

Court of Queen's Bench of Alberta

Citation: R v Bilodeau, 2022 ABQB 576

Date: 20220829
Docket: 200585503Q1
Registry: Edmonton

Between:

Her Majesty the Queen

- and -

Roger Patrick Bilodeau

Accused

**Reasons for Sentencing of Roger Bilodeau
of the
Honourable Justice Eric F. Macklin**

I. Introduction

[1] On May 31, 2022, a jury found Roger Bilodeau guilty of two counts of manslaughter in the deaths of Jacob Sansom and Maurice Cardinal.

[2] The Crown seeks a period of incarceration in the range of 15 years, less credit for pre-sentence custody. The Crown also seeks ancillary Orders including a lifetime weapons prohibition pursuant to s 109 of the *Criminal Code* and a mandatory DNA Order pursuant to s 487.051.

[3] The Defence argues that an appropriate sentence is a period of incarceration in the range of 6.5 years before consideration of pre-sentence custody credit and additional credit or reduction for Remand Centre conditions during the Covid 19 pandemic.

II. Background Facts

[4] Jacob Sansom and Maurice Cardinal were out hunting near Glendon, Alberta on March 27, 2020. They killed a moose which they then took to a friend's home where they skinned it and cut it into a number of parts which were then bagged for distribution to a number of families for food.

[5] They left their friend's home in the evening and began driving along Range Road 484. Mr. Sansom was driving and Mr. Cardinal was in the passenger seat. Sometime around 9:30 PM, they stopped briefly at the entrance to the driveway of the home of Roger Bilodeau. They were seen by Mr. Bilodeau who believed they were there for a nefarious purpose, such as scouting out the location for possible later break-in and robbery.

[6] Mr. Bilodeau and his 16-year-old son exited the house and got into Mr. Bilodeau's truck. They began chasing the Sansom vehicle and, over the course of about 7 km, reached speeds of up to 150 km/h.

[7] During the pursuit, Mr. Bilodeau contacted his son, Anthony Bilodeau, who lived nearby and asked him to join the pursuit and to bring a gun. Anthony Bilodeau did so.

[8] The Sansom vehicle arrived and stopped at the intersection of Range Road 484 and Township Road 622. Roger Bilodeau pulled his truck in front of the Sansom vehicle. Jacob Sansom exited his vehicle and began walking towards the Bilodeau vehicle. Roger Bilodeau then attempted to reverse his truck into Jacob Sansom.

[9] Anthony Bilodeau arrived at the intersection around 9:45 PM. Mr. Sansom began walking towards Anthony who then shot Mr. Sansom in the chest. Anthony then proceeded to shoot Maurice Cardinal three times. Roger Bilodeau was present throughout and observed these events.

[10] The Bilodeaus then left the scene. They made no effort to contact anyone who could provide assistance to Jacob Sansom and Maurice Cardinal. They both died at the scene. Their bodies were discovered hours later, close to 4:00 AM on March 28, by a passerby who did call for assistance.

III. Sentencing in Cases of Manslaughter

[11] Section 234 of the *Criminal Code* defines manslaughter as culpable homicide that is not murder. It is a lesser included offence on a charge of murder if the party to a murder lacked the *mens rea* for murder. The jury in this case obviously found that Roger Bilodeau did not have the intent required to convict him of second-degree murder. However, the jury must have found that he did act in concert with Anthony Bilodeau to carry out the unlawful purpose of possessing a weapon for the dangerous purpose of committing an assault.

[12] Section 236(a) provides that a person convicted of manslaughter where a firearm is used is liable to imprisonment for life and to a minimum punishment of imprisonment for a term of four years.

[13] The purpose and principles of sentencing are set out in ss. 718, 718.1 and 718.2 of the *Criminal Code of Canada*. The fundamental purpose of sentencing is to have respect for the law and the maintenance of a just, peaceful and safe society. When imposing sanctions, the Court should strive to achieve the objectives of denouncing unlawful conduct; deterring the offender and other persons from committing offences; separating offenders from society where necessary; assisting in rehabilitating offenders; providing reparations for harm done to victims or to the community and; promoting a sense of responsibility in offenders and acknowledgement of the harm done to victims and to the community.

