

IN THE PROVINCIAL COURT OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

HER MAJESTY THE QUEEN

v.

PAUL GILBERT DUNCAN LECLAIRE-LOGAN

Accused

P R O C E E D I N G S

Edmonton, Alberta
December 3, 2014

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

2

3 December 3, 2014

Morning Session

4

5 The Honourable

Provincial Court

6 Judge Bilodeau

of Alberta

7

8 C.M.T. Lim

For the Crown

9 M.R. Gourlay

For the Accused

10 C. McNeil-Fortier

Court Clerk

11

12

13 MR. LIM:

While we're waiting perhaps

14 (INDISCERNIBLE) the Court a heads-up as to what guilty pleas --

15

16 THE COURT:

Sure.

17

18 MR. LIM:

-- we'll be expecting, sir. We are going to be

19 dealing with count 1, 3, 4, 5, and 6. That's counts 1, 3, 4, 5, and 6. We'll wait for the

20 accused to attend obviously. We're going to be amending count 1.

21

22 THE COURT:

Okay.

23

24 MR. LIM:

And -- and count 3 if it's not been amended

25 already. Madam clerk tells me that court -- count 3 has not been amended already so we

26 will be amending that as well.

27

28 MR. GOURLAY:

I can also advise Your Honour there'll be a

29 joint submission as to time served for Mr. Leclaire, sir.

30

31 THE COURT:

Thank you.

32

33 **Plea**

34

35 MR. LIM:

I'm going to ask my friend first of all, Your

36 Honour, to confirm the name of the accused. I believe there's some issue. I have it on

37 the Information as Paul Gilbert Duncan Leclaire, date of birth September 16th, 1988.

38

39 MR. GOURLAY:

I believe it's been previously amended by

40 madam clerk. Is that correct, madam clerk?

41

1 THE COURT CLERK: Yes, it's showing hyphen Logan.
2
3 MR. LIM: All right, I just want to make sure that is on the
4 record.
5
6 THE COURT: And that's his correct legal name?
7
8 MR. GOURLAY: That's correct, sir.
9
10 THE COURT: Paul Leclaire-Logan.
11
12 THE ACCUSED: Yes, sir.
13
14 THE COURT: Thank you, sir.
15
16 MR. LIM: Your Honour, it's my understanding that you
17 have a five-count Information before this Honourable Court.
18
19 THE COURT: Six.
20
21 MR. GOURLAY: Six count.
22
23 MR. LIM: Sorry, six, sir. Sorry, Your Honour. Before
24 this Honourable Court. There'll be guilty pleas to counts 1, which is to be amended,
25 Your Honour, by consent. It should read, sir, did wilfully damage property of a value not
26 exceeding \$5,000, to wit, and the word 'a' should be taken out and windows should be
27 plural, windows. Essentially, Your Honour, we're adding count 2 into count 1.
28
29 THE COURT: Very good.
30
31 MR. LIM: That's by consent, is that correct?
32
33 MR. GOURLAY: That's correct.
34
35 THE COURT: Have you got that, madam clerk?
36
37 THE COURT CLERK: Basically just making window plural?
38
39 MR. LIM: That's correct.
40
41 MR. GOURLAY: Yeah.

1
2 THE COURT CLERK: Window. Okay, thank you, got it.
3
4 THE COURT: Okay.
5
6 MR. LIM: Your Honour, in respect to count 3 that the
7 Crown is seeking a guilty plea as well, it's count 1, 3, 4, 5, and 6. Count 3 is -- the
8 number -- numer -- numeric section of the *Code* is correct; however, Your Honour, there
9 seems to be a problem with JOIN and the wording is not correct. We ask that it be
10 remedied by the following: On or about the 20th day of July, 2014, at or near Edmonton,
11 Alberta, did wilfully -- and this is where the change or amendment is, sir -- cause or
12 wilfully permit to be caused unnecessary pain, suffering, or harm to an animal, to wit: a
13 dog, contrary to section -- and then everything else is correct, Your Honour. I can
14 provide it to madam clerk if she can read my handwriting.
15
16 MR. GOURLAY: I believe it's or injury.
17
18 MR. LIM: In -- sorry, injury. Injury, yes.
19
20 MR. GOURLAY: Not harm.
21
22 MR. LIM: Injury to an animal, to wit: a dog.
23
24 THE COURT: Okay, you've got the wording for madam clerk?
25
26 THE COURT CLERK: Yes (INDISCERNIBLE).
27
28 MR. GOURLAY: I could you tell by looking at it, sir, on count 3
29 they actually typed in 446 as opposed to 445.1 --
30
31 THE COURT: Okay.
32
33 MR. GOURLAY: -- for the words. That's where the confusion
34 came.
35
36 THE COURT: All right.
37
38 MR. LIM: It should be 445.1(1)(a).
39
40 MR. GOURLAY: Point 1.
41

