

244069-7-B
Vancouver Registry

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

Vancouver, B.C.
April 12, 2021

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT SENTENCING

COPY

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**Crown Counsel appearing by
videoconference:**

C. Johnson

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

P. Fox

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Proceedings

1 Vancouver, B.C.
2 April 12, 2021
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4 (VIDEOCONFERENCE COMMENCES)
5 (CROWN COUNSEL CNSL C. JOHNSON FROM REMOTE
6 LOCATION)
7 (ACCUSED FROM REMOTE LOCATION)
8
9 THE COURT: Good morning.
10 CNSL C. JOHNSON: Good morning. Chris Johnson here
11 [indiscernible/videoconference] appear for the
12 provincial Crown, and I'm calling the Patrick Fox
13 matter.
14 THE COURT: So, Mr. Fox, I'm obliged to go through
15 this. I've found you guilty of Count 1 on this
16 information. You are self-represented. You are
17 entitled to have legal counsel at every turn. Do
18 you wish to proceed without legal counsel and
19 represent yourself?
20 THE ACCUSED: I do.
21 THE COURT: Thank you. All right. When was the
22 conviction -- when did I convict him? I think it
23 was November 26. Yes.
24 Mr. Johnson, did you do the math for me? I
25 don't like math.
26
27 **SUBMISSIONS ON SENTENCE FOR CROWN BY CNSL C. JOHNSON:**
28
29 CNSL C. JOHNSON: He's been in custody from September
30 the 17th until today's date, which is -- rounding
31 up a little bit is seven months. And with time
32 served that would be 10 and a half months.
33 THE COURT: Do you agree, Mr. Fox?
34 THE ACCUSED: Sure.
35 THE COURT: But time credited -- it's important -- so
36 it's 10 -- 10 months and 15 days is time credited.
37 THE ACCUSED: Okay. Yes, sir.
38 CNSL C. JOHNSON: Yeah, I'm giving him credit for a few
39 extra days.
40 THE COURT: Yes. So it's in your interest. So
41 10 months and 15 days. What's -- Mr. Johnson,
42 what's your position on -- I know his background.
43 What's your position on any further time?
44 CNSL C. JOHNSON: Well, the Crown seeks a sentence -- I
45 think I indicated on the last occasion -- 18 to
46 24 months.
47 THE COURT: Yes, you --

Submissions on Sentence for Crown by Cnsl C. Johnson

1 CNSL C. JOHNSON: And the --
2 THE COURT: You did.
3 CNSL C. JOHNSON: The reason for that is the record and
4 the [indiscernible/videoconference] nature of
5 Mr. Fox's conduct. And so I feel [indiscernible/
6 videoconference] other options to prevent Mr. Fox
7 from conducting himself in this way. So that's
8 the sentence the Crown's seeking.
9 [indiscernible/videoconference] have a
10 record, which is, I believe, before the court.
11 But if it's not, I don't think
12 [indiscernible/videoconference].
13 THE COURT: I've got it.
14 CNSL C. JOHNSON: And so, Your Honour, he was convicted
15 on November 10th of 2017. He was [indiscernible/
16 videoconference] of criminal harassment,
17 possessing a firearm in an unauthorized place.
18 THE COURT: Right.
19 CNSL C. JOHNSON: That conduct all related to his
20 former spouse and a website that he created to
21 harass her. And his sentence at that point in
22 time, he'd been in jail for 17 months, and so he
23 received a time-served sentence plus three years
24 of probation. And that probation [indiscernible/
25 videoconference]. But in any event, he then
26 [indiscernible/videoconference] on June the 12th
27 of 2020 and on that occasion he received a
28 sentence of 12 months, but he'd been in jail for
29 eight months, so he received a time-served
30 sentence and an additional term of probation of
31 18 months. And he is on probation from that.
32 And then on August the 19th of 2020 he was
33 convicted of further -- these are all
34 [indiscernible/videoconference].
35 THE COURT: Right.
36 CNSL C. JOHNSON: There's some issues. On that day he
37 was convicted of breach of probation and received
38 a sentence of six months, but I believe it was
39 four months [indiscernible/videoconference] last
40 occasion.
41 THE COURT: You're breaking --
42 CNSL C. JOHNSON: [Indiscernible/videoconference].
43 THE COURT: You're breaking up, Mr. Johnson.
44 CNSL C. JOHNSON: Oh, yeah. My video seems very
45 disrupted. Can you hear me now, Your Honour?
46 THE COURT: Now I can, yes.
47 CNSL C. JOHNSON: So on that last occasion Mr. Fox

Submissions on Sentence for Crown by Cnsl C. Johnson
Submissions on Sentence for Accused by Patrick Fox