[14] There is a wide range of offending conduct encompassed by the offence of unlawful act manslaughter. Unlawful act manslaughter has two common requirements: conduct which has caused the death of another; and fault short of intention to kill. The offence itself, however, covers a wide range of cases. Different degrees of moral culpability fall along a continuum between cases classified as near accident at one extreme and near murder at the other. The sentencing court must determine the rung on the moral culpability ladder the offender reached when the unlawful act was committed. This is to ensure that the sentence imposed fits the degree of moral fault of the offender for the harm done: *R v Laberge*, 1995 ABCA 196 para 6.

[15] A sentencing Court must distinguish between fault determined by the offender's *mens rea* and fault in terms of the offender's overall moral blameworthiness of the crime. It must also consider other factors such as the "nature and quality of the unlawful act itself, the method by which it was committed and the manner in which it was committed in terms of the degree of planning and deliberation . . .": *Laberge* para 7-8.

[16] Unlawful acts are divided into three broad groups: those which are likely to put the victim at risk of, or cause, bodily injury; those which are likely to put the victim at risk of, or cause, serious bodily injury; and those which are likely to put the victim at risk of, or cause, life-threatening injuries. The overall moral blameworthiness of the offender is greater when the offender knew or was willfully blind to the fact that the offender's conduct would put the victim at risk of serious harm: *Laberge* para 9.

[17] The defence in this case argues that the actions of Roger Bilodeau were impulsive and should, accordingly, fall at the lower end of the moral culpability ladder. While impulsive behaviour may be considered less blameworthy than planned or repeated conduct, it does not necessarily or automatically fall at the lower end of the manslaughter scale: *Laberge* para 18.

[18] In addition to considering the moral blameworthiness of Roger Bilodeau in the deaths of Jacob Sansom and Maurice Cardinal, the Court must also consider any mitigating and aggravating factors applicable to the circumstances of the killings and to Roger Bilodeau himself. In determining the appropriate sentence, the court must also apply the fundamental principle of proportionality mandated by s 718.1 which requires that the sentence imposed on Mr. Bilodeau be proportionate to the gravity of the offences and his degree of responsibility.

IV. Roger Bilodeau's Actions

[19] Assessing Roger Bilodeau's full involvement requires consideration of all of the circumstances that led to the ultimate and tragic consequences, being the deaths of two innocent people.

[20] Roger Bilodeau saw a truck at the entrance to his driveway. He jumped to the unfounded conclusion that the occupants were there for a nefarious purpose. He initiated a high-speed pursuit of the vehicle, the occupants of which must have developed a great fear as to why they were being chased, who was chasing them and what was going to happen to them.

[21] The pursuit continued for a total of about 7 km at speeds of up to 150 km/h. At one point, the Sansom vehicle stopped, made a U-turn and began heading in the opposite direction, likely in an attempt to escape the pursuing Bilodeau vehicle. The attempt failed as Roger Bilodeau also stopped, made a U-turn and continued the pursuit.

[22] Anthony Bilodeau was contacted by telephone from Roger's vehicle as the vehicles were heading north past Anthony's home. Roger told Anthony that he was involved in a pursuit of "the thieves", told him to join and to grab a gun.

[23] The pursuit continued until Jacob Sansom brought his vehicle to a stop at the intersection of Range Road 484 and Township Road 622. At that point, Roger Bilodeau pulled his truck in front of the Sansom truck partially blocking the potential travel or escape route for the Sansom vehicle. Mr. Sansom exited his vehicle and began walking towards the Roger Bilodeau vehicle. Roger Bilodeau then tried to back his vehicle into Mr. Sansom. Anthony Bilodeau showed up within a few minutes.

[24] The Crown characterizes Roger Bilodeau's role as central to the offences as he initiated the pursuit, told his son to bring a gun, continued the pursuit and was the first to confront the deceased. The Crown argues that, but for Roger Bilodeau's actions, this tragedy would never have happened.

[25] The defence characterizes Mr. Bilodeau's decision to pursue the Sansom vehicle as impulsive and based on "an erroneous but honestly held belief that the deceased men were thieves or criminals and were on his property with the intent to commit a crime." They argue that his decision was reactionary and based entirely on ensuring the safety and protection of his property. They say that he acted "spontaneously without any planning, deliberation or forethought for what may transpire" and when he left his home, he had no intention of harming anyone. This is evidenced, they argue, by the fact that he did not take any weapons with him, and it was only after chasing the Sansom vehicle for a few kilometres that he asked his son, Anthony Bilodeau, to bring a gun.

