

File No: [REDACTED]
Registry: Duncan

In the Provincial Court of British Columbia

REGINA

v.

[REDACTED]

**REASONS FOR SENTENCE
OF
THE HONOURABLE JUDGE LOWE**

COPY

Crown Counsel:	B. Tomlin
Defence Counsel:	D. Neary
Place of Hearing:	Duncan, B.C.
Date of Judgment:	September 12, 2018

[1] THE COURT: This sentencing has come before me as a joint submission. That is, as I think people understand, that counsel for the Crown and counsel for Mr. [REDACTED] have considered the circumstances of this offence, the circumstances of the offender, along with the case law in coming to a recommendation as to what they see as being a fit sentence, and in this case, I agree that the sentence that they have proposed is fit and it is the sentence that I intend to impose.

[2] I simply want to follow that by saying there is no question, and I think Mr. Neary said it very well, that no sentence that is imposed will undo the harm that has been done and the trauma and the grief that has befallen everybody who is close to both of these two parties. However, as I say, I think the sentence that has been proposed, in all of the circumstances, is appropriate in this very tragic case.

[3] With respect to the circumstances, I do not wish to go over them in detail and I do not think it necessary to do so. However, just a brief comment must be made for the purposes of the sentencing record. So, with respect to this matter, I am told that on the 14th of September of 2016, Mr. [REDACTED] came to attend a Freemasons meeting and to stay at the home of his good friend Mr. [REDACTED]. They had been friends for some three to four years and I can see, from the materials that I have received, that they were similar in many ways. They were both devoted to their respective spouses and, among other things, proud members of the Freemason organization.

[4] What is clear is that the two gentlemen began drinking in the evening and it is also clear that both drank a great deal of alcohol. They were still visiting and drinking in the early hours of the morning when Mrs. [REDACTED] checked on them.

They were just, by all accounts, two good friends having a good time with one another. But, of course, what we now know is that at some point Mr. [REDACTED] stabbed Mr. [REDACTED] four times, causing his death. As to why, no one will ever know, because Mr. [REDACTED] recalls nothing of this.

[5] The offence itself is just inexplicable, which, sadly, makes it all the more difficult for anyone to accept. Everyone is left to live with the reality that there will never be an answer to that question. Crown counsel started out by saying that this is simply a tragedy, and it is. So now Mr. [REDACTED] wife, family, and friends, and community are all left to go on without him and Mr. [REDACTED] is left to wonder why he did what he did and his family, friends, and community are left in a state of disbelief. And, of course, Mr. [REDACTED] has accepted, as he must, that going to jail is the price that he must pay for the taking of his friend's life.

[6] I just want to make a few comments and, of course, Mrs. [REDACTED] I must address you. Your grief is profound. Your loss is immeasurable. Your late husband would be so proud to hear how you speak of him. He sounds like a lovely man. You have been blessed to have him in your life. But, of course, because that blessing was so great, the loss is felt all the more. Your husband, as I am sure you know, would not want you to continue to suffer as greatly as you are now, and I am sure many of your family and friends have said the same, but, judging from the quality of the man, I have no doubt that is how he would see things. He would want you to find joy again in your life, through your music, and your singing, and your travelling, the things that you told me about. I hope that you will be able to get some counselling, if you have not done so already, for, as you called it, your profound and

smothering grief, and also to lean on your family and friends for support. I sincerely hope that you can find a way forward so that you can cherish your memories rather than having to turn away from them in the way that you described because of the emotional pain that they bring to you. Perhaps in some way the finality of this court process can help you to move forward. I sincerely hope that it can.

[7] I have read the other victim impact statements from friends, and I can just say that his loss is a profound loss to everyone who wrote, and I am sure everyone who is here. That is clear from the words of each of them.

[8] I also read the letters on behalf of Mr. [REDACTED] and particularly just want to comment on the letter from your wife Jennifer, who has described you as a kind and loving and supportive husband and friend, with a strong work ethic. I have to say one of the things that struck me was, frankly, some of the similarities to Mr. [REDACTED] and I can see how you two had become good friends. You offer your support to your husband as he goes through this court process. That is clear from your letter. However, I noted that in your letter you did not address the pain that you have felt since this tragic event, and I can only say that it must have rocked you to your core, and I understand that.

[9] I also read the letter from Vicky [phonetic], Mr. [REDACTED] sister, who speaks to his extreme remorse, and I have no doubt that Mr. [REDACTED] is extremely remorseful, to say the very least.

[10] I have read the letters from his father and mother-in-law and from the other family and friends, and what is clear to me from all of those is that everyone speaks to the same feelings of disbelief and the emotional burden that they have seen Mr.

[REDACTED] take away from this terrible event.

[11] So, with that said, the sentence that has been proposed is a fit one.

[12] With respect to Information 40513, Madam Clerk, that is the charge of manslaughter of Mr. [REDACTED] there will be a sentence of three years imprisonment.

With respect to the other information before the court, that is 40515-C-2, with respect to Counts 1, 2, 3, and 4 on that information, there will be a sentence of one year imprisonment on each. Those will be concurrent one with the other. That is Count 1 through 4, where that sentence will be consecutive to the three years on the manslaughter. All right.

[13] MR. TOMLIN: Your Honour, the 40513 manslaughter matter is a primary designated --

[14] THE COURT: Yes.

[15] MR. TOMLIN: -- DNA offence. We do seek the DNA order. It's also a mandatory 109 matter -- actually, both are, so the Crown does seek the 109 orders.

[16] THE COURT: Right.

[17] MR. TOMLIN: In terms of other matters, the 40515 gun matters, Crown seeks a forfeiture order pursuant to s. 491. Pursuant to the manslaughter, we seek a forfeiture order with respect to the murder weapon, the knife. There were a number of other firearms that were seized in the course of the investigation. My learned friend and I think the best way to phrase that is, all firearms that Mr.

[REDACTED] did not have a lawful possession license should be forfeited.

[18] THE COURT: Okay.

[19] MR. TOMLIN: All restricted firearms should be forfeited and all prohibited firearms forfeited. The non-restricted firearms that Mr. [REDACTED] lawfully possessed, Crown does not seek forfeiture of. What we're proposing in relation to those is that he, in essence, be allowed to make private arrangements for sale.

[20] THE COURT: Mm-hmm.

[21] MR. TOMLIN: But should another person, within the next year, come forward who can lawfully possess those, that those items be turned over to that individual, provided Mr. [REDACTED] consents to that.

[22] THE COURT: All right. Thank you.

[23] MR. NEARY: And we would just -- an individual in place who has all the proper licenses.

[24] THE COURT: I see.

[25] MR. NEARY: He's just going to sell them and the -- and Mrs. [REDACTED] will get the funds --

[26] THE COURT: All right. Thank you.

[27] MR. NEARY: -- and that's what's going to happen there.

[28] THE COURT: All right. So ordered, then. There will be an order for the taking of DNA. There will be the s. 109 firearms prohibition as well. That would be a lifetime --

[29] MR. TOMLIN: Yes.

[30] THE COURT: -- prohibition. Yes. There will be the forfeitures orders as

outlined by Crown counsel. All right.

[31] MR. NEARY: Thank you very much, Your Honour.

[32] THE COURT: Thank you.

[33] MR. NEARY: I thank my friend.

[34] MR. TOMLIN: Thank you, Your Honour. I'll direct a stay on the 40515-1.

[35] THE COURT: Yes. All right. Thank you very much.

(REASONS CONCLUDED)