

244069-7-B
Vancouver Registry

In the Provincial Court of British Columbia
(BEFORE THE HONOURABLE JUDGE RIDEOUT)

Vancouver, B.C.
February 2, 2021

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS
(Fix Date for Sentencing)

**Crown Counsel appearing by
teleconference:**

C.S. Johnson, Q.C.

**Appearing on his own behalf by
videoconference:**

Patrick Fox

Proceedings

1 Vancouver, B.C.
2 February 2, 2021
3
4 (VIDEOCONFERENCE COMMENCES)
5 (ACCUSED IN REMOTE LOCATION)
6
7 THE COURT: Mr. Fox, you can hear us and see us okay?
8 THE ACCUSED: I can, and am I properly positioned? Can
9 you see me okay?
10 THE COURT: Yes, it's excellent. Thank you. Mr.
11 Johnson is here for the Crown.
12 CNSL C. JOHNSON: Yes.
13 THE COURT: He was the one who conducted the Crown
14 trial, as you might recall.
15 THE ACCUSED: Oh, yes.
16 CNSL C. JOHNSON: Chris Johnson, Your Honour, for the
17 record. We're here today to fix a date for
18 sentencing on -- prior to -- I think it was in
19 December, actually. Your Honour requested a
20 psychiatric report. I completed the papers, but I
21 didn't follow through on their filing. So, that
22 actually has not been done. And subject to what
23 Mr. Fox has to say, I'm prepared to deal with the
24 sentencing sooner rather than later and forgo the
25 report, but of course that's up to --
26 THE COURT: Yes, I ordered it. Mr. Fox, in light of
27 the current COVID-19 restrictions, they can't have
28 any in-person assessments done. It's done over
29 the phone. It's not adequate in my view. I'd
30 like to find out how you think and so on, but
31 unless you want a psychiatric opinion I'm not
32 going to -- I'm going to withdraw that request
33 that you be shrunk by a psychiatrist, okay?
34 THE ACCUSED: Okay. I would like to say, though, that
35 my preference would be that the psych assessment
36 would be done, but of course again only if it
37 would be recorded and copy of the recording is
38 provided to me.
39 THE COURT: Well, yeah -- yeah, you get a copy of the
40 psychiatrist's notes and so on, but no recording.
41 So, if you're not -- if you're not up for that,
42 then I won't -- I won't order it, okay? I see
43 you're shaking your head.
44 THE ACCUSED: Okay.
45 THE COURT: So, let's just erase that and as far as
46 timing for a sentencing matter, Mr. Johnson,
47 what --

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1 CNSL C. JOHNSON: Your Honour, for the sentencing I can
2 make my submissions probably within 15 or 20
3 minutes I would imagine, but I think Mr. Fox might
4 have more to say.

5 THE ACCUSED: Yes.

6 THE COURT: And with respect to sentencing, Mr. Fox,
7 unless there's some reason why you'd be brought in
8 person, we would do it virtually by way of the
9 CCTV. Are you content with that?

10 THE ACCUSED: [Indiscernible/videoconference]

11 THE COURT: It's your call. You can come in and I can
12 do it personally.

13 THE ACCUSED: I would prefer -- sorry. I would really
14 prefer to be here in person because anytime I'm
15 making submissions, I believe it puts me at a
16 substantial disadvantage being in a little closet
17 with no table. It's difficult to take notes. But
18 there is an issue that I think needs to be raised
19 before we proceed with that.

20 I've been bothering -- or I shouldn't say
21 bothering. I've been requesting of Mr. Johnson
22 that he provide me a copy of the disclosure
23 material. It was provided to me three days before
24 the trial and then taken back from me the day
25 after the trial because I intend to rely on some
26 of that, particularly the interview with Detective
27 Dent, at the sentencing. However, he has, it
28 seems, completely ignored my numerous requests.

