

R. v. Grozell, [2004] B.C.J. No. 2794, 2004 BCPC 502 (CanLII)

Sentence of 26 months and 5 months pre-trial custody for possession, uttering and making approximately Can\$950,000 and US\$119,000

Mr. Grozell pleaded guilty to possession, uttering, and making counterfeit money. He also pleaded guilty to several other offences, including impersonation, fraudulent use of credit card data, and theft from mail.

On 14 November 2003 Mr. Grozell was arrested by the RCMP in Nanaimo after a lounge employee became suspicious when the accused attempted to pass several bills at the establishment. He was found in possession of two Canadian counterfeit \$100 bills.

On 28 January 2004 in Regina, Saskatchewan, the accused and his accomplice, Mr. Sadegur, attempted to pass an older-looking \$100 bill at a local mall. Mr. Grozell was arrested and found to be in possession of a counterfeit \$100 bill. The police conducted a search of his hotel room and seized a laptop computer, a printer, an inkjet printer, \$7,500 in uncut Canadian notes, \$1,900 in cut Canadian notes, and \$1,190 in cut American notes. Two teenage girls, hired by Grozell to distribute the counterfeit money, were also found in the room.

Mr. Grozell provided a statement to the Regina police. He said that he and Mr. Sadegur had been travelling across Western Canada passing counterfeit money. He admitted to having left Vancouver with \$7,000 in counterfeit funds and that during their stay in Edmonton, he and Mr. Sagedur had printed 20 sheets of \$100 bills containing up to three bills per sheet.

On 4 May 2004 in Hope, Mr. Grozell was pulled over for speeding. A search of the vehicle revealed six counterfeit Canadian \$100 bills, two counterfeit Canadian \$5 bills, one counterfeit Canadian \$20 bill, and one counterfeit American \$20 bill rolled up in a black cellphone case, an aluminium case containing several sheets of high-quality paper, five uncut sheets with one Canadian \$10 bill and two Canadian \$20 bills on each sheet, blank printer paper, a colour scanner, and a laptop computer, which included sophisticated images of various bank notes, water-repellent spray for leather, a black ultraviolet light, and shiny gold paper with maple leaf cut-outs.

At the sentencing proceedings, the Crown argued that making American money was an aggravating circumstance, because it amounted to tampering with another nation's currency and economy and because it is more difficult for merchants in Canada to detect American counterfeit money. The Crown asked the court to consider a global sentence in the range of three to five years. The defence took the position that a conditional sentence order was appropriate.

The judge accepted the evidence linking the activities of Mr. Grozell (*R. v. Grozell*, 2004 BCPC 502 (CanLII)) to the criminal organization comprising Mr. Paolinelli (*R. v. Paolinelli*, [2004] A.J. No. 1330 (Prov. Ct.), 2004 ABPC 53858 (CanLII)) and Mr. Wah, who were responsible for the distribution of the counterfeit *Canadian Journey* series notes from August 2003 to September 2004 in Western Canada. The judge did not consider the difficult detention caused by passing counterfeit bills to drug dealers to be a mitigating circumstance.

The judge relied on the affidavit from a Bank of Canada representative and on the sentence imposed on Mr. Paolinelli.

In conclusion, the judge said at paragraph 53:

Printers of counterfeit bills and other persons who take a lead role in this type of counterfeiting operation usually should be sentenced more severely than those who merely distribute the money. Mr. Grozell is not a mere distributor. He was involved in the printing and passing, distributing, and the transportation of the equipment of a very sophisticated, far-reaching, extensive counterfeiting ring. This is a large operation. It can affect a local economy. In some cases these types of offences can affect the economy of a whole country. The degree of sophistication of the product, and I accept that these are sophisticated bills, and the prevalence of the distribution are matters that I have to take into consideration.

Citation: R. v. Grozell - Excerpt Reasons for Sentence

Date: 20040930

2004 BCPC 0502

File Nos:

3561; 48491;

Registry:

Chilliwack

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

Criminal Division

REGINA

v.

