

Action No.: 130451032P1
E-File No.: ECP13VILLEBRUNV
Appeal No.: _____

IN THE PROVINCIAL COURT OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

HER MAJESTY THE QUEEN

v.

VANESSA DAWN VILLEBRUN

Accused

P R O C E E D I N G S

Edmonton, Alberta
May 29, 2013

Transcript Management Services, Edmonton
1000, 10123 99th Street
Edmonton, Alberta T5J-3H1
Phone: (780) 427-6181 Fax: (780) 422-2826

TABLE OF CONTENTS

Description		Page
May 29, 2013	Morning Session	1
Discussion		1
Plea		1
Particulars		2
Submissions by Mr. Lim (Sentence)		4
Submission by Ms. Wood (Sentence)		6
Ruling (Sentence)		10
Certificate of Record		13
Certificate of Transcript		14

1 Proceedings taken in the Provincial Court of Alberta, Law Courts, Edmonton, Alberta

2 _____
3 May 29, 2013 Morning Session

4
5 The Honourable M. Carminati Provincial Court of Alberta

6
7 C. M. Lim For the Crown

8 L. Wood For the Accused

9 K. Fenske Court Clerk

10 _____

11

12 **Discussion**

13

14 MS. WOOD: Ms. Villebrun is here. I'm wondering if we can
15 deal with that. I'm required in two other courtrooms today for a full day prelim as well.

16

17 THE COURT: All right.

18

19 THE COURT CLERK: Villebrun is on page 12 and 14.

20

21 MS. WOOD: That's correct. You have some matters that are
22 here for sentencing and then there are the new matters and she will be entering pleas of
23 guilty and that would be on page 12.

24

25 MR. LIM: For the record, it's Christian Lim for the
26 Provincial Crown prosecutors office. The file that my friend is dealing with is 5103.
27 5103. There are three counts before this Honorable Court. I understand there are two
28 guilty pleas to Count 1, which is charge of common assault, and Count 2, causing
29 unnecessary pain and suffering to an animal. Upon successful guilty pleas being entered
30 to those two charges, the Crown will apply to withdraw Count 3, that being the breach of
31 recognizance order.

32

33 **Plea**

34

35 MS. WOOD: That's correct, and Ms. Villebrun confirms that
36 she's pleading guilty to those charges. I did review 606(1.1). I'm satisfied she
37 understood and answered appropriately, Your Honour.

38

39 THE COURT: Sorry, causing unnecessary pain to an animal,
40 and the other charge was?

41

- 1 MR. LIM: The common assault, Ma'am.
2
- 3 MS. WOOD: Common assault.
4
- 5 THE COURT: Thank you.
6
- 7 MS. WOOD: And the Information is ending in 032.
8
- 9 THE COURT: Thank you.
10
- 11 MS. WOOD: Page 12 of the docket. There is also a trespass
12 ticket.
13
- 14 MR. LIM: That's file ending in 5660Z.
15
- 16 MS. WOOD: And that also is a guilty plea. The Crown will
17 have submissions at the end regarding the balance of the charges that have not already
18 been pled to. You have a presentence report. I assume that you've read it.
19
- 20 THE COURT: Yes, I have.
21
- 22 MS. WOOD: Okay.
23
- 24 THE COURT: Although I take it some new developments have
25 happened since it was written.
26
- 27 MS. WOOD: I still believe that the Crown and I will be
28 joining each other in submissions.
29
- 30 THE COURT: All right.
31
- 32 **Particulars**
33
- 34 MR. LIM: Your Honour, in respect to each of the facts,
35 and this is in respect to the assault and the animal cruelty charge, Ma'am, this is the
36 allegations. On April the 20th, 2013, in the city of Edmonton, in the province of Alberta,
37 the accused Ms. Villebrun was already on a recognizance order or several recognizance
38 orders to keep peace, good behaviour. On this particular date at 11:47 at approximately
39 106 Street and 84 Avenue, the accused was -- seemed to be under the influence of
40 something, whether it be alcohol or drugs, approached an individual who she did not
41 know, that being one Mr. Michael McGill, who had a 14-year-old dog. She kicked the

1 dog several times in the ribs and leg areas. As a result, the dog was left with a limp and
2 bleeding from the front paws. The complainant stated that the attack was -- sorry --
3 Mr. McGill stated the attack was unprovoked on the dogs. They were just sitting, taking a
4 rest from their walk on the east side of the town -- or of the street when the accused
5 attacked it saying, "It was an alien." The complainant, that being Mr. McGill, who was
6 the owner of the dog, tried to protect his dog, being concerned about it. He tried pushing
7 the accused away from the dog as she was kicking it, but instead he received a couple of
8 punches to the face. He attempted to place the accused in a headlock to gain control, but
9 she was uncontrollable, but ended up wrestling with the accused until they both fell to the
10 ground on the side of the street. The complainant stayed on top of her until police
11 arrived. The complainant stated the accused bit his forearm during the melee, did not
12 break the skin, and tried to break his other arm but actually hit his watch. The
13 complainant stated also that the accused punched him several times in the face area. No
14 emergency services were required.