1 MR. LIM: And actually you know what, I think this might
2 help.
3
4 THE COURT: Okay. And, Mr. Gourlay, you consent to the
5 amendment?
6
7 MR. GOURLAY: That's right, sir.
8
9 THE COURT: I gather the disclosure made it clear what the
10 Crown's particulars were.
11
12 MR. GOURLAY: Absolutely, sir, yeah.
13
14 THE COURT: Okay.
15
16 MR. GOURLAY: Well, and they had the right charge number too,
17 sir, so --
18
19 THE COURT: Right.
20
21 MR. GOURLAY: -- when you go to the charge you can see it.
22
23 THE COURT: Okay, very good.
24
25 MR. LIM: (INDISCERNIBLE) issue. So it's counts 1, 3,
26 4, 5, and 6 are the guilty pleas on?
27
28 THE COURT: Okay, count number 4 is attempted theft of a
29 motor vehicle, count number 5 is possession of a weapon for a purpose dangerous, and
30 count number 6 is obstructing a peace officer.
31
32 MR. GOURLAY: That's correct, sir.
33
34 THE COURT: Thank you.
35
36 MR. GOURLAY: Those guilty pleas are acknowledged, is that
37 correct, sir?
38
39 THE ACCUSED: They're acknowledged, yeah.
40
41 MR. GOURLAY: Guilty pleas are entered, is that correct?

1
2 THE ACCUSED: Ah, yeah, yeah.
3
4 MR. GOURLAY: You're entering guilty pleas to these charges
5 voluntarily, waiving your right to trial, correct?
6
7 THE ACCUSED: Ah, yes.
8
9 MR. GOURLAY: Do you realize this is going to result in a record
10 or addition to a criminal record?
11
12 THE ACCUSED: Yes.
13
14 MR. GOURLAY: Do you realize that record could have future
15 implications upon you for work or travel?
16
17 THE ACCUSED: Yes.
18
19 MR. GOURLAY: Any discussions between myself and my friend
20 regarding sentence is not binding upon His Honour, he may sentence you as he sees fit.
21 Do you acknowledge that?
22
23 THE ACCUSED: I acknowledge, yeah.
24
25 MR. GOURLAY: And you'll have to admit the facts alleged by
26 the Crown.
27
28 In this case, sir, you'll hear where he was heavily under influence of drug and so he's not
29 disputing the allegations --
30
31 THE COURT: All right, I understand.
32
33 MR. GOURLAY: -- made by the Crown.
34
35 THE COURT: Thank you.
36
37 MR. GOURLAY: And that's acknowledged, is that correct, sir?
38
39 THE ACCUSED: Yes, sir.
40
41 MR. GOURLAY: Thank you.

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THE ACCUSED:

That's all?

MR. GOURLAY:

No, no, stay where you are.

THE ACCUSED:

Oh, okay.

THE COURT:

We've just started.

THE ACCUSED:

Okay, I was wondering.

Particulars

MR. LIM:

Your Honour, the Crown is alleging the

following in respect to facts.

In the City of Edmonton, in the Province of Alberta, on July the 20th, 2014, at approximately 10:10 in the evening, wit -- various witnesses noted the accused, Mr. Paul Leclaire-Logan, appearing to be in a state under the influence of something, Your Honour. It appeared to be either alcohol or drugs. He was seen around, described as, quote, half naked, in other words, he had no shirt on and no shoes on on the -- running around in traffic, impeding the flow of traffic the exit ramp of Yellowhead Trail and Wayne Gretzky Drive. Which is a paved highway or roadway, sorry, Your Honour.

The -- one of the witnesses who was concerned for the accused, noting that he almost got hit or by -- several times, tried to get out of his 2014 Ford Escape, this being the complainant Mr. Kunze, to render assistance to Mr. Leclaire who seemed to be running around haphazardly around his vehicle and other vehicles.

The complainant had left his keys in the Ford Escape in the ignition but the vehicle was off at the time that he was trying to chase after the accused, Mr. Leclaire. Mr. Leclaire at one time either got into the vehicle or certainly leaning into the vehicle by the -- on the driver's side, I think my friend would agree with that, and reached in and tried to turn on the ignition which had the key still in place. However he was having difficulties, as noted by the complainant who is the owner of the vehicle and was also the witness, that he seemed to be -- he was under extreme influence as he seemed to have great difficulties in motor skills trying to reach for the keys as well as he had a very glossy-eyed appearance. He was also uttering things that didn't make sense according to the witness and other witnesses around.