RYAN ALEXANDER GROZELL

EXCERPT FROM PROCEEDINGS

REASONS FOR SENTENCE

OF THE

HONOURABLE JUDGE R. B. CARYER

Counsel for the Crown:

S. Finn

Counsel for the Defendant:

S. Paterson

Place of Hearing:

Chilliwack, B.C.

Date of Hearing:

September 30, 2004

Date of Judgment:

September 30, 2004

[1] THE COURT: The accused Ryan Alexander Grozell has entered a number of guilty pleas to a number of offences before me that span a significant time period and geographical area. The first offence that he pled guilty to in terms of time is on the 23rd of April 2003, at or near Little Fort, British Columbia, fraudulently personated Robert Joseph Grozell with intent to gain advantage for himself. That is his brother.

[2] The next offence that he pled guilty to is the 14th of November 2003, at or near Nanaimo, British Columbia, without lawful justification or excuse had in his possession counterfeit money.

[3] The next offence that he pled guilty to, or series of offences, comes from Saskatchewan. On the 28th of January 2004, without lawful justification or excuse did have in his possession counterfeit paper Canadian and American \$100, \$50, \$20, and \$10 bills, contrary to s. 450 of the Criminal Code, and on that same day without lawful justification or excuse uttered counterfeit money, to wit a \$100 Bank of Canada bill, contrary to s. 452.

[4] The final chapter in Mr. Grozell's spree of crime was May the 4th, 2004. He pled guilty to five counts from that date. The first is on the 4th of May, at or near Hope, in British Columbia, did make or begin to make counterfeit money, contrary to s. 449 of the Criminal Code; on that same day, without lawful justification or excuse had in his possession counterfeit Canadian and United States currency of various denominations; Count 3, on or about the 4th of May, at Hope, did have in his possession a key in respect of which he knew that an offence had been committed under s. 356 of the Criminal Code. That is mailbox keys. On Count 4, on the 4th of May, did have in his possession a British Columbia licence plate, the property of Scott Fraser, this was the licence plate on a vehicle that he was driving, and on the 4th of May did possess or use, traffic in, or permit another person to use credit card data that would enable a person to use a credit card or to obtain the services that are provided by the issuer of a credit card to credit card holders, contrary to s. 342(3) of the Criminal Code. That I accept is the use of fraudulent credit card data and personal identification data to enable a motor vehicle to be rented, which is the vehicle he was driving in.

[5] The circumstances are as follows. I won't keep you in suspense very long, Mr. Grozell. I will start out by saying this is a very lengthy sentencing. It took place over three days, almost a total of three days. The Crown has provided me with a number of circumstances of the offences and a number of items as exhibits in these proceedings and I will refer to some of them as I go.

[6] The defence has taken the position that a conditional sentence order is appropriate in this case and has provided me with a lot of material, case law and called evidence earlier today, and I will refer to that as I go as well. That is why it has taken three days. In the best of all worlds I would have adjourned for a period of time so that I could provide proper written reasons, but this matter has extended a very long period of time. Mr. Grozell and his family want to get this matter dealt with and completed today regardless of the outcome. I understand that and I understand their feelings and accordingly I have not taken the time to write this down, so it may be disjointed. It is the best I can do at 4:15 in the afternoon.

[7] Firstly, I will deal with the offence of personation, and it is a fairly simple offence, quite frankly. The personation was in April of 2003. Mr. Grozell was pulled over driving a motor vehicle and gave the name of his brother. He was stopped because the vehicle had no licences, but a temporary permit. His driver's licence was requested. He gave his brother's name and date of birth, obviously easy for him to do. He was issued two tickets. Eventually the brother had to file a statutory declaration with ICBC to state that he was not the person who was issued those two tickets. They subsequently were voided in the brother's name.

