K.J.C.. One can only imagine the terror experienced by R.K.J.C. - a young man chained to the ceiling and floor of an isolated cabin and assaulted by Mr. LeBlanc and his associate.

[7] Mr. LeBlanc is forty-eight years of age and has a criminal record dating from November of 2006 for property offences. He does not have prior offences for offences against the person.

[8] The principles of sentencing are set out in the **Criminal Code**. I refer to these principles relevant to the case at bar:

## **718. Purpose**

The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

### **718.01 Objectives**

When a court imposes a sentence for an offence that involved the abuse of a person under the age of eighteen years, it shall give primary consideration to the objectives of denunciation and deterrence of such conduct.

### **718.1 Fundamental principle**

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

### **718.2 Other sentencing principles**

A court that imposes a sentence shall also take into consideration the following principles:

(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing, ...

(ii.1) evidence that the offender, in committing the offence, abused a person under the age of eighteen years,

(b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;

(c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;

(d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and

(e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, ...

[9] I have received a joint recommendation as to sentence. In dealing with joint recommendations in *R. v. MacIvor* (2003), 215 N.S.R. (2d) 344 (C.A.) Cromwell, J.A., as he then was, in giving the Court's judgment, stated at p. 351:

1. ... It is not doubted that a joint submission resulting from a plea bargain while not binding on the Court, should be given very serious consideration. This requires the sentencing judge to do more than assess whether it is a sentence he or she would have imposed absent the joint submission: see, e.g., *R. v. Thomas (O.)* (2000), 153 Man. R. (2d) 98; 238 W.A.C. 98 (C.A.), at para. 6. It requires the sentencing judge to assess whether the jointly submitted sentence is within an acceptable range - in other words, whether it is a fit sentence. If it is, there must be sound reasons for departing from it. ...

[10] And at para. 33, Cromwell, J. A. quoted from the decision of Fish, J.A., as he then was, giving the Court's judgment in *R. v. Verdi-Douglas* (2002), 162 C.C.C. (3d) 37 (Que. C.A.):

[51] ... the interests of justice are well served by the acceptance of a joint submission on sentence accompanied by a negotiated plea of guilty – provided, of course, that the sentence jointly proposed falls within the acceptable range and the plea is warranted by the facts admitted. (Emphasis added)

[11] Both Mr. LeBlanc and the Crown are represented by experienced counsel.

[12] I have received a joint recommendation of eleven years less credit for the period of 258 days Mr. LeBlanc has been detained in custody from September 30, 2013 to June 13, 2013 broken down as follows:

Section 163.1(2)	1 year
Section 151	1 year consecutive
Section 163.1(3)(a)	1 year consecutive
Section 279 (1.1)(b)	4 years consecutive
Section 279 (2)	3 years concurrent
Section 271	4 years consecutive
Section 264.1(1)	1 year concurrent
Section 145 (3)	1 year concurrent

[13] In addition, a prohibition order pursuant to Section 109 of the **Criminal Code**, an order to report for life pursuant to section 490.012(1) of the **Criminal Code**, a D.N.A. sampling order pursuant to section 487.051 of the **Criminal Code**, a prohibition order for life pursuant to section 161(1) of the **Criminal Code** and forfeiture of the various items seized from Mr. LeBlanc pursuant to section 190 of the **Criminal Code** are sought.

[14] I have read the cases to which I have been referred by the Crown and have heard the submissions of the Crown and Defence as to the various aggravating and mitigating factors.

[15] Applying the principles of sentencing set out in the **Criminal Code** and the facts surrounding the offences and Mr. LeBlanc, I find the joint recommendation of eleven years falls within the acceptable range and is warranted by the admitted facts.

[16] Mr. LeBlanc would you please stand.

[17] David James LeBlanc, I sentence you to serve for the offence pursuant to **section 163.1(2) of the Criminal Code** a term of imprisonment of one year.

[18] I sentence you for the offence pursuant to **section 151 of the Criminal Code** to a term of imprisonment of one year to be served consecutively to the sentence pursuant to section 163.1(2).

[19] I sentence you for the offence pursuant to **section 163.1(3) (a) of the Criminal Code** to a term of imprisonment of one year to be served consecutively to the sentence pursuant to section 151.

[20] I sentence you for the offence pursuant to **section 279(1.1)(b) of the Criminal Code** to a term of imprisonment of four years to be served consecutively to the charge pursuant to section 163.1(3)(a) of the Criminal Code.

[21] I sentence you for the offence pursuant to **section 279(2) of the Criminal Code** to a sentence of imprisonment of three years concurrently to the charge pursuant to section 279(1.1)(b).

[22] I sentence you for the offence pursuant to **section 271 of the Criminal Code** to a sentence of imprisonment of four years to be served consecutively to the charge pursuant to section 279 (1.1)(b).

[23] I sentence you for the offence pursuant to **section 264.1(1) of the Criminal Code** to a sentence of imprisonment of one year to be served concurrently to the charge pursuant to section 271.

[24] I sentence you for the offence pursuant to **section 145 (3) of the Criminal Code** to a sentence of imprisonment of one year to be served concurrently to the charge pursuant to section 271.

