

CITATION: R. v. Gruden, 2011 ONCA 762

DATE: 20111202

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COURT OF APPEAL FOR ONTARIO

Goudge, LaForme and Rouleau JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Craig Lawrence Gruden

Applicant/Appellant

Robert Sheppard, for the appellant

Myfanwy Smith, for the respondent

Heard: November 30, 2011

On appeal from the sentence imposed by Justice W Rabley of the Ontario Court of Justice on June 28, 2011.

APPEAL BOOK ENDORSEMENT

[1] The 12 month sentence imposed by the trial judge increased the joint submission at trial twelve fold. In doing so the trial judge in our view overemphasized the fact of the dangerousness of the drug involved.

[2] He also gave too short shrift to the lack of severity of the crime itself, particularly its very low level of sophistication, and the very unfortunate circumstances and background of the offender.

[3] On appeal, the appellant and the Crown both submit that this is an error in principle and the appropriate sentence is six months together with the probation imposed at trial.

[4] We agree. Leave granted, appeal allowed and sentence varied accordingly.