[8] The offence in Nanaimo, Information 56784, from November the 14th, 2003, was possession of counterfeit money. This is two months prior to Mr. Grozell being arrested in

Saskatchewan for the same type of offence. At 1:30 a.m. the RCMP were patrolling a lounge in Nanaimo, a drinking establishment. They were advised by the personnel from the lounge that there had been a male customer who had attempted to pass several bills to staff; some of them had the same numbers on them. An employee had apprehended Mr. Grozell. He was found with two \$100 bills that had identical numbers on them. The numbers on those were AJD5743793.

[9] That is of significance, as it turns out, because what is referred to as the JD series of \$100 bills has circulated throughout western Canada. The estimate of the witness called by the Crown is there may well be approximately \$1.4 million worth of \$100 bills in circulation in the JD series. They are all counterfeit. There was a second male arrested with Mr. Grozell and he admitted that he had given the second male counterfeit money to pass as well and that that second male had no knowledge that the money was counterfeit, so that tells me that Mr. Grozell was the one in charge, as you will, of that particular event.

[10] On January the 28th, 2004, in Regina, Saskatchewan, the accused and one Sadegur attended a store in a mall in Regina. The clerk was talking to Mr. Grozell. Mr. Grozell had indicated that he was from Langley, B.C., and was on his way to Toronto. He attempted to pass an older looking \$100 bill. The clerk was suspicious and called security. They took the \$100 bill. The co-accused Sadegur appeared to be anxious.

[11] Mr. Grozell was arrested and when searched there was a counterfeit \$100 bill. A search of Mr. Grozell turned up a number of pieces of identification. There is quite a list of them and I have seen copies of them that were filed in the Crown's case. They are not in his name. There is a birth certificate, a B.C. driver's licence, and a Care card in the name of one Shelley Brantford, stolen in January 2004. There is a B.C. ID card and a Chevron card in the name of Robert Kelsor. There is a B.C. auto card in the name of Barbara Munn, stolen December 2003. A TD Visa card stolen from Victoria Graves from Chilliwack, British Columbia, and an Esso extra points card from Victor Delaney, stolen from Maple Ridge, British Columbia. Both of those items were stolen in December of 2003. There was the \$100 bill, there was some real money, and room keys to a Travelodge in Regina. There were two room keys, one from Sadegur and one from Mr. Grozell.

[12] Two young women were arrested at the hotel, which is a pattern of Mr. Grozell's criminal activity relating to passing counterfeit money, in that he enlists the aid of young girls probably in the hope of deflecting suspicion from merchants and gets them to pass the money. That I consider to be an aggravated circumstance. There were a number of items from both of their rooms. There was a laptop computer, a Hewlett printer, an ink-jet printer, and printed, uncut counterfeit bills. There were three per sheet and there were three sheets. There was blank paper. The total amount seized in that seizure was 7,500 uncut Canadian dollars, 1,900 cut Canadian dollars, and 1,190 United States of America cut counterfeit dollars.

[13] Mr. Grozell gave a statement to the Regina police. He said that he and Mr. Sadegur had been taking a trip across western Canada, that Mr. Sadegur had been passing the bills. He said that he himself, Mr. Grozell, had only passed one at the Canadian Tire for a tool kit somewhere in western Canada. He said in total he had passed six to seven himself and that the four people had passed somewhere in the range of 40 to 47 \$100 bills. He figured they had little chance of getting caught and there was a rule not to spend any money in hotels that they were staying at, as that was asking to get caught. He told the police he had left Vancouver with \$7,000 in counterfeit funds and that in Edmonton they had printed up 20 sheets with three bills per sheet of \$100 bills. Mr. Grozell said that Sadegur was the computer person. Mr. Grozell said that Grozell gave each of the women two to four bills a day to spend. When he was asked about the identification that was on his person, he said he didn't know any of the individuals. Mr. Grozell was released from custody in Regina and he failed to appear in Regina in March of 2004.