15
16 MS. WOOD: Facts are admitted.

17
18 THE COURT: Thank you. I will accept the guilty pleas.

19
20 MR. LIM: Your Honour, I think you already have a
21 criminal record already tendered; is that correct?

22
23 THE COURT: Yes.

24
25 MR. LIM: And it was updated to include the other charges
26 in 2011?

27
28 THE COURT: I cannot recall offhand.

29
30 MR. LIM: Perhaps I may have to --

31
32 MS. WOOD: Did you need this one? We're sharing
33 particulars, sorry.

34
35 UNIDENTIFIED SPEAKER: Your Honour, if I could assist
36 (INDISCERNIBLE)

37
38 MR. LIM: Yes.

39
40 THE COURT: Oh, all right. Then I do have one.

41

1 MR. LIM: And the last one is --

2
3 UNIDENTIFIED SPEAKER: (INDISCERNIBLE)

4
5 **Submissions by Mr. Lim (Sentence)**

6
7 MR. LIM: And it's my understanding, Your Honour, that
8 the Crown has already made submissions with respect to the charges that guilty pleas have
9 been entered in. You will note, Your Honour, that submitting the criminal record,
10 including -- there's an assault in 2011 that is -- where she received 80 days in custody.
11 That was a very, I say generous offer, when you look at the breaches and such that she's
12 had to on earlier charges. On the charge that the accused has pled guilty this morning to,
13 I'm not talking about the trespass but the assault and unnecessary pain and suffering to
14 the animal, the Crown's respectful submission that a period of incarceration is warranted.
15 The global sentence I'm suggesting, Ma'am, is four to six months incarceration on this
16 one particular file. If the Court would like to break it up, it could be 30 days for the
17 assault, and then I would suggest four months in respect to the animal cruelty. The
18 Crown makes its respectful submissions on the -- at least -- or sorry, 30 days to 60 days
19 on the assault and then four months for the animal cruelty.

20
21 In respect to the assault, Your Honour, I guess it's sort of -- well, to have -- to be fair to
22 the accused, it is an early guilty plea. I'm considering that. I am also considering of
23 course the fact, the totality principle here when combine it with the attack on the animal.
24 The Court should be aware that besides -- there is the previous record for assault and the
25 other assault that she's pled guilty to, that in respect to the animal cruelty issue, that the
26 sentences, at least in this jurisdiction, since 2010 has always been a period of
27 incarceration. I start with the case of *R. v. Cardinal*, which is basically just throwing a
28 dog -- not just, sorry -- throwing a dog against a wall. There were no injuries. The Court
29 gave 15 days gaol for someone who had a very limited record.

30
31 The case more closely identifying with the case here is *R. v. Doudar*. In *Doudar* the Court
32 noted the facts were that the accused was walking his dog -- this is unreported, Ma'am --
33 walking his dog. He jolted the dog several times using the leash that he was walking
34 with and then whipped it three or four times. There were no injuries, unlike the case at
35 bar here where there was bleeding. The Court gave 90 days incarceration with respect to
36 that matter. That one also had *Gladue* factors. As well it had, Your Honour, issues of
37 totality principles. In other words, there was guilty pleas to other charges unrelated -
38 break and enter, thefts - and the Court gave consecutive times of 90 days on that matter,
39 which is why I was suggesting, Ma'am, four months would be appropriate here where we
40 have injuries. There was definitely bleeding to this dog. It's an unprovoked attack on an
41 innocent dog that obviously can't fend for itself. One would think that walking your dog

1 would be safe and not to be have, should we say randomly attacked.