He then takes off, Your Honour, from this particular area where the cars were trying to

1 avoid him and where this vehicle had been -- or it stopped where the driver had gotten
2 out. Now there are now other civilian witnesses now who are trying to chase after this
3 man because he just tried to take the Ford Escape. He wasn't successful obviously.

4
5 He goes running towards what is I believe the Sand Hotel which is nearby on Fort Road.
6 Eventually there the civilians lose sight of him for a short period of time, then regain
7 sight of him running around the Yellowhead Trail around 70 -- 7317 Yellowhead Trail
8 area. He's now seen with what appears to be a pipe or what is actually a wood -- white
9 wooden stick as later is discovered by the police in respect to the object that is seen on
10 surveillance cameras as well as by Air-1 and that is seen -- located near the accused later
11 on at the end.

12
13 He's observed with the stick running around what appear -- what is known as the
14 apartment suites in this area, Your Honour, there's some close apartment suites. And he's
15 yelling and screaming things such as, where's my child, where's my child, while he's
16 barefoot. And there are various witnesses in the actual suites who are noticing this.

17
18 At one point he is outside one of the suites. These are fairly low level suites and the
19 witnesses have left behind some lighters and cigarette items, basically to go smoking
20 outside. He tries to take some of the items. He's told to stop, don't take our personal
21 items, by the witnesses. He is mumbling things incoherently, including where is my
22 child, and has the stick and takes off and is seen breaking two windows in the apartment
23 complex, Your Honour, despite the yells and screams of people to stop and people
24 chasing after him.

25
26 Your Honour, at this point the police have been contacted, the Edmonton Police Service.
27 They have contacted Air-1 which is now flying above keeping an eye and following this
28 man as he's running in between the buildings after he had left the vehicles. He now starts
29 heading, Your Honour -- and the canine unit has also been contacted as well. He starts
30 running and is noted to be now past the apartment suites, after the broken windows, and is
31 seen ducking, quote, in and out of traffic, running from around 121st Avenue and 68th
32 Street, which is on the east side of the Wayne Gretzky Trail, towards the train tracks
33 underneath the Grant Moellmann Bridge -- excuse my pronounci -- or is what is often the
34 Wayne Gretzky overpass. The canine unit is on there, on scene, and they were guided by
35 Air-1 which is above giving them directions.

36
37 The accused eventually gets near a chain-link fence near the Rexall Place parking lot and
38 he's noted with the white wooden stick or what was described at one point as a -- some
39 kind of pipe, but it's actually a stick. He's trying to get over the chain-link fence and is
40 struggling to get over there. He throws the wooden stick over there as seen by Air-1 and
41 is being yelled -- or being told by Constable Kelly Lang who has his police service dog,

1 that being Ryker, a four-year-old long-haired German Shepherd, who's with him. He's
2 told several times, stop, police, he's under arrest. He's yelled that out twice and later on
3 two more times so that's a total of four times, but he continues to flee from the police and
4 gets over the -- over the chain-link fence. It's noted he may have gotten injured it
5 appears at the time while he was getting over the fence as he was half, as I said, naked, at
6 least from the torso.

7
8 The officer continues to try -- Constable Lang, with the dog Ryker, goes after
9 Mr. Leclaire-Logan, tries to get him to stop and surrender, including yell two more times
10 to surrender himself. But he continues -- he's picked up the stick again at this point and
11 is continuing to run. Eventually he does throw it down and now is now seen running
12 towards Wayne Gretzky Trail. Officer Lang then issues again some more demands for
13 him to surrender but he neglects to obey his commands.

14
15 Eventually the police service dog Ryker is released. He manages to -- and originally it
16 was 60 metres away but they're now within about 20 metres away is my understanding
17 from the officer. Ryker, the police service dog, managed to gain control of
18 Mr. Leclaire-Logan by grabbing him on the arm, preventing him from further damages or
19 injuries to the persons or the property. This is all recorded also on video surveillance as
20 well around the buildings. And it's noted that he's seen by the officers, as well as by the
21 surveillance camera, striking the police service dog while the police service dog is trying
22 to gain control of him. Ryker is hit specifically -- although all over the body, particularly
23 in the head, because at one point police service dog Ryker, because of the strikes to the
24 head, releases the accused who he has by his jaws. The accused then tries to run. Ryker,
25 doing his job, then chases after a very short distance and manages to get hold of
26 Mr. Leclaire-Logan once again, using his -- his jaws again and gets control of the
27 accused.