[14] I pause because a number of things were referred to me throughout the course of these proceedings including, I gather, a type of an occurrence report. Ms. Paterson, on behalf of Mr.

Grozell, has stated that it would appear that Mr. Sadegur was the leader of that particular little group, and Mr. Grozell testified to that effect. As I read from the occurrence report, Mr. Sadegur told the police that he had heard rumours of Mr. Grozell being involved in counterfeiting. He said other than the incident in Edmonton, where apparently some young woman had put counterfeit bills in Sadegur's pants, he had not seen anything else to do with counterfeit money. He didn't know anything about computer equipment or counterfeit money in the room that he saw. He said at one point in the Travelodge in Regina he returned to the room. There was no one in it, but he saw that Mr. Grozell's belongings were on one of the beds and there was a laptop computer. When he woke up in the morning, Mr. Grozell and some woman were sleeping in the other bed. There was a printer and sheets of counterfeit Canadian money. I say that because Mr. Grozell says Mr. Sadegur is the leader. He also says a fellow by the name of James Arthur Wah is one of the leaders of this group.

[15] I am very satisfied beyond any question of any doubt that this is a criminal organization of individuals who have gone about the country, certainly western Canada, engaged in the business of passing counterfeit goods and stealing identification and other pieces of credit card information to assist in that.

[16] A statement of Mr. Wah was filed. Defence counsel has suggested that Mr. Grozell was perhaps Mr. Wah's "flunky." Mr. Wah said, when asked where the money had come from, "Well, it's off the sheets that were printed before." This is Wah's statement to the police in New Westminster. I believe it's New Westminster:

Q Where -- where were they been printed?

A Well, they'd been printed before by Ryan, but nothing has been printed there since.

Q Okay. Who's Ryan?

A He was the guy that was living there.

Q Well, okay. I don't know. I mean, I'm not with the New Westminster police department, so I'm really not familiar with who's who in this investigation.

A Right.

Q Ryan's last name?

A Uh, Grozell.

Q How do you spell that?

A G-r-o-z-e-l-l.

Q So he was living there?

A Yeah.

Q And he was making the money?

A Yeah. He did all this.

Q Did you see that?

A Oh, yeah.

Q How much money?

A Lots.

Q Okay. What denominations?

A Quarter -- quarter million probably.

Q Like fives, tens, 50s?

A No. There was -- there was 100s and 20s.

That is consistent with the photocopies of the bills that I have seen.

Q Hundreds and 20s?

A Yeah.

Q And that's all he did?

A Yeah. Now, I met him like three weeks ago and he's got American 20s, American 50s, American 100s, the new 50s, and the new 100s.

Q New American 50s?

A Yeah.

Q And new American 100s?

A Yes.

Q So when was that?

A I only seen him two weeks ago.

Q Two weeks ago. Where?

A Yeah. He went -- I won't -- I called his cell phone and it worked for like two weeks and he said he wanted to talk to me, so he came and met me. Like when he left my home he cleaned my whole house. He took all my DVDs. He took all my computer equipment. He took all my stereo equipment. He took everything from me, and so he hasn't been talking to me since. I mean, the door came in over him partying there with a bunch people and someone said that he was printing money there and that's why the cops kicked the door in the first time, and so he knew I was pretty mad at him.

Q So okay. I'm not quite following -- following you. When did he last live with you?

A He last lived with me -- it was right when I got out of treatment. It would have been in February.

Q Okay. And at that time was he still printing money?

A No, because I told him I don't want any money. You guys already kicked my door in.

Q Okay. So --

A He cleaned out his stuff and he left.

Q So he had some trimmings in the house?

A Uh-huh.

Q At least last night?

A Oh, yeah. There was bags of it, man. I just cleaned out that room only like a month ago. I just cleaned it out. It's still a room there. I didn't even go in there.

Q So you're saying that that was Ryan's stuff?