2

3 I appreciate, Your Honour, that there is a presentence report before this Honorable Court.
4 You'll note that there is no forensic assessment. I guess we should state, first of all,
5 that's not been done. I guess she missed it. It might have been somewhat helpful,
6 although it seems like she doesn't really want the help. It seems to be some drug and
7 alcohol problems. I appreciate she has had some challenges in her past, but she's made
8 these decisions, Your Honour. She's obviously not complying with the court orders. You
9 can tell by the criminal record and the charges before the Court. So a CSO is not
10 appropriate here. It would be a real gaol time. Moreover the courts have said several
11 times in these animal protection cases that real gaol is necessary for deterrence and
12 denunciation, and as this Court is probably aware, in 2008 the legislation changed with
13 respect to animal protection under the *Criminal Code*, which basically put a focus on the
14 need for deterrence factors and raise in the sentences now in respect to animal protection
15 charges, which is why the position I'm taking in respect to incarceration on the animal
16 cruelty.

17

18 Your Honour, I would also be seeking a prohibition at this time, which is allowable under
19 447 of the *Criminal Code of Canada*. I'm suggesting, Ma'am, a period of 20 to 25 years
20 would be appropriate, looking at the other cases. These are of course Edmonton cases. I
21 appreciate, Your Honour, they are unreported and they are Provincial Court decisions, but
22 nevertheless there are very few, shall we say, binding decisions out there in respect to
23 animal protection, Your Honour.

24

25 Those are my submissions in respect to the animal protection charges and the common
26 assault, Your Honour. I would also be seeking, if my friends have not done so, seeking a
27 DNA sample, noting that we have convictions or guilty pleas to two common assaults on
28 the matters before this Honorable Court. There is some question of whether or not a
29 DNA sample could be warranted on an animal protection charge, but I certainly think it
30 would be agreeable for the acts of violence that she already has on her criminal record of
31 the two assaults, while secondary designated offences, would be appropriate for a DNA
32 sample. And Your Honour, in respect to the facts on the ticket that the accused has pled
33 guilty to, I think it should be on the face value of the ticket. I don't know if my friend
34 has any issues with that.

35

36 MS. WOOD:
37 it's a, it's a fine. It's the usual fine.

No. She was trespassing and she admits it and

38

39 THE COURT CLERK:

287.

40

41 MR. LIM:

287, I believe it is. Thank you, Madam Clerk.

1

2 THE COURT: The facts were, I'm sorry, the date and place?

3

4 MR. LIM: Perhaps I could just grab that from madam
5 clerk, the allegations. Again in Edmonton, Alberta, Your Honour, on the date of March
6 the 28th, 2013, it appears the accused attended the Kingsway Garden Mall, Your Honour.
7 The accused was found to be very belligerent and wouldn't leave the property. She was
8 not supposed to be there at the time.

9

10 THE COURT: Is that admitted?

11

12 MS. WOOD: Admitted.

13

14 MR. LIM: In respect to a previous alleged theft.

15

16 MS. WOOD: She's been warned not to be there and she goes
17 there anyway.

18

19 THE COURT: All right. I will accept that guilty plea as well.
20 I'm sorry, did you say there was a specified fine?

21

22 MR. LIM: Yes, \$287, Your Honour.

23

24 THE COURT: 287, thank you.

25

26 MR. LIM: And that includes the surcharge, I can inform
27 this Honorable Court. And I guess I was negligent, Your Honour, the Crown is not
28 asking for any other ancillary orders on the animal cruelty charge.

29

30 THE COURT: All right.

31

32 **Submission by Ms. Wood (Sentence)**

33

34 MS. WOOD: And I have a problem, I'll start with the
35 prohibition. She has a cat that she cares for and is very fond of. It's partly being cared
36 for by family members, but the prohibition against animals might be problematic for her
37 in those circumstances. I tend to agree with my friend, she has a month and seven days
38 of pretrial custody between these offences and the other offences for which is being
39 sentenced. Having read the presentence report, notwithstanding that it is a *Gladue* type
40 report. It deals with a treaty status. She is waiving any further right for *Gladue*
41 sentencing. It does appear that this young lady has some severe issues and problems. As

1 you've read from the presentence report, she has basically been raised in one foster home
2 to another. She went through at least ten foster care facilities and then she graduated
3 from foster care to group homes.
4

5 I agree with my friend with respect to the criminal record, there doesn't appear to be
6 much in the way of gaps in her criminal record, and her current accommodations are not
7 the best or the most desirable, although Mr. Lim (phonetic) does appear to be looking
8 after Ms. Villebrun to the best of his ability. It's a, it's a relationship that's not a
9 common-law relationship. He is simply a landlord or somebody who cares, who watches
10 over her as best as he can, although there are times when he finds the relationship
11 somewhat difficult -- difficult because of her mood swings.
12