1 received a reasonable sentence and then on release
2 continued the various [indiscernible/
3 videoconference] conduct, and so that's why the
4 Crown takes the position it does today.
5 THE COURT: Okay. What about any further probation?
6 CNSL C. JOHNSON: Yes, I'd ask for another year of
7 probation with the same terms. I don't know
8 whether Your Honour has the probation order before
9 you of either of -- this matter.
10 THE COURT: I've got both Madam Justice Holmes'
11 probation order and Judge Phillips' order.
12 CNSL C. JOHNSON: Yes. And so I don't have Judge
13 Phillips' order before me. Madam Justice Holmes'
14 order contained a number of protective conditions,
15 including not to operate or contribute to any
16 website relating to Desi --
17 THE COURT: Desiree.
18 CNSL C. JOHNSON: And so that's what I'd be seeking.
19 THE COURT: Okay.
20 CNSL C. JOHNSON: And I believe, Your Honour, in the
21 probation order of Judge Phillips Mr. Fox was
22 directed to remove the website that he operated
23 relating to Ms. Capuano and failed to do so. So
24 I'm asking again for an order that that website be
25 removed.
26 THE COURT: Okay. Mr. Fox, what's your position?
27 You're asking for time served, I take it?
28

SUBMISSIONS ON SENTENCE FOR ACCUSED BY PATRICK FOX:

29
30
31 THE ACCUSED: Well, my first -- first I have to say I'm
32 very unprepared to proceed with sentencing at this
33 point because I still have not received the
34 disclosure material, namely the interview with
35 Detective Dent. The Crown keeps saying that
36 they're going to provide me with a copy so I can
37 prepare some submissions.
38 Second, at the previous appearance the Crown
39 had said that they weren't seeking any additional
40 probation, but now they're saying they are, so I'm
41 caught off guard by that as well.
42 THE COURT: I've got a transcript of Constable Irmalov
43 [phonetic] in front of me. Is there some other
44 transcript that you're seeking from a different
45 police officer that might be relevant, Mr. Fox?
46 THE ACCUSED: Yes, the interview that Detective Dent
47 had conducted of me was the only interview in this

Submissions on Sentence for Accused by Patrick Fox

1 matter. Detective Dent was the VPD officer that
2 testified at the trial. And I brought this up at
3 the previous hearing that I'd been requesting a
4 copy of that so that I could use that as evidence
5 at my sentencing. The Crown said that they would
6 provide it. It's been another two months, and
7 they still have not provided it.

8 CNSL C. JOHNSON: My recollection, Your Honour, is that
9 that -- Mr. Fox, I believe you were provided with
10 that and it was retrieved after you were
11 convicted. Is that not correct?

12 THE ACCUSED: I had it in my possession for two and a
13 half days. The Crown provided it to me three days
14 before the trial and then took it back immediately
15 the day after the trial. But for the purposes of
16 sentencing, to use that as mitigating evidence, I
17 would like to be able to show that the statements
18 that were made by me to Detective Dent were not as
19 the Crown was portraying them at the trial. Most
20 of those statements by myself and by Detective
21 Dent were actually made sarcastically or jokingly,
22 and the Crown [indiscernible/ videoconference] at
23 the trial, but [indiscernible/videoconference].
24 So that's where I stand at this point.

25 CNSL C. JOHNSON: Mr. Fox, at least in my view, it's
26 entirely open to you to make that submission. And
27 I don't pretend to be able to say whether you're
28 being sarcastic or not.

29 THE ACCUSED: Well, I can't refer to specific
30 statements that were made because this was seven
31 months ago. I don't remember them off the top of
32 my head. I need the interview so that I can make
33 the notes so that I can come in and present
34 logical arguments.

35 THE COURT: I mean, don't you want to get this over
36 with?

37 THE ACCUSED: No.

38 THE COURT: No?

39 THE ACCUSED: I want truth and justice to be exposed.
40 I want [indiscernible/videoconference] misconduct
41 to be exposed. That's what I want. I don't care
42 about sitting in jail for the rest of my life.

