

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Halsey*, 2014 NSSC 347

Date: 20140918

Docket: *HFX*, No. 416469

Registry: Halifax

Between:

Her Majesty the Queen

v.

Jason Matthew Halsey

Judge: The Honourable Justice Felix A. Cacchione

Heard: September 18, 2014, in Halifax, Nova Scotia

Final Written September 19, 2014

Counsel: Christine Driscoll and Carla Ball, for the Crown
Patrick MacEwen, for the Defendant

By the Court:

[1] Mr. Halsey was initially charged with second degree murder in relation to the death of Corey Lucas. He was also charged with wounding Mr. Boliver and as well with a charge of robbery. As a result of a resolution conference Mr. Halsey entered a plea to an amended third count on the indictment. There has been a new indictment filed and that amended count is one of conspiracy to commit robbery. The alleged co-conspirators were Dylan Roach and Simon Dugas.

[2] Mr. Halsey has been in custody since July 11, 2012. He has not applied for release since that time. As indicated by counsel the amount therefore is two years, two months. Credit is to be given on a 1.5 to 1 basis which would mean three years, three months credit for pretrial custody.

[3] While in pretrial custody Mr. Halsey has been held in a maximum security institution. I understand from his counsel that he has attempted to make efforts while in custody to rehabilitate himself by involving himself in some of the programs. However, due to his status and the place of detention, those programs were not available. I am satisfied that this is a case where enhanced credit for remand time ought to apply and will apply.

[4] I spoke earlier of the resolution conference. At the time of that conference discussions were held with respect to the strength of the Crown's case. In particular the evidence or testimony of Mr. Dugas the co-accused who, once the jig was up, turned around and provided information to the police and accepted to plead guilty to the offence of accessory after the fact. Mr. Dugas is in witness protection.

[5] As noted by both counsel there were extensive discussions that took place prior to, I understand the resolution conference and also subsequent to that resolution conference. I have before me experienced counsel. The sentence proposed, that is four years minus the remand time credit, is one which is within the range although at the low end of the range for conspiracy to commit robbery.

[6] This was a situation that obviously was driven and fueled by a need for drugs and a need for money by Mr. Roach, Mr. Halsey and Mr. Dugas. The troubling aspect is that at the, if I may call it, a pre-robbery meeting of the conspirators, it was clear that Mr. Roach had a weapon - a firearm, that Mr. Roach

was intoxicated and it ought to have registered to others that in that condition and armed as he was with a plan to essentially commit a home invasion, the likelihood of someone being injured or killed was very high. Despite that awareness the plan proceeded. I would suspect that it proceeded because of the hold that the drugs had on these three individuals.

[7] Mr. Halsey, you are 29 years old. Your counsel has indicated that you want time to spend with your family, turn your life around, be a dad to your child. I have been around this building long enough to know that people who involve themselves in situations such as you have, people who are driven by a need for drugs and money often do not make it back to the courtroom because they are dead. If you continue down the lifestyle that you have lead so far, your son is not going to have a father. Your parents are not going to have a son. Now I can speak all I want. I can speak for hours, but you are the only one that can turn it around. If do not, you know what lies ahead. If you do, it is going to take a big effort on your part to put your past lifestyle behind you and start dealing with the realities of earning a legitimate living, providing for your family and caring for them. Obviously your involvement in this shows a complete disrespect for your family.

[8] You understand sir, that as part of the sentence there will be an order prohibiting you from possessing any firearm, ammunition or explosive devices for the remainder of your life. There will also be an order directing you to provide a DNA sample.

[9] If you would stand please Mr. Halsey.

[10] The sentence of this Court on the charge of conspiracy to commit robbery contrary to s.465 and s.344 of the **Criminal Code** is four years incarceration in a federal institution. You will be credited for remand time in the amount of three years, three months, which will leave a remaining sentence of nine months to be served.

[11] As I indicated counsel, the Warrant of Committal will read four years. It will be noted on the Warrant of Committal that credit on a 1.5 to 1 basis has been granted.

[12] The orders under s.109 and s.487.051 will go forward once they have been amended. Anything further counsel?

MS. DRISCOLL: Just to be sure My Lord the first two counts, did we deal with those on the last date?

THE COURT: He entered pleas of not guilty on that last date. Crown's position?

MS. DRISCOLL: No evidence on those two counts.

THE COURT: With respect to the first count on the indictment being second degree murder occurring on May 25, 2012, that charge is dismissed for want of prosecution. With respect to the second count dated the same day, May 25, 2012, wounding William Boliver contrary to s.268, that charge is dismissed for want of prosecution.

MS DRISCOLL: My Lord, one further point. Given that we are dealing with the robbery charge now, My Lord, it does predate the changes to the **Criminal Code**, but the victim fine surcharge, we haven't addressed that. I have no issue with it being waived given the current circumstances. I expect that's what my friend would request.

MR. MACEWEN: And we would seek to have it waived. He has been in custody for a number of years now.

THE COURT: I will not comment on the politics of that particular amendment, but certainly ordering somebody to pay a victim fine while they are incarcerated in a federal institution is, for lack of a better word, ridiculous.

MS. DRISCOLL: Agreed...I probably shouldn't comment either, but I thought we should at least address it on the record.

THE COURT: The victim fine surcharge is waived given that Mr. Halsey has been in federal custody for two years and will be serving another period in federal custody. Anything further counsel?

MS. DRISCOLL: No, I think that's everything.

MR. MACEWEN No, My Lord. Thank you.

THE COURT: Good luck to you Mr. Halsey.

Cacchione, J.