

SUPREME COURT OF YUKON

Citation: *R. v. Beveridge*, 2010 YKSC 69

Date: 20101101
S.C. 10-01503
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND:

BRENNAN RYAN BEVERIDGE

Before: Mr. Justice L.F. Gower

Appearances:
Eric Marcoux
Keith Parkkari

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING DELIVERED FROM THE BENCH

[1] GOWER J. (Oral): Mr. Brennan Beveridge has entered a guilty plea to a charge of possessing cocaine for the purposes of trafficking, contrary to s. 5(2) of the *Controlled Drugs and Substances Act*, on February 20, 2010.

[2] On that date, Mr. Beveridge was observed by a police officer doing what was believed to be a hand-to-hand drug exchange. The police officer followed Mr. Beveridge, who was driving in his motor vehicle. He stopped him and searched him, incidental to arrest. He was found in possession of a cellular phone along with \$1,965. Based on a review of the cellular telephone information, the police officer believed that Mr. Beveridge was in possession of cocaine at his residence and obtained a search

warrant for that residence, which was subsequently executed. Inside the residence in a suitcase belonging to Mr. Beveridge in a bedroom was found approximately 19 grams of powder cocaine, 178 grams of magic mushrooms, and five grams of marihuana.

[3] Mr. Beveridge's personal circumstances are very positive. He is a 23-year-old young man who does not have a criminal record. He was raised by a caring and supportive mother with whom he still maintains a good relationship. He resides in the City of Victoria, where his mother and two uncles, with whom he is also very close, also reside. He describes his childhood as one which was stable and devoid of any violence or substance abuse. As I said, he is very close with his immediate family in Victoria, including his uncles, aunts, and cousins.

[4] He is a Grade 12 graduate and has completed a six-month vocational school program in web design. He has been working for a construction company for the last four months, and recently began a carpentry apprenticeship with that company, known as Heatherbray Builders. He is single, and since his release on bail, he has been residing with one of his uncles, Mark Beveridge, at that person's family home in Victoria.

[5] Mark was interviewed by the probation officer and provides a very positive report about Brennan's behaviour in the home. He says that Brennan has been open and honest with him about how he got mixed up with other individuals who persuaded him that selling drugs was an easy way to make money. He has actually expressed to his Uncle Mark that he is happy he was caught because his life was starting to spiral out of control and he now feels he is back on the straight and narrow. Mark Beveridge feels that this behaviour was out of character for Brennan and that the taste of jail time that

Brennan experienced, for a two-week period immediately after his arrest, has had a profound effect on him.

[6] Brennan's mother was also interviewed by the probation officer and similarly feels that this behaviour was out of character and that since his arrest, Brennan has returned to being the respectful person that he once was. She reported that, following the arrest, he stated that he was "scared beyond belief," and that since his arrest, he has been able to find meaningful work and is now spending time with more pro-social peers.

[7] Brennan's other uncle, Craig Beveridge, provided a letter of reference and has similar positive things to say about how Brennan has behaved since his release from jail on this charge.

[8] Fortunately, Brennan appears to be devoid of any problems related to alcohol or drug abuse, and so that is not a complicating factor in this case. He has told the probation officer that he is remorseful for his actions. He has been cooperative during his period of supervision and has been under relatively strict bail conditions since his release from jail. Very significantly, the probation officer feels that Brennan is a suitable candidate for community disposition.

[9] Both the Crown and defence have made, essentially, a joint submission that this would be an appropriate case for a conditional sentence. The Crown is satisfied that the statutory pre-conditions have been met, namely, that a conditional sentence would be consistent with the fundamental purposes and principles of sentencing and would not pose a significant risk to the public.