43 THE COURT: Well, I do.

44 THE ACCUSED: Let me sit here. I don't give a crap.

45 THE COURT: Your liberty interests are important. It's
46 part of our *Charter of Rights*.

47 THE ACCUSED: The truth is also important, is it not?

Submissions on Sentence for Accused by Patrick Fox

1 THE COURT: Of course it's important.
2 THE ACCUSED: I mean, evidence is important, right?
3 THE COURT: I've -- I've made a finding. You can
4 always appeal my ruling, right? You have
5 ground -- you can always go the appeal route.
6 Whether you succeed or not is another matter. But
7 let's -- let's deal with the probation order.
8 I was going to put you on probation whether
9 Mr. Johnson asked for it or not, simply protective
10 conditions, no reporting or anything like that.
11 What's your position on that? Because I'd like to
12 get this done today.
13 THE ACCUSED: My position on probation is that I have
14 no legal status in Canada. I'm not
15 [indiscernible/videoconference] in Canada. And so
16 the first opportunity that I have to get myself
17 deported or to leave Canada, I intend to do so.
18 As soon as this current probation order expires in
19 September, is finished, and there's no condition
20 requiring me for remaining illegally in British
21 Columbia, I intend to leave Canada. So any
22 probation conditions that are imposed at this
23 point are going to be very unenforceable once I
24 return to my country of origin. That's my
25 position on probation.
26 CNSL C. JOHNSON: Just on that point, Your Honour, I
27 think you're -- the court is aware that the Crown
28 disputes that --
29 THE COURT: Yes.
30 CNSL C. JOHNSON: -- and takes the position that
31 Mr. Fox is a Canadian citizen.
32 THE COURT: Yes, he pitched this --
33 THE ACCUSED: I have documents.
34 THE COURT: It's okay, Mr. Fox. You've pitched that
35 already in front of me, so you're repeating
36 what -- I mean, you're going to have to sort that
37 out. It's something that is out of my hands,
38 right. It is out of my hands.
39 THE ACCUSED: Well, what you could do is you could
40 phrase the probation conditions, make them
41 contingent on me actually being authorized to be
42 in Canada.
43 THE COURT: Well, there are statutory conditions that
44 apply, right? There are mandatory statutory
45 conditions in relation to a probation order. I
46 can't do anything about that. You're stuck with
47 those conditions.

Submissions on Sentence for Accused by Patrick Fox

1 THE ACCUSED: Yeah. I'm not concerned about those
2 ones.
3 THE COURT: Well, one of them is that you shall remain
4 within the jurisdiction of Canada.
5 THE ACCUSED: That's not a mandatory condition.
6 THE COURT: Yes, it is actually. Report to the court,
7 you have to stay and so on.
8 THE ACCUSED: But reporting is not a mandatory
9 condition either.
10 THE COURT: I'm not going to have --
11 THE ACCUSED: [indiscernible/overlapping speakers]
12 THE COURT: I'm not going to have a reporting
13 condition.
14 THE ACCUSED: Right.
15 THE COURT: I mean, you've got to get this done.
16
17 [REASONS FOR SENTENCE]
18
19 THE COURT: And, Mr. Registrar, the wording is in the
20 probation order of Madam Justice Heather Holmes.
21 You can find it there to be exact. And also the
22 order of Judge Phillips, which I am handing back.
23 CNSL C. JOHNSON: Your Honour, can I just clarify the
24 sentence. I wasn't clear on what sentence he's
25 proceeding as of today --
26 THE COURT: Six months --
27 CNSL C. JOHNSON: -- in jail.
28 THE COURT: Six months new time.
29 CNSL C. JOHNSON: Okay. Thank you. So in other words
30 has a total sentence of 16 months because he's
31 being given credit -- or sorry --
32 THE COURT: Yes, 16 months and 15 days.
33 CNSL C. JOHNSON: Yeah, okay. Thank you.
34 THE COURT: So, Mr. Fox, as a matter of law you'll be
35 eligible to apply for parole after one third of
36 that sentence. I don't know if that's going to
37 happen or not. Certainly after two thirds of the
38 sentence generally you will be released, unless
39 you're [indiscernible]. I don't know what's going
40 to happen. But that's it for the -- we have to
41 get this concluded, Mr. Fox. It's just gone on
42 too long.
43 CNSL C. JOHNSON: Thank you, Your Honour. The Crown
44 doesn't have anything to add at this stage.
45 THE COURT: Any questions, Mr. Fox?
46 THE ACCUSED: Well -- nah.
47 THE COURT: No? Thank you, sir. Good luck in the

Proceedings

1 future, sir. Mr. Johnson.

2 THE ACCUSED: Thank you. I look forward to being back
3 here in the future.

4 THE COURT: Mr. Johnson, thank you.

5 CNSL C. JOHNSON: Thank you, Your Honour.

6 THE COURT: All right.

7

8

9

(VIDEOCONFERENCES CONCLUDED)

10 THE CLERK: Would you like him -- do you need him to
11 sign documents?

12 THE COURT: Oh, no. We should've -- actually, I didn't
13 cover that, did I?

14 THE CLERK: That's okay.

15 THE COURT: I didn't go through, do you -- well, he did
16 understand the terms and conditions. We're going
17 to dispense with his signature. He knows the
18 routine.

19 THE CLERK: Okay.

20 THE COURT: He's been around the block.

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(PROCEEDINGS CONCLUDED)

25 Transcriber: A. Pinsent

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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.



A. Pinsent
Court Transcriber