

Citation: ☼ R. v. Sedore
2015 BCPC 478

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File Nos: 97973-1, 94974-1
Registry: Kamloops

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

REGINA

v.

ROBERT LLOYD SEDORE

**PROCEEDINGS AT SENTENCING
OF THE
HONOURABLE JUDGE C.D. CLEAVELEY**

Counsel for the Crown:

A. Janse

Counsel for the Defendant:

J. Michi, Articled Student
(as Agent for S. Tate)

Place of Hearing:

Kamloops, B.C.

Date of Hearing:

February 12, 2015

[1] MS. JANSE: Your Honour, Janse, initial A., for the Provincial Crown. I have conduct of Numbers 9 and 10 on the list, Robert Sedore, Court File Number 97973-1 and 97974-1. My friend and I have had numerous conversations and I believe both these matters will be for disposition.

[2] MR. MICHI: Yes, Your Honour, for the record, Michi, first initial J., articulated student, appearing as agent for Sheldon Tate who is counsel for Mr. Sedore. These matters are here today for guilty plea and disposition.

[3] With regards to the Court File 97973-1, we waive formal reading and enter a guilty plea to Count 1.

[4] And with regards to Court File 97974, waive formal reading and enter a guilty plea to Count 2.

[5] THE COURT: All right. Those two guilty pleas are entered.

SUBMISSIONS ON SENTENCE FOR CROWN BY MS. JANSE:

[6] MS. JANSE: Thank you, Your Honour. I'll deal with them in chronological order, so the first in time is 97974. Count 2 is an allegation of wilfully causing pain, suffering, injury to an animal, to wit: a dog.

[7] The circumstances regarding Count 2 are as follows. On April 24th, 2014, at 3:22 a.m., McDonald's nightshift manager, Nicole Hare, called police to say she was stalling a man from leaving because she had seen him assaulting his dog the day before in the early morning hours.

[8] Police dispatched Constable Eccleston and he attended the McDonald's and dealt with Mr. Sedore, in his green Sonoma pickup truck drive-through window. He was familiar with Mr. Sedore and knew that Mr. Sedore was at that point homeless and living in his truck with his small-to-medium-size white dog.

[9] He spoke with Ms. -- Constable Eccleston spoke with Ms. Hare to get further information and she advised that he was placed -- the accused had placed an order

through the drive-through, and when he drove up to the window the dog was whimpering. She saw him hit the dog across the face. The dog continued to whimper. Then he placed his hand on the dog's neck until the dog stopped whimpering.

[10] She then yelled at him loudly, "Here's your food," to try and get his attention to stop the assault. She then called police. This had occurred at 4:45 in the morning. This is the McDonald's on Fortune, I'm sorry, Your Honour. She called the police as soon as Mr. Sedore left but he had -- she had recorded his licence plate number and recorded the event in her manager's log, and then the next -- well, the next night and early morning hours of the next day he returned and so she called the police immediately and delayed him until they could attend. She recognized him from the night before.

[11] The -- excuse me -- SPCA seized the dog and issued a notice of disposition. The dog has since been rehomed, and those are the circumstances of that offence, Your Honour. He was placed on a PTA/UTA for that offence.

[12] The second in time, 97973, is the allegation of theft under. Circumstances there are that at eight or 9 a.m. May 15th, 2014, Constable Tobin stopped Mr. Sedore's vehicle after observing a large amount of material, primarily scrap metal, stacked up in the cab of his truck and over the box rails. The items did not appear to be secure as there was objects protruding out from all sides, and it appeared this truck was bottomed out due to excessive weight.

[13] He spoke with Mr. Sedore who advised that he collected the scrap metal and was on his way to the scrapyard. Constable Tobin advised him of his concerns regarding the insecure and overweight load and Sedore advised it was all tied down. During an inspection, Constable Tobin could only locate two tie straps and they did not go over top of the load; rather, were tied to the middle of it with the loose items stacked on top.

[14] He was taking photographs of the vehicle when Darrell Yeoman approached from a nearby construction site at 205 Lorne Street and advised he had two yellow

extension cords stolen from his jobsite earlier that day by the driver of that vehicle. At that point, Constable Tobin placed Mr. Sedore under arrest for theft under and placed him in the rear of his police car.

[15] He then went back to the truck to search incidental to arrest and located yellow extension cords matching the description of the -- given by the complainant. He was able to read the initials "N.L.P." on them and asked Mr. Yeomans if there was any initials on the extension cord. Mr. Yeomans immediately replied "N.L.P."

[16] Constable Tobin later took a statement from the supervisor at the jobsite, Mark Lundgren [phonetic], who actually witnessed the incident. Mr. Lundgren advised that shortly after six that morning, he was having coffee in his truck. He witnessed Ms. Sedore's pickup drive past him, pulled up beside their garage or garbage bin and grabbed two extension cords that he had put out in front of the bin.

[17] He honked at him, asked him what he was doing, and Mr. Sedore stated he thought they were garbage.