[26] I do not disagree with the Crown's suggestion that the tragedy would never have happened but for Roger Bilodeau's actions. Such is very often the case in the analysis of one's involvement in a murder or manslaughter committed by another. I believe Roger Bilodeau's involvement requires a more nuanced examination.

[27] Contrary to the view expressed by the Crown, I do not accept that the jury must have concluded "that Roger Bilodeau knew, or ought to have known, that the offence of manslaughter would be a probable consequence of carrying out the unlawful purpose of possessing a weapon for a dangerous purpose." While the participation in any decision to bring a firearm to a potential volatile scene may be considered an act likely to put the victim at risk of, or cause, life-threatening injuries, it is clear from the various authorities that such is not always the case (see, for example, *R v Hennessey*, 2010 ABCA 274 aff'g 2009 ABQB 60).

[28] Roger Bilodeau clearly knew that he had begun a highspeed chase in the dark on a rural road in Alberta. It was dangerous. He was angry, though his anger was clearly misplaced. He

could have called the police, but he did not do so, ostensibly because of his knowledge of the rural location and the length of time it would take the police to respond. He decided to take matters into his own hands. He called his son Anthony to assist. While the defence argues that he did not tell Andrew to bring ammunition, I do not believe this to be somehow mitigating. Telling someone to bring a gun necessarily implies that ammunition will come with it. The gun loses its *raison d'être* without it.

[29] The defence position that Roger Bilodeau's actions evidence an absence of intent does reflect the decision of the jury. Characterizing his actions as impulsive or spontaneous, however, ignores these facts: the chase went on for 7 km; there was a stop and U-turn; speeds of up to 150 km/h; many locations and opportunities to stop; a telephone discussion with Anthony; stopping his vehicle ahead of that of Mr. Sansom partially blocking his path and; attempting to back his vehicle into Mr. Sansom. The rhetorical question to ask is: at what point do these actions cease to be impulsive or spontaneous?

[30] The suggestion that Mr. Bilodeau had only a "peripheral" role at the scene, perhaps that of a bystander, understates or minimizes his overall involvement.

[31] Anthony Bilodeau had no criminal record and there is no suggestion that he had ever exhibited violent behaviour towards anyone. In particular, there is no suggestion that Roger Bilodeau knew that Anthony Bilodeau was a potentially violent person. While Roger Bilodeau told him to bring a gun, the request from Roger's perspective may well have been primarily to address a possible confrontation and demand that those in the other vehicle explain their presence and leave the area completely. That is, it may have been intended as a scare tactic. Alternatively, he may have genuinely believed it was needed for protection. Further, Joseph Bilodeau testified to a physical altercation between Roger Bilodeau and Jacob Sansom at the scene and Anthony Bilodeau testified to hearing aspects of the altercation on the telephone as he was driving to and close to the scene. I do not believe that Roger could have foreseen the type of physical confrontation with Jacob Sansom at the scene. Regardless, the possession of a gun at any confrontation, anticipated or not, is still an act likely to put the victim at risk of serious bodily injury. This is the category into which the unlawful acts of Roger Bilodeau fall.

[32] I pause here to add that, assuming the altercation between Jacob Sansom and Roger Bilodeau did take place, the circumstances suggest that Jacob Sansom was reacting only out of fear of the unknown and unforeseen events in which he was wrongly placed. That is, without knowing why he was being chased, he acted in a way to defend himself.

[33] I would place Roger Bilodeau's moral blameworthiness on a rung at the higher end of the second category on the moral culpability ladder.

V. Aggravating and Mitigating Factors

[34] The aggravating circumstances have been stated: Two innocent men were killed; Roger Bilodeau attempted to take the law into his own hands regarding two individuals unfairly marked; he initiated a 7 km pursuit at high speeds; there were many locations and opportunities to stop the chase; he directed his son to bring a firearm; he pulled his vehicle in front of the victims' vehicle; no attempt was made to seek medical assistance for the victims and; they were left to die on the road and in a ditch at an isolated rural location.