29 THE COURT: So, in particular you're looking for a copy
30 of the interview conducted by Constable Dent with
31 you?

32 THE ACCUSED: Well, yes, that's the most significant
33 thing --

34 CNSL C. JOHNSON: Mr. Fox, if I can just ask you a
35 question? Are you -- are you saying that all of
36 the particulars that were given to you with
37 respect to this matter were then taken back?

38 THE ACCUSED: Everything that was on the hard drive.
39 The hard drive was taken back and that is
40 essentially what was given to me other than a copy
41 of the indictment. Yes, it was [indiscernible].

42 THE COURT: Who took it back? The prison authorities
43 took it back?

44 THE ACCUSED: Yes, they said that the Crown contacted
45 them and requested that it be [indiscernible].

46 CNSL C. JOHNSON: There's a Crown -- there's a
47 procedure in place with respect to Mr. Fox

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1 because --
2 THE COURT: Because of a --
3 CNSL C. JOHNSON: I believe it's because a laptop
4 disappeared at some point in time and I don't say
5 that that was --
6 THE COURT: No, no, no. Can we get him --
7 CNSL C. JOHNSON: I can definitely get him, I think
8 within a few days, the interview, but if he wants
9 everything, that would take longer.
10 THE ACCUSED: Okay. Can I say? Since I'm a software
11 engineer and systems analyst, I know a lot about
12 computers and what you're saying, it would take
13 longer to copy the PDF files than it would if you
14 were copying just the [indiscernible/
15 videoconference4] file makes absolutely no sense.
16 It would take [indiscernible].
17 THE COURT: I mean, we've -- we've had the trial, I
18 found you guilty of the single count.
19 THE ACCUSED: [indiscernible/overlapping voices]
20 THE COURT: What would you need all the disclosure for
21 on sentence?
22 THE ACCUSED: Well, that's the thing. I can't really
23 say off the top of my head right now. I only had
24 it in my possession for literally two and a half
25 days before the trial. Like, I didn't really go
26 through it all that extensively, so there might be
27 more stuff in there that might be beneficial at
28 sentencing.
29 THE COURT: I mean --
30 THE ACCUSED: I don't know why the Crown would have an
31 aversion to this.
32 THE COURT: I know you told me that you were planning
33 to appeal the conviction and that -- you know,
34 that's your business, not mine.
35 THE ACCUSED: Yes.
36 THE COURT: But as far as the impact on -- and you'd
37 have to get transcripts and so on, but I'm not --
38 I can't advocate for you. You know that. But
39 you're a smart guy. It's just what you would need
40 for sentence because it's pretty straightforward.
41 There will probably be a couple of cases Mr.
42 Johnson's going to rely upon from a superior
43 court, either the Supreme Court or B.C. Court of
44 Appeal, in relation to the sentence. Not a lot.
45 I'm not -- I don't want a lot. And then it comes
46 down to a number less the time that you've --
47 that's enhanced at 1.5 to one.

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1 THE ACCUSED: Sure. And I anticipate that Mr. Johnson
2 is going to argue that given my statements to
3 Detective Dent that that shows that I have a
4 complete disregard for justice or for the court or
5 that I had contempt of the court, some other
6 nonsense. So, certainly --

7 THE COURT: Well, let's get Constable Dent's interview
8 with you.

9 CNSL C. JOHNSON: I'll get the entirety of that to you,
10 Mr. Fox.

11 THE COURT: All right? There you go.

12 THE ACCUSED: Wonderful. And if Mr. Johnson has any
13 concerns about me publishing the material or such,
14 he can rest assured I already have a copy of that
15 material, I just don't have it here in the jail.
16 So, it is going to be published. I mean,
17 providing a copy, not providing a copy to me here
18 right now isn't going to affect that at all.

19 THE COURT: Yes.

20 CNSL C. JOHNSON: I think that may be why you're here
21 today, Mr. Fox, because it was published.

22 THE COURT: Yes. Were you going to be asking for
23 another probation order or is it just going to be
24 a straight sentence?