[18] He said, "They are not."

[19] Took them out -- and so Mr. Sedore took them out of the back of his truck, put them at the front of the bin, went into the bin and pulled out scrap metal.

[20] Mr. Lundgren went inside the building. When he came back out about 10 minutes later the truck was gone along with Mr. Sedore and the extension cords.

[21] He had -- he had also noted Mr. Sedore's licence plate and it matched the one that he was in when Constable Tobin pulled him over. He advised that N.L.P. stood for Northland's properties.

[22] Those are the circumstances of the theft, Your Honour.

[23] Mr. Sedore does have a record to allege. I'll just show that to my friend.

[24] MR. MICHI: The record is acknowledged, Your Honour.

[25] THE CLERK: Exhibit 1.

EXHIBIT 1 (on Sentence): Criminal Record, 4 pages, JUSTIN conviction list attached

[26] MS. JANSE: As Your Honour will see, Mr. Sedore's record dating back to 1985, I count over -- sorry, 22 property-related offences on his record, the most recent in January of 2013.

[27] He also has -- in relation to the animal abuse charge, he does have a history of violence with an assault in '89, weapons offences, a robbery in 2011.

[28] By way of sentence position, I can advise that initially Crown had provided a position to my friend of 30 days on the theft under and four months consecutive on the - the causing pain and suffering to the dog. However, I have had subsequent discussions with my friend. Mr. Sedore has made significant changes in his life since these incidents. I'll let my friend get into the details, but he does have a permanent residence now and he's attending the COPE/MECA Program at TRU which -- those have been the significant factors in Crown agreeing that a conditional sentence order is appropriate in this case.

[29] I'm going to suggest a term of six months and I did bring the *Connors* case, Your Honour, with respect to the animal cruelty charge, just to give the court an idea of an appropriate range of sentences. Your Honour will see this case involves a beating of a pit bull puppy, a far more severe assault in that case, and Mr. Connors received a five-month jail sentence. CSO was rejected, and Mr. Connors had an unrelated prior record of two drug offences and careless use of a firearm from some three years previous.

[30] So, in my submission, when we look at the mitigating and aggravating factors that are present in either one, it is within a similar range of appropriate sentence. I had gone slightly lower, given the less -- the lower severity of the assault and would suggest to the four months would be appropriate.

[31] If it assists the court, at page 4 Judge Quantz does a review of a number of sentencing cases of animal cruelty files. So given that Crown's not opposed to a conditional sentence order, it's my submission that the length should be increased to six months and should include a significant period of house arrest.

[32] When I discussed the matter with my friend, I also indicated Crown would seek a 12-month probation order to follow, with a reporting condition, address condition, and counselling condition with respect to anger management.

[33] Finally, with respect to ancillary orders, Crown is seeking a order under s. 447.1(1)(a). That is the prohibition for animals for a period of 10 years. Crown is seeking that order be made and the wording in that section prohibiting Mr. Sedore from owning, having custody or control of or residing in the same premises as an animal or bird.

[34] Subject to any questions Your Honour may have, those are my submissions, 447.1.

[35] THE COURT: All right, Mr. Michi.

SUBMISSIONS ON SENTENCE FOR ACCUSED BY MR. MICHI:

[36] MR. MICHI: Yes, Your Honour, by way of background, Mr. Sedore is 46 years of age. He was born October 27th, 1968, in Toronto, or just outside of Toronto. He moved to British Columbia when he was 16 years of age and has been back and forth between Ontario and B.C. most of his life, but has been steadily residing in the Province of British Columbia for the past seven years and tells me he's here -- here to stay.

[37] He did not complete high school. He dropped out of high school at about Grade 10 and went to work, although at the same time his youth record started around that time and transformed into an adult record which is -- which Mr. Sedore acknowledges is unenviable and describes his own record as terrible.

[38] The longest sentence he's received was in 2011 when he received 14 months for a robbery that took place in Surrey. He -- he's quite ashamed of his previous record

and -- and acknowledges as well that he has a long history of substance abuse, particularly cocaine, which started at a very young age, in his teens, and has persisted throughout his life with the exception of a period between 1996 and 2003 when he's maintained sobriety. He was living in the United States, had a young family at the time and was working and doing quite well then. Then he returned to Canada and -- and trouble came back.

[39] He -- at the time of the offence, as Your Honour heard, Mr. Sedore was living in -- living in his truck. He has two young -- two -- I shouldn't say that young, but a son who lives here who's 26 years of age. He was living with him for a short period of time. They had a falling out, and that's what resulted in Ms. Sedore ending up homeless and living in his truck with his dog and -- and was really struggling.

[40] Although he tells me he was trying to get his life together at that time, he was having great difficulty with his housing situation and -- and was under a lot of strain, and when I met Mr. Sedore back in the summer last year, he was -- it was evident that he was an individual who was under great strain and great pressure, and over the last -- over the last month or so I've -- I've had many conversations with Mr. Sedore and he has enrolled in -- as Ms. Janse alluded to, he's enrolled in some programming at Thompson Rivers University which sounds like it is making quite a transformation for him. He's involved in -- the program's called COPE/MECA. Your Honour is likely aware of it.

