

Citation: *R. v. Bradley*, 2017 YKTC 18

Date: 20170405
Docket: 16-00699
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Judge Cozens

REGINA

v.

ZACHERIAH BRADLEY

Appearances:
Ludovic Gouaillier
Vincent Larochelle

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] COZENS J. (Oral): Zacheriah Bradley has entered guilty pleas to having committed offences contrary to s. 5(1) and s. 5(2) of the *Controlled Drugs and Substances Act*, as well as s. 145(3), s. 88, and s. 92(1) of the *Criminal Code*.

[2] The 23-count Information before me alleges a number of other breaches of the terms of a recognizance when he was in British Columbia, related to failing to keep the peace and having in his possession certain firearms and other weapons and proceeds of crime. These other counts are made out within the Agreed Statement of Facts and what I have spoken to, but the Crown has not sought pleas on these. Obviously, there is considerable duplication in the charges, but I am aware of the fact that we are not dealing with a five-count Information.

[3] The circumstances are set out in an Agreed Statement of Facts. Simply put, as these facts have been filed as an exhibit, Mr. Bradley was released on a recognizance in British Columbia in 2014 with a number of conditions, including conditions not to possess firearms, bows, crossbows, machetes, swords, and other instruments, including pepper spray and bear spray.

[4] Contrary to the terms of the recognizance that he reside at a location in Vernon, British Columbia, he came to Whitehorse to reside.

[5] From January 5 to 9, 2017, Mr. Bradley was involved in three separate transactions in which he facilitated trafficking in cocaine in Whitehorse. The amounts were .3, .18, .31, .28, and then a further four rocks of crack cocaine.

[6] On January 17, 2017, Mr. Bradley was arrested by the police. Pursuant to a warrant, a search of the residence he was in turned up a number of items, including cash, further cocaine (8.78 and an individual 1.63), some marijuana, and a number of firearms. These firearms were not safely stored. There were bullets in some, although none of the firearms were chambered. There were other items that are the subject of forfeiture that he was not permitted to have.

[7] There is an admission that these weapons in the context in which they were found were for purpose dangerous to the public peace, although there is clearly no evidence that they were used in such a manner. They were simply stored in a manner that allows that inference to be drawn. The plea is simply with respect to a 12-gauge shotgun but there were other items there as well. Mr. Bradley also did not have a

licence to possess any of these firearms and the plea is for simply the Mossberg 270 calibre rifle, but obviously it would apply to all of the firearms that he had.

[8] Mr. Bradley is 24 years of age. He has a record going back to his youth in Vernon, British Columbia. I note there are some serious convictions on that youth record. The youth record is accessible by virtue of offences that were committed while he was an adult. As a result of an armed robbery, Mr. Bradley received a firearm prohibition in 2009. In 2010, as a youth, again, he ended up with a two-year firearm prohibition on an assault causing bodily harm. He has not been prohibited as an adult, although he was convicted as an adult of breaching one of the prohibition orders and received the equivalent of a 31-day jail sentence.

[9] These are his first convictions as an adult or a youth related to the possession or trafficking of drugs. He has prior firearm convictions, however they are not the same convictions that he is facing today. He has had short stints in custody. He has never had a long period of time in custody. His youth was spent in some foster homes and it is clear to me that this was not ideal by any stretch of the imagination. Mr. Bradley candidly admits he does not have any real network of friends or support that live a positive lifestyle. Knowing that is a huge step towards finding a way to deal with it and I am hopeful that Mr. Bradley can do that while he has so much of his life ahead of him.

[10] The joint submission before me calls for a federal sentence. He has 84 days' credit for pre-trial custody. Counsel have agreed that I should be aware of this but not actually attribute it to any of the sentence. So I am aware of it; no credit will be given for it.

[11] With respect to the s. 5(1) charge, there will be a sentence of 12 months' custody.

[12] With respect to the s. 5(2) charge, there will be a consecutive sentence of 12 months plus one day.

[13] With respect to the s. 145(3) sentence, it will be 60 days concurrent.

[14] With respect to the s. 88 charge, it will be 12 months concurrent.

[15] With respect to the s. 92(1) charge, it will be 12 months concurrent.

[16] The total time in custody then is two years plus one day, which results in a federal sentence.

[17] There is a mandatory DNA order with respect to the s. 5(1) and s. 5(2) offences.

[18] There will be a forfeiture order. It has been provided to me. Counsel have reviewed it and are satisfied with it. Essentially, all of the seized items listed are to be forfeited.

[19] The joint submission calls for a lifetime firearms prohibition. Upon review of the file and the criminal record, it appears to me that the mandatory order in this case is only 10 years. I had questions about the propriety of imposing a lifetime prohibition in the circumstances. Counsel for the Crown is not the counsel that was dealing with this matter all along. It has been my experience — and I cannot say that is what happened in this case — but it is not unusual in cases like this for firearms prohibitions to somehow not be completely straightforward as to whether they are 10 years or

mandatory lifetime. After reviewing the criminal record and the charges that we are dealing with, I am satisfied — and counsel have not persuaded me otherwise and seem to concur — that the prohibition is under s. 109(2) and for a period of 10 years.

[20] I, of course, have the ability to make a longer prohibition but, given that he had no adult prohibition orders and he is a young person, if he can keep himself clean for the 10 years that he is going to be prohibited, then I do not see the need to impose a longer condition. In a sense, I am deviating from the joint submission on this but if anyone has concerns, they can look back at the discussion that took place.

[21] The prohibition will attach itself to the s. 5(1) and s. 5(2) offences. You will be prohibited from possessing any firearm and any crossbow, restricted weapon, ammunition, and explosive substance. That begins today and ends not earlier than 10 years after your release from imprisonment after conviction for the offence.

[22] You are also prohibited from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device, and prohibited ammunition for life.

[23] That is the minimum that can be imposed.

[24] You can, of course, sort out with counsel what is meant by prohibited firearm, restricted firearm, prohibited weapon, prohibited device, and prohibited ammunition, which are different than simply firearms.

[25] Now, that is 10 years from the time you get out of prison. It starts today and it runs 10 years from the time you are out of prison. That, again, is the minimum that can be imposed in this case.

[26] The \$200 victim surcharge on each charge, amounting to \$1,000 in total, is ordered payable forthwith. I will note Mr. Bradley to be in default of payment and I will order that he serve his default time in custody concurrent to the time that he is serving in custody. A warrant can go forth in respect of that. The \$1,000 will be served by time in custody remaining on his sentence.

[27] I really do wish you the best, Mr. Bradley, with trying to turn your life away from where the pattern it has brought you. You can do it. I will not tell you it will be easy but you can do it. It is worth it, too. I know people that have and it has been worth it to them.

COZENS T.C.J.