[25] Mr. LeBlanc was detained in custody from September 30, 2012 to June 14, 2013 a period of 258 days. Pursuant to section 719(3) of the **Criminal Code** he shall be given credit for the 258 days which results in a total sentence of eleven years less 258 days.

[26] I also grant an order pursuant to section 109(1) of the **Criminal Code** that Mr. LeBlanc be prohibited from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device or prohibited ammunition for life and from possessing any other firearm or ammunition or any cross-bow, restricted weapon or explosive substance for life.

[27] I grant an order pursuant to section 490.012 of the **Criminal Code** requiring David James LeBlanc to comply with the Sex Offender Information Registration Act for the period of his life.

[28] I grant an Order authorizing the taking of bodily substances for DNA analysis pursuant to section 487.051(1) of the **Criminal Code**.

[29] I grant an order of prohibition pursuant to section 161(1) of the **Criminal Code** against David James LeBlanc for the period of his life.

[30] I order the forfeiture of the items seized and detained by Peace Officers in the execution of their duties during the investigation leading to the charges dealt with today pursuant to section 490.1 of the **Criminal Code**.

[31] Considering Mr. LeBlanc's circumstances, I waive the victim surcharge.

Coughlan, J.



**APPENDIX**  
**Statement of Facts**  
**Sentencing of David James Leblanc**  
**June 14, 2013, Bridgewater Supreme Court**

On July 7, 2010 administrators of an American website “younggayboys2010.ning.com” became aware that someone from a unique computer IP address had uploaded illegal images of young boys to their website. They reported this information to the National Center for Missing and Exploited Children in the United States. The Center determined that the computer IP address in question was Canadian and forwarded the information to the National Child Exploitation Centre in Ottawa. They in turn, because the IP address was for an internet subscriber in Dartmouth, Nova Scotia, forwarded the information to the Halifax Regional Police.

Members of the Halifax Regional Police Integrated Internet Child Exploitation Unit reviewed the 17 pictures that had been uploaded to the American website from the Dartmouth IP address and determined that 11 of the pictures depicted naked males under the age of 18 years. The I.C.E. Unit determined that David James Leblanc was the Dartmouth internet subscriber and on December 17, 2010 they executed a search warrant at his Dartmouth address. During the search his computer was seized and examined and naked pictures of two identified Nova Scotian boys, aged 2 and 5 years were found.

When questioned by I.C.E. Unit investigators, Mr. Leblanc admitted that he had taken pictures of the young boys during the summer of 2010 at Beach Meadows, near Liverpool, Queens County, Nova Scotia while the boys were changing at the beach. Mr. Leblanc went on to say that on a later occasion he put his hands in the pants of the 5 year old boy and fondled his bum and penis. He admitted that he subsequently viewed and masturbated to the pictures of the two young boys and that he had uploaded these pictures to the American website.

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During the late summer or early fall of 2012, 16 year old RKC was living on the streets of Halifax. He met David Leblanc through a brief acquaintance who had provided RC with some temporary assistance.

Around September 17<sup>th</sup> David Leblanc offered RKC a painting job and drove RKC from Halifax in a van to Lunenburg County on the pretext of going for painting supplies.

When they arrived at a cabin in Upper Chelsea, Lunenburg County they were met by Wayne Cunningham, David Leblanc’s partner. The walls of the cabin contained photographs of mail(sic) genitalia and sexual acts.

At some point David Leblanc offered RKC monies to expose his penis, which RKC eventually did believing he had no choice. RKC was sexually assaulted by the men in a bedroom of the cabin and his clothing was taken from him.

David Leblanc left the cabin the following day. At a point Wayne Cunningham received a telephone call and left shortly thereafter, telling RKC not to try and leave the cabin. Some time later RKC was indeed able to escape through a bedroom window, retrieve his clothing and begin walking along the rural road. He was later located by Leblanc and Cunningham and forced to get into their vehicle. He was then returned to the cabin.

Over the course of the next several days RKC was secured naked by chains attached to his wrists and ankles and in turn to bolts in both the floor and the ceiling of a bedroom. He was repeatedly sexually assaulted by way of fellatio and anal intercourse as well as being forced to perform fellatio. He was threatened with his death if he were to attempt any further escape or if he were not to cooperate. The sexual assaults occurred both while he was chained standing and while he was placed on the bed and the sexual assaults occurred several times a day.

RKC experienced his pubic area and buttocks being shaved, photographs being taken of him and he sustained bruising and abrasions from the restraints that were used to secure him as well as from the efforts of his escapes.

On September 24<sup>th</sup> RKC was again left alone at the cabin and was again able to escape, this time naked and with chains still secured around his legs. Over the next few hours he sought and received assistance from residents of the community and police were eventually notified.

The identities of Leblanc and Cunningham were determined and the search for them began. Investigation revealed that the men has fled the province and were traveling towards western Canada. Leblanc was subsequently located and arrested near Long Lac, northeast of Thunder Bay, Ontario and eventually escorted back to Nova Scotia. He has been detained in custody since his arrest.