

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Hurren, 2023 ONCA 187

DATE: 20230316

DOCKET: C69353

Simmons, Trotter and Copeland JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Corey Hurren

Appellant

Corey Hurren, acting in person

Paul J. I. Alexander, appearing as duty counsel

Avene Derwa, for the respondent

Heard: March 8, 2023

On appeal from the sentence imposed on March 10, 2021, by Justice Robert Wadden of the Ontario Court of Justice, sitting without a jury, with reasons reported at 2021 ONCJ 148.

REASONS FOR DECISION

[1] The appellant pleaded guilty to seven firearms offences and one count of mischief. He was sentenced to six years' imprisonment less one year of credit for pre-sentence custody. He seeks leave to appeal sentence.

[2] Following the oral hearing, we dismissed the sentence appeal for reasons to follow. These are our reasons.

[3] The offences arose out of events that occurred in the early morning of July 2, 2020. The appellant had driven his pickup truck from Manitoba to Ottawa. At around 6:30 a.m. on July 2, 2020, he crashed his pickup truck into the gates of Rideau Hall to gain access to the property serving as the residences of the Governor General and the Prime Minister of Canada. Once on the grounds, he set out on foot with three loaded firearms – two twelve-gauge shotguns and a semi-automatic rifle – and a magazine cartridge containing 30 rounds of ammunition. The semi-automatic rifle was a prohibited weapon; the magazine cartridge a prohibited device. He also had a knife. Left behind in his truck were two loaded handguns – one a prohibited break-open pistol, the other a restricted revolver – more ammunition, and a note.

[4] In the note, among other things, the appellant wrote that he was afraid for the future of Canada, which he perceived as now being “under a communist dictatorship.” Further, he said, “with the firearms ban and seeing more ... rights being taken away ... [he] could no longer sit back and watch this happen.” He “hope[d] this is a wakeup call and a turning point.”

[5] After being intercepted on the grounds of Rideau Hall by two RCMP officers, the appellant took refuge behind a tree and initially refused to drop his weapons.

A stand-off ensued. Among other things, the appellant told the officers he was there to arrest the Prime Minister. He wanted to make a statement to the Prime Minister by showing up during one of the Prime Minister's daily media briefings so he could express his anger about the recent firearms amendments and COVID-19 restrictions.

[6] Following 90 minutes of negotiations, the appellant dropped his weapons and surrendered to the police. To his credit, he did not point his firearms at the officers during the standoff.

[7] The appellant was 46 years old at the time of these offences. He had a dated criminal record for impaired driving, was married with two children and had lived a largely pro-social life, working at a variety of jobs over the years and volunteering with a local service club. However, he had recently fallen on hard times. He lost his most recent job in 2019 and a small business he started failed during the pandemic. His marriage was failing, and he also had other family and health stressors. A psychiatrist who prepared an assessment for sentencing purposes diagnosed the appellant as suffering from a major depression.

[8] While acknowledging that there were mitigating factors present, the sentencing judge concluded that these offences had to be denounced in the strongest of terms. He described the degree to which the appellant had armed

himself as “shocking”. The appellant’s actions in carrying his weapons onto government property clearly created a situation of grave danger.

[9] Moreover, the sentencing judge found that the appellant had “committed a politically motivated armed assault intended to intimidate Canada’s elected government” and that he did so “for the purpose of bringing attention to his political views.” The deliberateness of the appellant’s actions and his intentional use of loaded weapons to make a political statement markedly distinguished the appellant’s crimes from those of other first-time offenders caught with a prohibited weapon.

[10] Importantly, as there was no indication that the appellant had any insight into his depression and the need to treat it or that he “recognized the wrongfulness of using armed force to express his political views”, the sentencing judge concluded that the appellant presents an ongoing risk.

[11] Overall, the sentencing judge described the Crown’s position in seeking a six-year sentence as reasonable and said it was the lowest appropriate sentence that could be given in the circumstances.