28
29 At that point there, Your Honour, he continues to struggle with the dog, punching the dog
30 several times. At this time though they're now -- he's running into traffic. So there was
31 oncoming traffic while the -- the police service dog is trying to get control of him, he's
32 back in that Wayne Gretzky Trail area. They eventually, during the struggle, end up
33 crossing the road with cars trying to stop. They enter a median where Ryker finally gains
34 control of Mr. Leclaire's hand. He does cause some injuries I understand actually to his
35 hand, although Mr. Leclaire is, quote, so out of it he actually thinks, I think, the hand
36 injuries are as a result of him getting over the chain-link fence.

37
38 Police arrive on the scene and it's noted that he -- the accused has a cut to his arm and
39 hand. He is taken to -- Edmonton, sorry, Medical Services deal with his hand and he's
40 taken to the, actually, hospital to deal with injuries.

1 He is arrested, Your Honour. Upon arrest being put into a cell, he's bandaged up, he's
2 seen, quote, still in an incoherent state, taking off his clothes and picking at the bandages
3 and throwing toilet water at himself from the cells as well as threatening or making
4 comments about being HIV positive and throwing blood at the police officers. He is
5 described as extremely out of it and it was noted that upon arrest there was a pipe
6 consistent -- or sorry, drug paraphernalia on him consistent with what appeared to be a
7 smoking pipe.

8
9 Those are the allegations, Your Honour, in respect to the charges before this Honourable
10 Court.

11
12 There were no injuries to the police service dog I can inform the Court. The -- it's
13 common practice after an incident like that that they will then review the medical and
14 emotional state of the dog the next day and I understand from Constable Lang that the
15 dog was okay --

16
17 THE COURT: Okay.

18
19 MR. LIM: -- in respect to that.

20
21 THE COURT: And the obstruction? What's the specific
22 allegation with respect --

23
24 MR. LIM: Your Honour, that he -- upon arrest that he was
25 continuing to resist arrest and didn't stop order -- didn't stop when was told to.

26
27 THE COURT: All right.

28
29 MR. LIM: Didn't comply with those orders.

30
31 THE COURT: Mr. Gourlay.

32
33 MR. GOURLAY: I believe the facts as being alleged are not
34 being disputed, is that correct, sir?

35
36 THE ACCUSED: Yes.

37
38 MR. GOURLAY: Thank you.

39
40 THE COURT: All right, the guilty pleas --

41

1 MR. LIM:

Your Honour --

2

3 THE COURT:

-- are accepted on that basis.

4

5 MR. LIM:

-- the Crown is alleging a criminal record.

6

7 MR. GOURLAY:

Oh, if I might, I didn't have a chance to . . .

8

9 I believe the record as being alleged by my friend is being acknowledged, is that correct,
10 Mr. Leclaire?

11

12 THE ACCUSED:

That's correct.

13

14 MR. GOURLAY:

Thank you.

15

16 THE COURT:

Thank you. His criminal record indicates in
17 December of 2013 he had a breach of recognizance. He was fined \$250. And in March
18 of 2014 assault with a weapon. He was incarcerated for 60 days.

19

20 MR. LIM:

That's correct.

21

22 THE COURT:

Thank you.

23

24 MR. GOURLAY:

That's what I have, sir.

25

26 **Speaking to Sentence by Mr. Lim**

27

28 MR. LIM:

Your Honour, in respect to sentencing we do
29 have a joint submission for your consideration, Your Honour. The accused has been in
30 custody since the date of the offence, that being July 20th, 2014. Although I believe in
31 fairness to him, he was in -- he had an assessment done on him initially because of the --
32 his behaviour. But nevertheless he was in custody, Your Honour, so we would agree that
33 it's essentially just over four and a half months straight time. I think --

34

35 MR. GOURLAY:

137 days, I did the calculation. If it's grossed
36 up on the one and a half to one basis, sir, it works out to two and a half -- or 205.5
37 rounded up to 206 days, sir.

38

39 THE COURT:

Okay.

40

41 MR. LIM:

So essentially, Your Honour, about six months

1 and -- six and three-quarter months, just over six and a half months. We agree, sir, that's
2 an appropriate sentence for a global disposition. We have suggestions, Your Honour, and
3 the breakdown in respect to the specific charges. We're suggesting, sir, for count 1 which
4 has been amended, sir, that seven days gaol consecutive would be appropriate. In respect
5 to count 3, Your Honour, we are in agreement that a period of incarceration of four
6 months incarceration would be appropriate, consecutive. And, Your Honour, a one-year
7 pet prohibition pursuant to section 447.1.