A Oh, yeah. There was stacks of money that I threw out, too, stacks that you guys didn't find or that you didn't find when they kicked the door in, stacks, I mean big stacks that I thought I was going to go to jail for.

He goes on. At page 10 of the statement, the police officer says:

Q Well, you're telling me about Ryan Grozell?

A Mm-hm.

Q And kind of shifted the blame where --

A No. I'm not shifting no blame, no. It was my home. That's all I'm going to say until court, I mean.

[17] The bottom line is that I have heard about any number of different members of this organization who are finger-pointing at each other, passing the blame. Quite frankly, they are all equally to blame. This is, without any question, a criminal organization designed to impact the community by the passing, in the millions of dollars worth of counterfeit bills.

[18] One of the charges that Mr. Grozell faced in Saskatchewan, which apparently has been stayed as a result of the guilty pleas, is a conspiracy to pass counterfeit bills. It is clear that this was a conspiracy in Saskatchewan. By his own admission he said that they had been passing money from British Columbia through to Saskatchewan, getting the girls to pass money, and living off of the avails of the counterfeit money. I am satisfied that this is a conspiracy. Although

he is not charged and convicted of that in this court today, it is still, in essence, the same thing. I say that because it underscores that this is an organized effort of a number of people to effect the crimes Mr. Grozell has pled guilty to.

[19] On May the 4th, in Hope, B.C., a black Ford Explorer was speeding. The licence plates were registered as stolen. The accused was the driver. The vehicle was pulled over. There was a male passenger by the name of Byle and two young women who were 18 and 17 years of age. They were different from the Regina girls, although consistent with Mr. Grozell's approach to passing counterfeit money. Mr. Grozell gave a different name to the police and a different date of birth in another attempt to pass himself off as somebody else. He called himself Jason Grozell. That is not his name. The police learned his actual name.

[20] The vehicle was searched. There were a number of items seized, photocopies of which were filed in the sentencing proceedings. A number of Canada Post mailbox keys were found. There were a number of bills found in the centre console of the truck. There was a black cell phone case. There was money rolled up inside of the case. There were four \$100 bills, two \$100 bills, two \$5 bills, one \$20 bill, and one \$20 United States of America bill. These were counterfeit. In the glovebox was a Hertz Rent-a-Car slip in the name of Mr. Blume. I will get to Mr. Blume's situation shortly.

[21] A further search of the box of the truck showed this: An aluminum case that had in it several sheets of high-quality paper. There were five uncut sheets, one \$10 Canadian bill and two \$20 Canadian bills on each sheet. There was a number of blank printer papers, high-quality papers. There was a Hewlett-Packard colour scanner copier, a small plastic paper-cutter. There were 40 pieces of miscellaneous identification, which have been filed in the court proceedings here, and I will comment on that later. There was a Dremel rotary tool, which is used to cut postal keys. There were three B.C. licence plates retrieved, two with the same number and a third with a different number. The third one is the one that originally belonged to the rental truck as opposed to the plates that were on the rental truck. There was leather water repellent spray, which is used to protect counterfeit money. It is used to provide a certain texture to it and to protect the ink from running. There was a black ultraviolet light, which is part of the counterfeiting process. There were a number of computers, CDs, a Photoshop program on one of them, and a laptop computer.

[22] This is an organized and sophisticated crime that is being perpetrated throughout western Canada by the accused and his gang.

[23] I note for the record, this is months after Mr. Grozell had been arrested in Nanaimo for passing counterfeit \$100 bills and a couple of months after he had been arrested and released on his counterfeiting charges in Regina, Saskatchewan.

[24] As well, found in the computer bag, along with the laptop, was some gold sparkle paper with maple leaf cut-outs. I've been advised and accept that is used to somehow mimic the gold embossed leaf and squares on the new Canadian bills that are designed to foil counterfeiters. Apparently, this security feature does not work that well, according to Mr. Wah, who provided, I think, a fairly interesting graphic detail of how it is done. It is not, I guess, that tough to counterfeit these bills, although it is supposed to be tough to do. The Crown says that the American money is an aggravating circumstance because, not only is it a criminal act, it is tampering with another nation's currency and economy and it is also harder for merchants in Canada to detect American counterfeit money.