[41] The COPE portion I believe is for -- it's for women; the MECA portion is for men. It's career and life skills, personal stress management, communication-skills-type programming and I -- I only have one copy. I didn't have a chance to make -- but there is -- just so Your Honour can see, he's got a completion of -- a certificate of completion for workplace essential skills for non-profit work, and I'll show my friend there's some -- there's some -- just administrative material from Thompson Rivers University to indicate that he's enrolled in that programming and I can just -- I can reiterate that Mr. Sedore is quite enthusiastic about this programming and it really is, it's good to hear that he's got

something to focus on, as well as the fact that he's now -- yeah, and he indicates he's also in anger management programming every Thursday as well.

[42] So it's -- it's positive and should provide the court some -- some satisfaction that Mr. Sedore is -- is addressing some of the problems that he has, as well as the fact that he's -- he's got stable residence now and that is at 113 - 400 Pemberton Terrace.

[43] In light of this -- of Mr. Sedore's efforts, I've had discussions with Crown and this is a joint submission, Your Honour. I take no position with the length of the CSO that's proposed by Crown. Mr. Sedore understands what a -- what a CSO is. He's never had a CSO, despite his interactions with the courts over the years; perhaps in the past he wasn't a good candidate for a CSO. Today, I submit, that he is, that he's someone who's working towards addressing some of the underlying issues that have -- have plagued him for a number of years. That he's got a stable -- that's he's got a stable work -- residence as well as a stable pattern of -- of activities to keep his -- himself occupied.

[44] So that's all I have to say, Your Honour. He has -- unless you have any questions of me. I should tell you that he's -- the classes that he's taking go from about 8:30 in the morning till 2:30 in the afternoon, Mondays to Thursdays and he's --

[45] THE ACCUSED: Mondays to Fridays.

[46] MR. MICHI: Monday to Friday.

[47] THE ACCUSED: Yeah.

[48] MR. MICHI: Okay.

[49] THE ACCUSED: All week long.

[50] MR. MICHI: Okay, and -- and so that may -- that may have an impact --

[51] THE ACCUSED: And 6:30 to 8:30 on Thursdays for anger management, Your Honour.

[52] MR. MICHI: Those are my submissions, Your Honour.

[53] THE COURT: What about the 447 order, the length of it?

[54] MR. MICHI: It does sound like a long time, but I'm in your hands.

[55] THE COURT: All right. Any reply, Ms. Janse?

[56] MS. JANSE: No, thank you.

[57] THE COURT: All right. Stand up, sir. Is there -- is there anything you'd like to tell me?

[58] THE ACCUSED: Your Honour, I've changed. I'm -- I'm trying to change for the better, and I was wrong. I was wrong in what I did and I regret it, and I regret my whole life most of all. That's why I'm trying so hard now to change, because I know within four years I can have something, I can have something to look forward to. I've got something to look forward to. I mean, I don't know if I can get a Bachelor's degree, but I can sure do the social worker course of two years, and I know I can accomplish that. That's what I want. I want to help people like myself.

[59] THE COURT: All right. Well, those are pretty good goals, Mr. Sedore, and happy to hear at 46 you are trying to figure this out, because it is long overdue. That is for sure.

[60] THE ACCUSED: Yeah.

[61] THE COURT: Well, make sure that you treat animals with more respect and you keep your hands off the property of others, because you know with that history it can come back to bite you at some point.

[62] THE ACCUSED: Oh, it already has bit me.

[63] THE COURT: All right.

[REASONS FOR SENTENCE]

[64] MS. JANSE: Thank you, Your Honour.

[65] MR. MICHI: Your Honour, is the court going to keep the Certificate of Completion?

[66] THE COURT: Well, we marked it as an exhibit but --

[67] MR. MICHI: Do you need it?

[68] THE ACCUSED: They can keep it.

[69] MR. MICHI: Okay. That's fine. Yeah.

[70] THE COURT: Well, you can get a copy.

[71] MR. MICHI: I -- okay.

[72] THE COURT: All right, just -- the registrar will make Mr. Sedore a copy.

[73] THE ACCUSED: I would like to keep it.

[74] MR. MICHI: Yeah.

[75] THE ACCUSED: If I can --

[76] MR. MICHI: I should -- I should have made a copy before I came. Thank you, Your Honour.

[77] THE COURT: What you could do, what you can do, Madam Clerk, is let's make a copy, keep the copy, give the original back to Mr. Sedore, just strike out that --

[78] THE ACCUSED: Thank you, Your Honour.

[79] THE COURT: -- exhibit symbol on that back.

[80] THE ACCUSED: You're not going to be seeing me here again.

[81] THE COURT: Thank you.

(PROCEEDINGS CONCLUDED)