8
9 MR. GOURLAY: And I just have to point out what my friend
10 wrote, Your Honour. Not limited to dogs, rats and/or ferrets.

11
12 MR. LIM: Cats, cats.

13
14 MR. GOURLAY: Oh, is that supposed to be cats? Because I was
15 going to say it's illegal to have one in this province.

16
17 MR. LIM: So, Your Honour, what I'm going to ask, sir, if
18 the Court agrees to it, a wording something to the effect of pursuant to section 447.1 the
19 accused shall not own, possess, or control any pet, including but not limited to dogs, cats,
20 and/or ferrets for a period of one year. Your Honour, if the Court agrees to that, because
21 it is still a developing area of law, I'm going to ask that it be read out to the accused and
22 that he would actually on the record agree to it. Your Honour, we also have developed
23 with the Clerk's Office that they are trying to produce a document and then they will get
24 him to sign. But this is not like your impaired driving charges where we have something
25 in, it's still relatively a new developing area of law. I'll give this to madam clerk if the
26 Court is wishing to consider the animal pet prohibition which we have in our joint
27 submission.

28
29 In respect to, sir, count 4 which is the attempted theft, Your Honour, agreeing to two
30 months gaol consecutive.

31
32 And in respect to count 7 (sic), Your Honour, section 88(1), we're looking at seven
33 months consecutive with a ten --

34
35 MR. GOURLAY: Seven days.

36
37 MR. LIM: Seven -- sorry, seven days, sorry, Your Honour,
38 consecutive, with a ten-year weapon prohibition.

39
40 THE COURT CLERK: Was that count . . .

41

1 MR. GOURLAY: Five.

2

3 MR. LIM: Count 5.

4

5 THE COURT CLERK: Count 5.

6

7 MR. LIM: And count 6, Your Honour, we'd be looking at
8 14 days concurrent, Your Honour, in respect to the obstruction charge.

9

10 THE COURT: All right. Anything else, Mr. Lim?

11

12 MR. LIM: Your Honour, those are the respectful
13 submissions of the Crown unless you have any questions.

14

15 THE COURT: Thank you very much.

16

17 MR. LIM: (INDISCERNIBLE) sorry, I apologize, Your
18 Honour. I have -- there was some issue whether or not a victim impact statement can be
19 filed. I'd certainly let the other parties know, but in respect to the police service dog
20 there are some issues whether or not a -- I need as an officer of the court let you know
21 that whether or not you can file a victim impact statement in respect to a charge under
22 445. We don't have to deal with that here because the police -- although I have -- I've
23 spoken to them are -- have not provided a victim impact statement.

24

25 THE COURT: All right, thank you. Mr. Gourlay?

26

27 **Speaking to Sentence by Mr. Gourlay**

28

29 MR. GOURLAY: Thank you, Your Honour. Mr. Leclaire-Logan's
30 entered guilty pleas at a relatively -- I'm going to say relat -- fairly early opportunity with
31 relation to this. I can indicate that the offer letter didn't come from my friend until
32 November 5th on this matter, sir. Part of the difficulty was he had another charge that
33 was pending that ultimately was withdrawn by the Crown that was a bar to us being able
34 to see how this one was going to be able to be dealt with. It was realized by the Crown
35 the other one was an improper charge against Mr. Leclaire-Logan and was dismissed.

36

37 He's been in custody since July 20th as you've heard. Bail has never been addressed on
38 this matter. Because of the fact of the other charge that was outstanding it was not seen
39 as being particularly helpful. Mr. Leclaire-Logan as I understand also -- he lives on the
40 street, sir, he doesn't have a permanent residence. He's well-known to the community at
41 the churches, in shelters and such, sir. He also suffers from mental ailments that he's

1 required to be under the care of Dr. Woods, taking medications, including as I understand
2 I believe schizophrenia. Is that correct, sir?

3

4 THE ACCUSED: Ah, bipolar.

5

6 MR. GOURLAY: Bipolar disorder.

7

8 THE ACCUSED: Bipolar. And sometimes -- and voices as well.

9

10 MR. GOURLAY: Yes.

11

12 THE ACCUSED: Sometimes.

13

14 MR. GOURLAY: And he's -- obviously he's -- and acknowledged
15 to me he was not taking his medications at the time as he was supposed to and in fact
16 was taking some illicit drug which amplified the problem with Mr. Leclaire and he was in
17 a -- as I can quote him, a little bit out of it. He kind of knew what -- he knew what was
18 going on but he was out of it at the same time.

