

2005 BCPC 693

British Columbia Provincial Court

R. v. Paul

2005 CarswellBC 4456, 2005 BCPC 693

**Regina v. Andrew Stanley Paul Randy Larry Chickite
Curtis Michael Blaney Ralph Edward Wilson**

P. Doherty Prov. J.

Heard: December 19, 2005

Judgment: December 19, 2005

Docket: Campbell River 29062-1

Counsel: J. Blackman, for Crown

D. Marion, for Defendant

Subject: Natural Resources; Public

Related Abridgment Classifications

Natural resources

I Fish and wildlife

I.5 Offences

I.5.o Sentencing

I.5.o.iii Imprisonment

Headnote

Natural resources --- Fish and wildlife — Offences — Sentencing — Imprisonment

Accused pleaded guilty to wildlife offences, namely illegal hunting and **trafficking** in meat — Sentencing submissions were made by both parties — Accused was sentenced to 90 days globally for offences — Crown and defence made submission jointly — Length of sentence was sufficient to meet objectives of protecting public safety as well as wildlife as resource — Accused committed several offences, which was aggravating factor — Global sentence for these offences, served concurrently, was appropriate.

Table of Authorities

Cases considered by P. Doherty Prov. J.:

R. v. Lamouche (1998), 1998 ABPC 101, 236 A.R. 69, 1998 CarswellAlta 1215 (Alta. Prov. Ct.) — followed

Statutes considered:

Wildlife Act, R.S.B.C. 1996, c. 488

Generally — referred to

s. 84(1)(a) — considered

SENTENCING of accused for wildlife offences.

P. Doherty Prov. J.:

1 Before the court is Andrew Stanley Paul on Information 29062. He has entered pleas of guilty to Counts 3, 17, 19, 21 and 27, respectively. Count 3 charges him with hunting big game with a rimfire cartridge. Counts 17 and 19 and 21 charge him with **trafficking** in wildlife meat on various dates, 19th of March, 23rd of April, 17th of July, 2001 and, finally, Count 27 charges him with hunting blacktail deer with the aid of an illuminating device.

2 The range of sentence is somewhere between three and 15 months for such offences. I have, unfortunately, not had an opportunity to review the cases in any great detail, but I am impressed with the care that Judge Ayotte took in *R. v. Lamouche*, in the Provincial Court of Alberta, Criminal Division, reported at 1998 ABPC 101 (Alta. Prov. Ct.). When I say impressed, I am impressed with his opening and the reasons he sets out. That case is followed by British Columbia case of my brother Shupe in *R. v. Loring* [phonetic]. That is a Prince George case, docket C05651-C-2. In both cases, the courts consider decimation of wildlife, and the protection wildlife, as factors to be considered when reviewing the appropriate to be imposed the *Wildlife Act*. In the *Lamouche* case, Judge Ayotte says, at page 2:

— courts have long recognized that the provincial *Wildlife Act* and federal statutes like the *National Parks Act*, R.S.C. 1985, c. N-14 have, as one of their objectives, the management and ultimately the preservation of the wildlife resource. Mr. Justice McClung, for the Alberta Court of Appeal, articulated the importance of that task in *R. v. Mota* (1992) 117 A.R. 42 at p. 43 when he said,

To survive in any abundance Canada's wildlife must be accorded the priority of a treasured national heritage — which it is. It must be protected and, within the resources of the law, defended.

[Judge Ayotte said] I approach the question of sentence in this case against that background.

And then he says at paragraph 4,

— **trafficking** in wildlife and hunting for that purpose pose one of the greatest threats to the management and protection of the wildlife resource. The lawmaker has made that clear by specifying that those offences carry the highest penalty permitted by the *Act* [again he is referring to Alberta], a maximum fine of \$100,000 or 6 months of imprisonment or both. To the obvious concern of the legislator might be added the common sense of the objective observer. There are natural controls on those who hunt for food for themselves, even when they do so illegally. There is a limit to how much they can eat, how fast they can eat it and how much they can reasonably store. While there may be exceptions to the general rule, those simple realities limit how many animals will likely be taken by those types of illegal hunters. The **trafficker** is different. Since he or she is, in effect, hunting for sale to others, the take is limited only by the number of willing buyers and by his or her own greed. As is so amply demonstrated by these prosecutions, the goal is money, and usually quick money, not the future of the hunter's own food supply. In the result, the **trafficker** often shows little regard for the preservation of the resource he or she exploits. The sad truth is that those involved in **trafficking** usually seek the maximum profit with the minimum effort; they almost always would rather escape detection than accord the animals they kill a humane death.

3 The circumstances of the case at bar have been outlined by Mr. Blackman for the Crown. One of the concerns raised by the Crown is night hunting and the fact that it is being done in an area of Campbell River that is increasingly being built up as residential. There is some concern for the safety of those who live in that area. The case is also exacerbated by the number of offences of **trafficking** in wildlife meat that took place over a number of months; March, April and July of 2001. This was not a 'one off' thing for Mr. Paul.

4 In my view, the appropriate sentence is as set out by the Crown. It is, in fact, a joint submission. On Count 3, one month; on Count 17, 45 days; on Count 19, 60 days; on Count 21, 90 days; on Count 27, 90 days. All sentences are concurrent to one another. The global sentence is, therefore, 90 days.

5 There is provision under the *Wildlife Act* for a specific order under s. 84(1)(a) of the *Act* and Crown has set out the terms. Mr. Marion does not object to those terms and the Court is prepared to grant that order.

(SENTENCE CONCLUDED)

Accused sentenced to 90 days' imprisonment.

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