

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Poirier, 2014 ONCA 875

DATE: 20141205

DOCKET: C59149

Watt, van Rensburg and Pardu JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Michael Joseph Poirier

Appellant

Alison Craig, for the appellant

Melissa Adams, for the respondent

Heard and released orally: December 1, 2014

On appeal from the sentence imposed on May 30, 2014 by Justice Kim A. Carpenter-Gunn of the Superior Court of Justice, sitting without a jury.

ENDORSEMENT

[1] The appellant raises three grounds of appeal from the net sentence of two years seven months imposed on his plea of guilty to an offence under s. 95(1) of the *Criminal Code*. Ms. Craig submits that the trial judge erred in:

- i. reaching conclusions not supported by the Agreed Statement of Facts or evidence;
- ii. imposing a sentence that was unduly harsh and excessive having regard to all the circumstances of the case; and
- iii. failing to apply the appropriate credit for the appellant's harsh bail conditions in advance of trial.

[2] We do not agree.

[3] In our view, the sentence imposed fell within the appropriate range of sentence for this offence and offender. Denunciation and deterrence were the predominant sentencing principles. We are not persuaded that the trial judge ignored the appellant's rehabilitative prospects. While relatively youthful, the appellant was not a first offender. He had previously served a conditional sentence. He was bound by a weapons prohibition at the time he committed this offence. The gun involved was a sawed-off shotgun, a firearm for which there can be no legitimate purpose. It was stored under a bed, in an apartment, in an apartment building, with ammunition readily available and close at hand.

[4] We are not persuaded that the trial judge drew unwarranted inferences from the Agreed Statement of Facts. Her assignment of credit for what are

described as onerous pre-sentence release terms was within the range of credit properly attributed to terms such as those by which the appellant was bound.

[5] Accordingly, while leave to appeal is granted, the appeal is dismissed.

“David Watt J.A.”

“K. van Rensburg J.A.”

“G. Pardu J.A.”