19

20 And he's remorseful regarding this. He's entered guilty pleas acknowledging his
21 responsibility.

22

23 Part of the issue I had was whether or not the 445.1 was properly made out. I did a
24 significant amount of research on this simply because it is not a common charge that you
25 would normally see. I can indicate that I did find -- and I could tell you there isn't pretty
26 much anything in Alberta that addresses the issue, but I did find a few cases that were of
27 significance. One was *R. v. McCrae (phonetic)* and in that case the individual was
28 acquitted of assault on an animal where he admitted throwing the animal, a dog, into the
29 house. There were witnesses who saw him hitting the dog and things of that nature.
30 Dro -- and the decision indicates the issue was whether he had caused pain and suffering
31 to the dog which rose above a minimum level of physical discomfort. The trial judge had
32 not misapplied the proper test, it was open to the judge on the evidence before her to
33 conclude that McCrae had not caused the dog unnecessary suffering despite her
34 acceptance of his harsh treatment. The dog's yelping alone was not conclusive of
35 suffering.

36

37 And I can indicate in other cases that are reflective, what they actually say is the issue is
38 whether or not there is unnecessary pain to the dog. In another case where they kicked
39 and dragged the dog. And they rely on the circumstances. The factors considered -- and
40 they cite a case that's out of Quebec. And unfortunately the case is only cited in French.
41 But in that case, in citing it, the issue is whether there's excess of the least physical

1 discomfort. The evidence consisted of angry kick to the rear of a 35-pound dog and
2 heard her yelp. Coupled with the admission the accused, if he had kicked the dog in this
3 manner it would cause her pain, however in the instant case there was also evidence that
4 the veterinarian found no visible sign of physical injury. Recognize that while the
5 evidence of injury is not necessary to prove that pain was caused unnecessarily to the
6 animal, it is rel -- it is a relevant factor to consider. And found there was a basis in the
7 evidence for the trial judge's conclusion that the dog's yelping noise when she was kicked
8 did not support the inference that the kick caused her unnecessary pain.

9
10 And in going through all the cases what I really found was it was a subjective -- almost a
11 subjective test. In exact same situations some judges will find that pain exists, some will
12 find pain doesn't exist, and it's up to the trial judge to determine whether or not they
13 want to draw the inference that pain was caused or not.

14
15 And in all the circumstances, Mr. Leclaire-Logan at this point, in my professional opinion,
16 is taking responsibility, acknowledging he at least caused something more than as cited in
17 the case, minimal level of physical discomfort to the dog. It is not the worst case
18 scenario of course by any stretch of the imagination.

19
20 And I do want to just point out one last thing. This was an article in the National Post
21 where the police were referring to another case where a police dog in Ontario -- said they
22 were responding to a domestic call. The police dog, Magnum, was used to subdue a man
23 in a neighbour's yard. Police said in a news release the animal was punched and kicked
24 or received only minor injuries and it was later examined by a vet and found not to have
25 injury in the case. The Durham Regional Police said: (as read)

26
27 Charges of cruelty to animal are only laid when the police dog is a
28 victim of an attack and must be seen by a vet for injuries, not
29 simply when someone fends the animal off.

30
31 So again as you could see there's a wide disparity as to what would be enough to
32 constitute. Of course when you have a police dog, a German Shepherd, large animal
33 that's grabbing, biting you, you pretty much got to expect you're not going to just lie
34 there. There's going to be some reaction to the pain or the fear, especially an individual
35 who's in the mental state that this individual was, not necessarily in his right mind, sir.

36
37 He is still a youthful individual. You see he has a very limited criminal record. He is
38 now 26. He was 25 as I understand at the time of the offence.

39
40 In all the circumstances I would suggest that what my friend's proposing could be
41 appropriate in all the circumstances.

1
2 Subject to your questions, those would be my submissions.

3
4 THE COURT: All right.

5
6 **Speaking to Sentence by Mr. Lim**

7
8 MR. LIM: Your Honour, just briefly in reply, sir. With
9 due respect to my friend, I wasn't aware that he was going to provide those cases. But I
10 can inform the Court that the test for suffering to an animal is the *Menard* case, a
11 Supreme Court decision. I don't have that one with me. But I do have the local decision,
12 I appreciate it's a case more for -- it's a Provincial Court decision which was February
13 8th, 2013, Honourable Judge Anderson on the matter of *Dudar*, D-U-D-A-R, which is a
14 case here. And in that particular case here, Your Honour, the accused appeared to be
15 high on something and admitted that he had -- was seen by a police officer pulling a leash
16 on a dog too hard three times, yanked on the chain three times, and then whipped the dog
17 three or four more times with a leash. There was no injuries, Your Honour. The dog had
18 yelped. Which we have done in this case here too is we would provide, if we went to
19 trial, a doctor that -- who will testify that the dog was suffering.