13 Ms. Villebrun is not prepared to consent to any type of a forensic assessment report.
14 She's not ready for that, although she does tell me she is ready for some sort of treatment.
15 And I don't know what to recommend to the Court because I can't see that she would
16 comply with any type of probation at the present time, but what she is asking you to
17 recommend is on any gaol term that you give her, that she be sent to Fort Saskatchewan
18 Correctional Centre. They do have programs available for her, and especially FASD
19 programs, and I think she might well qualify for that, although we don't have forensics to
20 confirm it, and also she can avail herself of the living accommodations and other types of
21 programs that only, as I understand, the Fort Saskatchewan Correctional Centre seem to
22 accommodate. So she is asking for you to make that recommendation, and if they are able
23 to give her any type of early release, I understand provincial institutions are now doing
24 that, that any type of release would be into a treatment type facility, and she's willing, at
25 least at this stage, to go into that type of facility.
26

27 MR. LIM:

28 I'm sorry, Your Honour, perhaps I can assist
29 the Court. The Crown would have obviously preferred here that this individual,
30 Ms. Villebrun, would have been -- made benefit from probation, but the report doesn't
31 seem overly positive about that, and my friend has pointed out several issues that --
32 doesn't sound like she really wants the help or is ready for it at this point. My friend has
33 made a comment about the prohibition. If it assists this Court in considering what to do
34 with the prohibition, if you look at Section 447, it actually allows you to decide -- I'm not
35 saying -- of course the Court may want to consider the fact that alcohol and drugs seems
36 to be a problem here, and if we keep her away from the alcohol and drugs, perhaps she
37 could be more successful looking after a cat. There is some therapeutic, as you know,
38 issues or suggestions about having a pet. I am somewhat concerned because of her
39 alcohol and drug, what appears to be addictions or problems, but the Court could order or
40 word it something to the effect that the accused shall not own, possess, or control any pet
41 for a period of 20 to 25 years, or whatever the Court decides, except for, and then name
this cat, and then she can no longer have no cats once this cat is removed or passes on or

1 whatever the case may be, if the Court feels on compassionate grounds or that for some
2 reason it would benefit this individual to have a pet.

3

4 THE ACCUSED: My cat's name is Riley. I got him when he was
5 just a little baby.

6

7 THE COURT: It does not appear to allow for that.

8

9 MS. WOOD: The cat's name, for the Court's information, is
10 Riley.

11

12 THE ACCUSED: He's actually a really good cat. He listens
13 really well.

14

15 THE COURT: It is not in her care, in any event, at the present
16 time?

17

18 MS. WOOD: Right now it's not, the cat's not in her care.

19

20 THE COURT: All right. What is the Crown seeking on the
21 sentencing matters?

22

23 MS. WOOD: Four to six months.

24

25 MR. LIM: Four to six months on the --

26

27 THE COURT: But on the previous matters from before?

28

29 MR. LIM: I believe we ventured suspended sentence on
30 the assault -- I'm sorry -- five days on assault and -- suspended sentence on the assault
31 and then five days on the breach and fail to attend.

32

33 MS. WOOD: I'm going to advocate that it should be a global
34 gaol sentence and not provide a suspended sentence because we are just inviting
35 breaches. It's not going to work.

36

37 THE COURT: Sorry, so on the failure to appear and there is a
38 theft under that is for sentencing?

39

40 MR. LIM: That's right.

41

- 1 THE COURT: Five days is the --
2
- 3 MR. LIM: That's what I'm told, that's what the Court
4 went off of.
5
- 6 THE COURT: And the assault was a suspended sentence and
7 probation, but now that she has new charges and she never did go for her facts
8 assessment.
9
- 10 MS. WOOD: Exactly.
11
- 12 MR. LIM: And just gaol would be appropriate, Your
13 Honour, it was a global --
14
- 15 MS. WOOD: Another five days --
16
- 17 THE COURT: Are you suggesting any -- another?
18
- 19 MS. WOOD: For the global, five further days before.
20
- 21 THE COURT: All right. Thank you. Does the accused have
22 anything she wants to say before I impose sentence.
23
- 24 MS. WOOD: I think I've expressed that she wants to go to
25 the Fort Saskatchewan Correctional Centre and straight into treatments, if they would
26 allow her any type of early release for that purpose.
27
- 28 THE ACCUSED: Please and thank you. I've been, I've been
29 trying to get into --
30
- 31 THE COURT: Please stand up.
32
- 33 THE ACCUSED: I've been trying to get into a treatment centre
34 for like a while, since, like even when I was on my warrants and stuff.
35
- 36 THE COURT: I sent you to a treatment place called Alberta
37 Hospital, and you refused to go several times when we put it over. Take advantage of the
38 opportunities that are there. There are lots of them. Anything else?
39
- 40 THE ACCUSED: I don't know. There's nothing else. Oh, I was
41 wondering too if I'd be able to, like if I do get sentenced, every day, like every hour, if

1 I'd be able like work it off during the days, or like how many days that I'm here, I could
2 be able to work it off by like hours and stuff, if it's all right.