[10] In all of the circumstances, I am persuaded that the suggested length of the jail term in this case of nine months is appropriate and that Mr. Brennan Beveridge be allowed to serve that jail term in the community on a conditional sentence, subject to certain specific conditions. Those conditions are, by and large, set out in the pre-sentence report, and I will just read them into the record:

1. You are to keep the peace and be of good behaviour, and appear before the Court when required to do so by the Court;
2. You must report to a Conditional Sentence Supervisor at the Saanich Community Corrections Office, 200 - 3965 Quadra Street, Victoria, British Columbia, within two working days and thereafter when required by the Supervisor and in the manner directed by the Supervisor;
3. Following your arrival in British Columbia on November 2, 2010, you are to remain within British Columbia, unless you have written permission from your Supervisor or the Court;
4. You must notify the Supervisor in advance of any change of name or address, and promptly notify the Supervisor of any change of employment or occupation;
5. You are to reside at 2498 Meadowlands Drive, Victoria, British Columbia, and abide by the rules of the residence and not change your residence without the prior written permission of your Supervisor;
6. You are to be under house arrest, which means that you must remain inside your residence except for the purpose of reporting to your Supervisor, or going directly to and from your place of employment, or

your gym for therapeutic exercise on your knee, as approved in writing by your Supervisor, and also for the purpose of purchasing the necessities of life for two hours a week;

7. You must carry written permission with you at all times when you are outside of your residence, and you must present yourself at the door or answer the telephone during reasonable hours for checks that you are abiding by your house arrest. Your failure to do so will be a presumptive breach of this condition;
8. You must abstain absolutely from the possession or consumption of alcohol and controlled drugs or substances, except in accordance with a prescription given to you by a qualified medical practitioner. You are to provide a sample of your breath or urine for the purposes of analysis upon demand by a peace officer who has reason to believe that you may have failed to comply with this condition;
9. You are not to attend any bar, tavern, off-sales, or other commercial premises whose primary purpose is the sale of alcohol;
10. You are to take such assessment, counselling, and programming as may be directed by your Supervisor;
11. You are to have no contact, directly or indirectly, or communication in any way with Janet Richards, Patrick Kures, and Baylis Van Flowtow;
12. You are to have no contact with any individual who is known to be involved in the drug trade as identified to you in writing by your Conditional Sentence Supervisor;

13. You are to make reasonable efforts to find and maintain suitable employment and provide your Supervisor with all necessary details concerning your efforts;
14. You are not to have in your possession any cell phone or mobile communication device, except for purposes of work as approved by your Conditional Sentence Supervisor, or for other purposes as approved by your Conditional Sentence Supervisor. That permission is to be in writing and that written permission is to be carried with you at all times when in possession of such a cell phone or mobile communication device;
15. You are to provide your Supervisor with consents to release of information with regard to your participation in any programming, counselling, employment, or educational activities that you have been directed to do pursuant to this conditional sentence order;
16. You are to perform 75 hours of community service work within the nine months of the conditional sentence term.

[11] In addition, there will be a mandatory ten-year firearms prohibition order pursuant to s. 109 of the *Criminal Code*. There will also be orders of forfeiture with respect to the \$1,965 found on your person, as well as the two cell phones, the two digital scales, and the drugs which were seized.

[12] Counsel, have I omitted anything?

[13] MR. MARCOUX: Just two things, Your Honour. The victim surcharge.

[14] THE COURT: What's the usual?

[15] MR. MARCOUX: \$100 indictable offence.

[16] THE COURT: All right. So ordered.

[17] MR. MARCOUX: Yes, and I believe there's some bail money. The Crown has no objection that it be returned to Mr. Beveridge.

[18] THE COURT: All right.

[19] THE CLERK: Time to pay for the surcharge, Your Honour?

[20] THE COURT: How much time will you need to pay the \$100 surcharge, Mr. Beveridge?

[21] MR. PARKKARI: If I could have one moment. None of the cash that is provided as bail is from Mr. Beveridge, so we would ask for two months time to pay, just to make sure he's got sufficient time.

[22] THE COURT: So ordered.

[23] Mr. Beveridge, you got through this one by the skin of your teeth, but you have done very well since your arrest and I congratulate you for that and I wish you all the very best. Thank you.

GOWER J.