20
21 Now the accused did plead guilty in that particular case there before the Honourable
22 Judge Anderson. There were no injuries to that dog, similar to this case here, although it
23 was not a police service dog, and that is something relevant that he is on duty for the
24 public in this particular case with Ryker. That was just -- not just, but that was a dog that
25 was personally owned by the accused in that particular case. He was definitely
26 underneath the influence of something, Your Honour. And to prove my point, at one
27 point he's quoted as saying, quote, I own the world, the government will pay my tickets,
28 I'm not a great guy. Unquote. The Court on that -- in that case there -- and that was a
29 situation where the accused pled to several files, not just one file, so the totality principle
30 came in there. The Crown agreed to a joint submission of 15 to 30 days, that was myself,
31 basing on the *Cardinal* where an accused threw a dog against a wall, with not much of a
32 record, and there was no injuries. The dog then scampered away. And that was a 15-day
33 sentence.

34
35 The Court did not agree with the 15 to 30-day sentence and Judge Anderson saying in
36 respect to the vulnerability of animals, upped the sentence despite a joint submission to 90
37 days incarceration. Which is how I get the four months that I'm suggesting to this
38 Honourable Court today if there's any issue about that.

39
40 This is a police service dog. We have had extreme concerns about that so -- and
41 considering that this was not just a one, shall we say, shot incident, it went on for a

1 period of time, I would say it is in the -- in the realm in sentencing. It is a local decision
2 though, the *Dudar*. I do have that case if the Court needs . . .

3
4 THE COURT: Okay, thank you very much.
5 Mr. Leclaire-Logan, is there anything you want to say before I sentence you? The
6 *Criminal Code* says you have the right to address the Court.

7
8 THE ACCUSED: Yes please. I'd just like to say I was try -- like
9 I was trying to help when all that happened. I was on meth for about four days and I --
10 that -- I don't usually stay up that long so it pretty -- it was pretty strenuous. I didn't
11 have water, food, and I was pretty strung out. And -- and about a week before I lost my
12 pills. And basically I thought that someone was getting hurt, so to myself to break the
13 window was to keep -- to make sure that the police would come. And -- and when -- and
14 the -- the car thing I was just -- I wasn't -- I was in control but I was basically -- I -- I'm
15 not a criminal, I'm not a thief, I'm not a -- a -- I don't hurt people the -- like maliciously,
16 like the dog. I didn't really to -- mean to like totally hurt him, right? I was just -- he -- I
17 just wanted to -- you know. And basically I'm in your hands. Ah, um, and you know,
18 that's about it I guess.

19
20 THE COURT: Okay, thank you, sir.

21
22 THE ACCUSED: Yeah.

23
24 **Sentence**

25
26 THE COURT: I'm giving you credit for your guilty plea, sir.
27 You deserve credit for owning up to what you did and accepting responsibility for it.
28 What's of some concern, sir, is that just about four months before this incident you were
29 before the Court on a crime of violence on the assault with a weapon and you were given
30 a gaol sentence for that. So that should have driven home to you how important it is to
31 take your meds and control yourself given your bipolar condition, sir. In addition to not
32 taking your meds you went the next step and you started taking meth which makes people
33 do bizarre and irrational things. And that's what you were doing that day, sir. And now
34 it's gotten you into this kind of trouble. You've got a criminal record now that is quite
35 concerning and quite significant. So you're going to have to go forward with that in
36 mind.

37
38 With respect to what happened on that day, you need to understand, Mr. Leclaire-Logan,
39 that this community and this Court has great respect for the work done by police service
40 dogs and the trainers, the police officers that work with them. When violence is used
41 against them it's up to the Court to send out a strong message and a clear message that

1 these things are going to be taken seriously, that people are going to be deterred and
2 denounced when they do use violence against police dogs. And that's why you're getting
3 a meaningful gaol sentence for this, sir. It's not just for you, it's to send out a message to
4 other people as well. All right? Do you understand?

5

6 THE ACCUSED: I understand.

7

8 THE COURT: Thank you, sir. With respect to count number
9 1, the sentence is seven days. With respect to count number 3, that is the violence against
10 police service dog Ryker, the sentence is four months in gaol, sir, and that's consecutive.
11 With respect to count number 4, that is attempting to steal the vehicle from the fellow,
12 who wanted to help you out, the sentence of two months is consecutive. With respect to
13 count number 5, that's possession of the stick for a purpose dangerous, it was a weapon,
14 the sentence is seven days consecutive. And then with respect to assault -- sorry,
15 obstructing the peace officer, the sentence is 14 days but it's concurrent.