3
4 MS. WOOD: That can be arranged if she has hours to work
5 off.

6
7 **Ruling (Sentence)**

8
9 THE COURT: I have taken into account the guilty plea, in
10 particular on the new matters, the very early guilty plea with respect to those charges. I
11 take into account her really tragic personal circumstances that are set out in detail in the
12 presentence report and the *Gladue* factors that are at play there. I also take into account
13 the aggravating factors, and I note that the criminal record. Having regard to all of the
14 circumstances on the new charges, on the assault and animal cruelty charges, there will be
15 a global sentence of 90 days in gaol concurrent. On each, on the common assault there
16 will be an order that the accused will provide a sample of her DNA in the manner
17 directed by corrections prior to her release. I am going to decline to make the prohibition
18 order at the present time in light of the limited information I have. It may well be that it
19 was an alcohol related matter in this one instance.

20
21 MS. WOOD: Thank you.

22
23 THE COURT: Having regard to the remaining charges or the
24 trespass charge, there will be a fine and surcharge of \$287. That's on the March 28th
25 trespass at Kingsway. On the previous charges that were set for sentencing, on those
26 matters there will be a sentence of five days in gaol on the assault consecutive, five days
27 consecutive on the theft, and five days concurrent on the failure to appear. So the global
28 sentence is 100 days less credit for -- how much pretrial custody does she --

29
30 MS. WOOD: 37 days.

31
32 THE COURT: 37 days of pretrial custody on a one-per-one
33 basis leaving 63 days remaining to be served.

34
35 MS. WOOD: That was what I make it.

36
37 THE COURT: And the victim fine surcharges are waived in
38 light of her status in custody.

39
40 MS. WOOD: She's not asking for time to pay. I don't think
41 there is any anyway on the trespass, and I assume --

1
2 THE COURT CLERK: There would, there would be days in default on
3 the trespass.
4
5 MS. WOOD: There wouldn't be, no.
6
7 THE COURT CLERK: There would be.
8
9 MS. WOOD: There would be? She's not asking for time.
10
11 THE COURT: There would be, deemed days in default would
12 apply.
13
14 MS. WOOD: Thank you.
15
16 THE COURT CLERK: It would be two days.
17
18 MS. WOOD: And is that concurrent days?
19
20 THE COURT: If I say nothing it is.
21
22 MS. WOOD: Thank you. Crown for the charges?
23
24 MR. LIM: Crown applies to withdrew the other charges,
25 Ma'am.
26
27 MS. WOOD: Thank you.
28
29 THE COURT: Withdrawn.
30
31 MR. LIM: Those are my matters. May I be excused.
32
33 THE COURT: Yes. Thank you.
34
35 MR. LIM: Thank you.
36
37 MS. WOOD: Thank you.
38
39
40
41

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

PROCEEDINGS CONCLUDED

1 Certificate of Record

2

3 I, Karen Fenske, certify that the recording is the record made of the evidence in the
4 proceedings in Provincial Court held in courtroom 268 at Edmonton, Alberta, on 29th day
5 of May, 2013, and that I was the court official in charge of the sound-recording machine
6 during the proceedings.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

1 **Certificate of Transcript**

2

3 I, Janice L. Nimmo, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the
6 best of my skill and ability and the foregoing pages are a complete and accurate transcript
7 of the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and
10 is transcribed in this transcript.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

Digitally Certified: 2013-08-22 07:44:58
Janice Nimmo, CSR(A)
Order No. 41423-13-1

35 Pages: 16
36 Lines: 630
37 Characters: 18840

38

39 File Locator: a3107c1e0b3011e398380017a4770810
40 Digital Fingerprint: 925a43289c571e6c5b49cbeb69d1647668666143aeb31de5b6a384af24ea8734

41

Detailed Transcript Statistics	
Order No. 41423-13-1	
Page Statistics	
Title Pages:	1
ToC Pages:	1
Transcript Pages:	14
Total Pages:	16
Line Statistics	
Title Page Lines:	50
ToC Lines:	9
Transcript Lines:	571
Total Lines:	630
Visible Character Count Statistics	
Title Page Characters:	491
ToC Characters:	167
Transcript Characters:	18182
Total Billable Characters:	18840
Multi-Take Adjustment: (-) Duplicated Title Page Characters	18349