25 CNSL C. JOHNSON: Straight sentence.

26 THE COURT: And that's it?

27 CNSL C. JOHNSON: He's still on a very long --

28 THE COURT: So, it's not going to take that long to do.
29 You're going to have to get the material. You're
30 entitled to 1.5 to one under the *Criminal Code* and
31 I'll be applying that. I think Mr. Johnson said
32 something along the lines of 18 months as I
33 recall. I'm not going to hold him --

34 THE ACCUSED: Eighteen to 24.

35 THE COURT: Eighteen to 24? So, you can do the math as
36 well as I. You're probably better at math than I
37 am. I'm not saying that's the number. It's the
38 Crown position. It's my number that counts, not
39 the Crown number that counts and you know that.

40 THE ACCUSED: Am I going to be getting any credit for
41 the four months that I had previously served at
42 Kent given to any of the other convictions as well
43 or --

44 THE COURT: I don't know what I'm going to do with --
45 Mr. Johnson, as an officer of the court, the
46 Crown, he will do the math for me from the Crown
47 perspective, you're going to do the math from your

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1 perspective, and I'll work it out from there.
2 CNSL C. JOHNSON: On this case, Mr. Fox, I'm looking at
3 the court list which does indicate how long you've
4 been here. It says 138 days on this file.
5 THE ACCUSED: Yes, on this file, but when I was in
6 previously, there was still four months that
7 hadn't been allocated to one of the other charges.
8 CNSL C. JOHNSON: Yeah. I think you're entitled to
9 make submissions on that.
10 THE ACCUSED: Sure.
11 CNSL C. JOHNSON: I wouldn't agree with that generally
12 as a principle because you're entitled to time
13 with respect to this file, not other files.
14 THE COURT: So, that will be something for me to work
15 out in due course, Mr. Fox.
16 THE ACCUSED: Uh-huh.
17 THE COURT: I will have you brought in person since you
18 -- it probably would be better anyways for you to
19 address the court rather than, as you say, in a
20 small room in this sort of cloistered position
21 you're in, and the matter is to go to the case
22 manager.
23 Mr. Johnson, when can we -- how much time do
24 you think? An hour, hour and a half?
25 CNSL C. JOHNSON: Does Your Honour have time this
26 morning? I could simply run up there now or --
27 THE COURT: He wants to be brought in.
28 CNSL C. JOHNSON: Oh, yeah.
29 THE COURT: But --
30 CNSL C. JOHNSON: To get a date.
31 THE COURT: Yes.
32 CNSL C. JOHNSON: Is it possible, Mr. Sheriff, to keep
33 Mr. Fox there for about 15 minutes?
34 THE COURT: I'm --
35 THE SHERIFF: They only have two rooms right now, so
36 probably not, but --
37 CNSL C. JOHNSON: Oh.
38 THE SHERIFF: -- we could request him back later on.
39 THE COURT: Well, we can have him -- why don't we do
40 this, Mr. Fox? Mr. Johnson is going to fix the
41 date with the case manager today and we'll have
42 you back tomorrow morning in this court, I'm
43 sitting here tomorrow morning, to confirm that
44 date.
45 THE ACCUSED: Okay. But, Mr. Johnson, please keep in
46 mind that because I'm in custody, I have to
47 contact somebody on the outside to do the legal