16

17 The total sentence, sir, comes out to six and one half months. You've served more than
18 that via pretrial custody on the basis of enhanced credit and so you've served your
19 sentence according to law.

20

21 With respect to victim fine surcharges, sir, all of these are summary conviction matters.
22 The sentence -- or sorry, the victim fine surcharge is \$100 on each, in default one day.
23 Each of the days is consecutive, but again that has been served by time in custody. No
24 time to pay is being sought I assume, Mr. Gourlay?

25

26 MR. GOURLAY: No, sir.

27

28 THE COURT: All right, thank you very much. So your
29 sentence has been served, sir, the total sentence of six and one-half months.

30

31 THE ACCUSED: Thank you very much, sir. I appreciate the
32 time. And just to let you know I do respect officers and do respect the -- what you guys
33 do. Very hard job. And, you know, because in civil -- like I said to them when I got
34 arrested, in civil war they're in the front lines, right, so --

35

36 THE COURT: I believe you, sir, thank you very much.

37

38 THE ACCUSED: -- so -- thanks.

39

40 MR. LIM: Ancillary orders, Your Honour? Ancillary
41 orders?

1
2 THE COURT: Oh, I'm sorry, Mr. Leclaire-Logan, I forgot to
3 mention one thing.
4
5 THE ACCUSED: Yeah.
6
7 THE COURT: Under section 447.1 of the *Criminal Code* I am
8 prohibiting you from owning, having the custody or control of, or residing in the same
9 premises as an animal or a bird for the next one year, sir. Do you understand?
10
11 THE ACCUSED: Okay, yes.
12
13 THE COURT: It's any animal or any bird.
14
15 THE ACCUSED: Yeah, okay. So excuse me, just in the presence
16 or don't own them, right? But --
17
18 THE COURT: You can't own them or have them in your --
19
20 MR. GOURLAY: Live with them, can't live with them.
21
22 THE COURT: Or live with them.
23
24 THE ACCUSED: Okay.
25
26 THE COURT: All right?
27
28 THE ACCUSED: You bet, got it.
29
30 THE COURT: So if somebody wants you to look after their
31 cat or something like that, you can't do it.
32
33 THE ACCUSED: Okay.
34
35 THE COURT: Okay, thank you.
36
37 MR. LIM: The weapon prohibition consideration, Your
38 Honour?
39
40 THE COURT: Sorry, weapon prohibition is for five years,
41 Mr. Lim?

1
2 MR. LIM: That's fine, Your Honour. But he just left,
3 Your Honour, sorry.
4
5 THE COURT: Okay. Sorry, Mr. Leclaire-Logan, there's also a
6 firearms prohibition.
7
8 THE SHERIFF: Want me to bring him back?
9
10 THE COURT: Sure.
11
12 MR. LIM: Sorry.
13
14 THE COURT: I'm sorry, Mr. Leclaire-Logan, I forgot to
15 mention --
16
17 THE ACCUSED: Ah, I don't mind.
18
19 THE COURT: -- you can't have any guns or ammunition or
20 explosive substances for the next five years, sir.
21
22 THE ACCUSED: Thank you.
23
24 THE COURT: All right?
25
26 THE ACCUSED: Yeah.
27
28 THE COURT: Thanks.
29
30 MR. LIM: Crown applies forfeiture of all exhibits to Her
31 Majesty the Queen (INDISCERNIBLE) --
32
33 THE COURT: They're all forfeit. And count number 2 is
34 withdrawn, Mr. Lim?
35
36 MR. LIM: I ask to withdraw that, yes, thank you, sir.
37
38 THE COURT: That's done.
39
40 THE COURT CLERK: And I believe there was some tickets?
41

1 MR. LIM:

They can be withdrawn.

2

3 THE COURT:

Yes, the two bylaw tickets are withdrawn.

4

5 MR. GOURLAY:

Thank you, no objection.

6

7 MR. LIM:

Thank you.

8

9 THE COURT:

Thank you, Mr. Lim, thank you, Mr. Gourlay.

10

11 MR. LIM:

Your Honour, those are my matters. Might I be

12 excused?

13

14 THE COURT:

Of course.

15

16 MR. LIM:

Thank you, everyone.

17

18 MR. GOURLAY:

Thank you, sir.

19

20

21 PROCEEDINGS CONCLUDED

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1 Certificate of Record

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1 **Certificate of Transcript**

2

3 I, Dianne Beland, certify that

4

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

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

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