[12] On behalf of the appellant, duty counsel raised three main<sup>1</sup> issues on appeal. First, he submitted that the sentencing judge erred in principle by treating lack of

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<sup>1</sup> Fresh evidence was also filed indicating the wait time the appellant can expect in relation to his request for an assessment by an orthopedic surgeon and confirming various programs he has completed while incarcerated. This evidence does not impact the outcome of this appeal.

remorse as an aggravating factor. Second, he submitted that the sentencing judge erred by failing to address his request for *Duncan*<sup>2</sup> credit. Third, he submitted that the sentencing judge failed to give sufficient weight to the appellant's predominant motive in committing these offences, which was to die by suicide. Duty counsel argued that these errors clearly had an impact on the sentence imposed, permitting this court to intervene and impose a sentence that would take proper account of these factors.

[13] Beginning with the remorse issue, we acknowledge that the sentencing judge erred by listing lack of remorse as an aggravating factor: *R. v. Reeve*, 2020 ONCA 381, 151 O.R. (3d) 65, at para. 12. However, this court is entitled to intervene and vary the appellant's sentence only where a sentencing judge's error of law or principle impacts the sentence, or is demonstrably unfit: *R. v. Lacasse*, 2015 SCC 64, [2015] 3 S.C.R. 1089, at para. 11. We are not satisfied that this error impacted the sentence imposed such that it entitles this court to sentence the appellant afresh. In any event, we are satisfied that the sentence imposed was a fit sentence.

[14] In arriving at a sentence of six years' imprisonment, the sentencing judge took account of several serious aggravating factors. Those factors included the appellant's deliberate conduct in heavily arming himself with loaded weapons,

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<sup>2</sup> *R. v. Duncan*, 2016 ONCA 754.

including both prohibited and restricted weapons, taking those weapons to government property for the purpose of engaging in an armed confrontation with the Prime Minister over government policies, and ultimately engaging in a 90-minute stand-off with the police. As described by the sentencing judge, this conduct amounted to “armed aggression against the government”. Equally important as an aggravating factor was the sentencing judge’s finding that the appellant continues to pose a risk to society because of his lack of insight into both his depression and the wrongfulness of his conduct. Taking account of these serious aggravating factors, we are not persuaded that the sentencing judge’s reference to lack of remorse had any impact on the sentence that was ultimately imposed.

[15] As for the *Duncan* credit issue, no evidence was filed before the sentencing judge to support this request. In the circumstances, we are not persuaded that the sentencing judge erred in failing to address it.

[16] Further, we are not persuaded that the sentencing judge made any error in the weight he afforded to the appellant’s depression or suicidal ideation. The sentencing judge acknowledged that a psychiatric assessment had been prepared for sentencing purposes, that the appellant had been diagnosed as suffering from a major depression, and that the psychiatrist was of the opinion that the appellant likely expected to die as part of these events – or at least did not care if he lived

through them. The sentencing judge listed “Depression Diagnosis” as one of the mitigating factors on sentence and discussed its implications.

[17] However, as we have said, in his analysis, the sentencing judge noted that there was no indication in the psychiatric evidence that the appellant has any insight into his depression or would be working to cure it. In the sentencing judge’s view, this, and the appellant’s actions while depressed, contributed to the appellant’s future risk.

[18] The sentencing judge went on to find that it was the appellant’s political views that spurred the appellant on to take the actions that he did in arming himself and driving to Ottawa to attack Rideau Hall.

[19] Considering the sentencing judge’s reasons as a whole, we do not discern any error in the manner in which he treated the appellant’s depression and suicidal ideation. The sentencing judge properly acknowledged them as mitigating factors. But he tempered the weight that he gave them because of the future risk he was concerned the appellant poses. We do not see any error in the manner in which the sentencing judge treated these issues.

[20] Finally, as we have said, we consider that the six-year sentence imposed was entirely fit in all the circumstances of this case. As the sentencing judge recognized, despite the mitigating factors present, the appellant’s crimes cried out for denunciation in the strongest terms and a sentence that would deter both the

appellant and others from engaging in similar conduct. The sentencing judge made no error in describing the appellant's conduct as an "armed aggression against the government." Whatever one's political views, it is simply not acceptable in Canada to arm oneself with any type of weapon in order to express those views or dissatisfaction with the government. The appellant's conduct not only posed mortal danger to both himself and others, but it also threatened Canadian values. An exemplary sentence was required.

[21] Based on the foregoing reasons, leave to appeal sentence is granted but the sentence appeal is dismissed.

"Janet Simmons J.A."

"Gary Trotter J.A."

"J. Copeland J.A."