[35] Roger Bilodeau is 59 years old and has been married to his wife Sandra for 39 years. They have nine children. Mitigating factors include the very strong family support and the very strong and widespread community support enjoyed by Roger Bilodeau. He has always been a hardworking, productive and contributing member of society. He has been a tireless volunteer and is a trusted leader in the community. He has no criminal record. Roger Bilodeau appears to have always been a man of good character.

[36] Mr. Bilodeau has shown a strong motivation towards self-improvement during his time at the ERC. He has completed the Boot Camp program as well as courses in Alcoholics Anonymous, Leadership Enhancement and Development Skills and Spiritual Health and Aboriginal Resources for Empowerment. He participates in many self-study programs. He is deeply religious and has been working with chaplains within ERC to find religious fulfilment. He has consistently shown an unrelenting positive and respectful attitude. He has been commended for having contributed to the cleanliness and overall betterment of his unit at the ERC. There is no question that Mr. Bilodeau is a very good candidate for rehabilitation.

[37] The defence argues that there are two other mitigating circumstances to consider: provocation and self defence. They argue that Jacob Sansom began “a violent and unrelenting attack” on Roger Bilodeau and Anthony Bilodeau heard his brother Joseph over the phone pleading with Mr. Sansom not to kill their father. When he arrived at the scene, Mr. Sansom threatened him and directed Mr. Cardinal to retrieve a firearm. It was then that Anthony shot Mr. Sansom. In essence, it is argued that Roger Bilodeau’s sentence should be mitigated because his “involvement is closely connected or intertwined with Anthony’s conduct” and Anthony Bilodeau was provoked and acting in self defence. The defence relies on the case of *R v Lecaine*, 1990 CanLII 5911 (ABQB) as authority for the proposition that both provocation and self defence can be considered as mitigating circumstances in sentencing.

[38] The person alleged by Roger Bilodeau to have been provoked and acting in self defence was Anthony Bilodeau. In *Lecaine*, it was the shooter himself who had raised provocation and self defence as mitigating factors in his sentencing. The question of whether or how provocation and self defence may be advanced as mitigating factors in sentencing when they were not put forward as defences at trial (as in *Lecaine*) is one that need not be answered here. In my view, it does not lie in the mouth of a second offender (Roger Bilodeau) to seek a reduction in his sentence because the principal offender (Anthony Bilodeau) was provoked or had acted in self defence.

VI. Victim Impact Statements

[39] Section 722 of the *Criminal Code* provides that for the purpose of determining the sentence to be imposed on an offender, the court shall consider victim impact statements describing the harm done to, or loss suffered by, the victim or victims of the offence.

[40] On March 27, 2020, Jacob Sansom was 39 years old. He was a husband, son, brother, father, nephew and uncle. Maurice Cardinal was 57 years old. He was a father, step-father, grandfather, brother and uncle. Maurice was the uncle of Jacob. They were close.

[41] The Court heard a number of Victim Impact Statements from different family members. They spoke eloquently and passionately about Jacob Sansom and Maurice Cardinal as both important members of their families and as stalwarts of their community. They spoke of the grief and sorrow, heartbreak and loneliness suffered by all as a result of the loss of Mr. Sansom and

Mr. Cardinal to their families. They all suffer from fear and anxiety and some from depression and PTSD. They spoke of the impact of both on all members of their families and extended families as educators and role models for their culture and their ways of life.

[42] Jacob Sansom and Maurice Cardinal were also pillars of their community. They supported not only their families but also the community at large by doing things like providing fresh meat for families in need. They were hunters and teachers for their families as well as their community. They were described as men who “honoured mother Earth” and were “knowledge keepers” of their culture. They inspired many.

[43] No sentence imposed by this Court can ever provide justice in the eyes of the victims’ families and friends for their devastating loss. No sentence can alleviate the heartbreak, pain and hurt suffered by all of the many members of the victims’ families and their friends.

VII. The Appropriate Sentence

[44] The Crown and the defence have provided many authorities addressing the appropriate sentence in cases of manslaughter. In those involving a firearm, the range of sentences is between four years and life imprisonment.