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1 research like on CanLii, send that to me, then I
2 review it and ask them to bring those cases. So,
3 clearly I need some time to --
4 THE COURT: How much time do you think?
5 CNSL C. JOHNSON: Are you saying about a month or what
6 are you saying? Sorry, Your Honour.
7 THE ACCUSED: I honestly cannot estimate. I mean, at
8 least a month.
9 CNSL C. JOHNSON: All right.
10 THE COURT: Okay.
11 CNSL C. JOHNSON: And, Your Honour, setting aside how
12 much time?
13 THE COURT: An hour.
14 CNSL C. JOHNSON: Thank you.
15 THE COURT: Oh, well, better -- it might be half a day
16 just in case. I don't know if you plan to testify
17 at your sentence or not. I can't imagine you
18 taking the witness box again. It's really down to
19 the number. But you're self-represented. I don't
20 want to set less time, but let's do this. Set an
21 hour and a half, but for the morning in case we've
22 got to carry over into the afternoon, Mr. Johnson.
23 CNSL C. JOHNSON: Thank you.
24 THE COURT: And we'll have you back --
25 THE ACCUSED: [Indiscernible/videoconference]
26 THE COURT: -- Mr. Fox, tomorrow morning, 9:30, back in
27 front of me to confirm that date, okay?
28 THE ACCUSED: Sure. One quick thing, though, that I
29 wanted to check on. At the trial the court had
30 said that they were going to order the transcript
31 of the trial.
32 THE COURT: No.
33 THE ACCUSED: I've not heard anything further on that.
34 THE COURT: No, no, no. I said if you plan to appeal,
35 it's your obligation to get transcripts and file
36 them and so on. I'm not getting a transcript.
37 THE ACCUSED: Okay. No, no, but actually at that
38 hearing on November 26th you did explicitly state
39 that you were going to order the transcripts.
40 That's when I said, well, I'm going to appeal, so
41 that doesn't matter anyway. And then you said I
42 have a right to do so, but you're still going to
43 go ahead and order the transcript.
44 THE COURT: I don't --
45 THE ACCUSED: But now you're saying you're not. That's
46 fine.
47 THE COURT: Yes, I don't recall -- you can always get a

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1 copy of the transcript -- you're a computer whiz.
2 You can always get it sent to you by --
3 electronically and you can download it if you have
4 access to a computer.
5 THE ACCUSED: I understand all that. I was just
6 wondering where we stood on the court ordering it.
7 THE COURT: No, unless there was something exceptional
8 going on, I was not planning to order a
9 transcript.
10 THE ACCUSED: Okay. Wonderful.
11 THE COURT: All right? All right, tomorrow morning see
12 you back, 9:30, and we'll have the date with Mr.
13 Johnson and confirm it tomorrow.
14 THE CLERK: And that's by video, Your Honour?
15 THE COURT: Yes.
16 CNSL C. JOHNSON: Thank you, Your Honour.
17 THE COURT: And for the sentence proper he is to be
18 brought in person. Thanks, Mr. Johnson.
19 CNSL C. JOHNSON: Thank you, Your Honour. I may have
20 to phone in or have somebody from my office appear
21 tomorrow. I'm just letting you know.
22 THE COURT: That's fine.
23 CNSL C. JOHNSON: Thank you. And is Your Honour
24 sitting in this court tomorrow? Thank you.
25 THE COURT: Yes, the three-day matter that fell apart
26 because of COVID.
27 THE CLERK: Can I just confirm that the psych report
28 that was ordered but didn't go through, do you
29 know when it was ordered?
30 CNSL C. JOHNSON: It was ordered --
31 THE COURT: It was ordered the day I convicted him.
32 CNSL C. JOHNSON: -- by His Honour --
33 THE CLERK: Okay.
34 CNSL C. JOHNSON: -- but I was supposed to follow
35 through and --
36 THE CLERK: Okay.
37 CNSL C. JOHNSON: -- didn't.
38 THE CLERK: [Indiscernible/not near microphone]
39 CNSL C. JOHNSON: Do you need my phone number for the
40 file in case by phone tomorrow?
41 THE CLERK: That would be great. I'll just go off the
42 record.
43
44 (PROCEEDINGS ADJOURNED TO FEBRUARY 3, 2021,
45 AT 9:30 A.M.)
46
47 Transcriber: S. Houde

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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.



S. Houde
Court Transcriber