[45] The principle of parity set out in s 718.2(b) of the *Criminal Code* mandates that a sentence should be similar to those imposed on similar offenders for similar offences committed in similar circumstances. I have considered the authorities provided to me and, while they still provide a significant range, there is no one case that could necessarily be considered as having an offender similar to Roger Bilodeau committing a similar offence in similar circumstances.

[46] Dennis Cheeseman was convicted of manslaughter in the deaths of four RCMP officers. The murderer of the four RCMP officers had sought the assistance of Mr. Hennessey and Mr. Cheeseman to give him a ride to the location where the murders took place. Mr. Cheeseman’s involvement was in accompanying Mr. Hennessey while he drove the murderer to the murder scene, providing the murderer with gloves and a pillowcase to cover a rifle given to the murderer by Mr. Hennessey and in failing to warn the exposed and vulnerable police at the murder scene despite having hours to do so. His motive was to assist Mr. Hennessey. He knew that an armed confrontation between the murderer and the police was a real possibility. But for his early guilty plea, Mr. Cheeseman would have received a sentence of 12 years. Credit of three years was given for a guilty plea and a sentence of nine years less credit for time served was imposed: ***R v Hennessey***, 2009 ABQB 60, aff’d 2011 ABCA 274.

[47] The actions of Anthony Bilodeau and Roger Bilodeau on March 27, 2020 had tragic consequences: the deaths of Jacob Sansom and Maurice Cardinal. While those tragic consequences cannot unduly distort determination of the appropriate penalty, they must still be taken into account in considering the proportionality of the sentence and the need to satisfy the objectives of denunciation and deterrence.

[48] While Roger Bilodeau is an excellent candidate for rehabilitation, the importance of rehabilitation as an objective falls below those of denunciation and deterrence. Roger Bilodeau’s unlawful conduct and the harm done must be denounced in strong terms. While I am confident that Mr. Bilodeau is deterred from committing any offences in the future, it is important that other persons be deterred from committing offences.

[49] As stated earlier, Roger Bilodeau's moral blameworthiness stands on a rung at the high end of the second category on the moral culpability ladder. A fit and proper sentence to impose upon Roger Bilodeau is 10 years imprisonment.

[50] I will now consider the appropriate credit Mr. Bilodeau should receive for time spent in presentence custody and whether he should also receive a credit or reduction in sentence for harsher than normal conditions on remand due to the imposition of Covid 19 restrictions.

VIII. Credit for Pre-Sentence Custody

[51] Roger Bilodeau has been in custody for 806 days. He is entitled to enhanced credit of 1209 days pursuant to s 719(3.1) of the *Criminal Code*.

[52] Between the date of his arrest on June 12, 2020 and the date of his sentencing on August 26, 2022, restrictions were in place at the Edmonton Remand Centre (ERC) due to the Covid 19 pandemic. The defence characterizes his pretrial custody as "overly harsh and, at times, akin to solitary confinement." Mr. Bilodeau's social interactions were limited, and the time spent out of his cell was greatly reduced.

[53] Conditions on remand are ordinarily harsh. They became abnormally harsh due to the necessary protocols and restrictions put in place at the ERC to protect employees and prisoners alike. For approximately 415 days, Mr. Bilodeau's time out of his cell was no more than two hours per day. In my view, that period of time was overly harsh and akin to solitary confinement. While he is already entitled to 1.5 days credit for each day he was in presentence custody, he is also entitled to an additional one full day credit for each of the 415 days that he was out of the cell for no more than two hours.

[54] Accordingly, Roger Bilodeau is entitled to a total enhanced credit of 1624 days for the time he has spent in presentence custody.

IX. Conclusion

[55] Roger Bilodeau is sentenced to a global period of incarceration of 10 years on two counts of manslaughter in the deaths of Jacob Sansom and Maurice Cardinal. He shall receive credit of 1624 days for presentence time spent in custody.

[56] Roger Bilodeau is prohibited from possessing any firearm pursuant to s 109 of the *Criminal Code* and must provide a sample of bodily substance reasonably required for the purposes of forensic DNA analysis pursuant to s 487.051.

Heard on the 26th day of August, 2022.

Delivered orally on the 26th day of August, 2022.

Dated at the City of Edmonton, Alberta this 29th day of August, 2022.

Eric F. Macklin
J.C.Q.B.A.

Appearances:

Jeffrey F Rudiak QC and Jordan Kerr
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