[25] It is interesting to note that on the computer, when it was opened, the last image in the computer is an image under the heading, if you will, "Joey Leblanc, My Documents," and in it are two pictures of the accused. The date is the 5th of April 2004, and they are photographs of the accused. That is significant because there is also found photographs of Mr. Grozell on the B.C.

driver's licence of Mr. Blume, and I'll get to Mr. Blume's circumstances later. I am satisfied that Mr. Grozell was very actively involved in this whole process.

[26] I am going to refer to the evidence of Mr. Blume, who is an innocent victim here. In May of 2004 Mr. Blume was contacted by a finance person from Canadian Tire. Apparently his credit card had been used and racked up a \$900 car rental and \$600 of cash. Mr. Blume didn't know anything about that. Credit cards had been stolen in April and it would appear that a driver's licence perhaps had also been stolen. Some time in and around April somebody had come to Mr. Blume's residence and asked to use the phone. As it turned out, that person, in their brazenness, used Mr. Blume's home phone number, asking to use the phone because I think they said their car had broken down. Mr. Blume, as a good citizen, allowed them to do so. They used his phone to activate the credit card. That is how it was activated, because the phone would show an identification.

[27] It was an extraordinarily brazen act by somebody. A description of the person who did that was given by Mr. Blume, and Mr. Blume's description is as follows: "I guess he was about six foot tall, slim. He had dark hair, he was clean-shaven, and he had workmen's clothes on. They were, you know, jeans, work boots, and a jacket. His hands looked to me as if he'd been working in concrete or drywall. His nails seemed to be sort of bluish. His hands were sort of whitish. His fingernails seemed to be a bluish hue, just discoloured. He was in his mid to late 20s, clean shaven, dark hair." Now, that does match Mr. Grozell. Mr. Grozell says it was somebody by the name of Trevor who did it. I don't think that particularly matters. I think they are all part of a gang.

[28] I am left with Mr. Grozell driving a motor vehicle that was rented in Mr. Blume's name. I'm left with Mr. Grozell's picture on a B.C. driver's licence in the name of Mr. Blume. Whether he is the guy who went into Mr. Blume's residence or not, it is a despicable, brazen act, one that should shake citizens' sense of security to the very foundation. It is astonishing that anybody could be so bold, but I guess criminals are. There were sales receipts that were in Mr. Blume's name. There was an address in Langley that was used on, I think, a sales receipt from London Drugs and that address was traced to Mr. Grozell's grandfather. The accused says he did not rent the vehicle.

[29] I am not satisfied that the accused has told me the truth in his testimony in this sentencing. I found him to be evasive. I found him to be inconsistent. He has minimized his involvement throughout this sentencing process. I do not have any great faith in his credibility.

[30] The Crown called Cpl. Kostaschuk, who is an RCMP officer of some 20 years, who now is heading up a specialized crime unit. According to the defence counsel the argument is that they're not putting enough effort into this particularly serious type of crime, but Cpl. Kostaschuk testified that she does have a budget to investigate matters. She is acting now more or less as a central repository of information for other agencies and detachments. She talked about the JD series of \$100 notes, which are counterfeit Canadian notes. She said that since January the 3rd the police had become aware of approximately \$700,000 of the JD series. In her estimate that is approximately 50 percent of what would be in circulation as counterfeit bills, which is again obviously in the range of \$1.4 million of counterfeit bills. She said the JD series was produced in British Columbia, started to appear in British Columbia, and has not travelled anywhere east of Saskatchewan. We know that Mr. Grozell is the one who took them to Saskatchewan. She said that no other series has originated in British Columbia. She said that she was advised that a couple of days earlier, before Mr. Grozell arrested, that there had been four other people arrested in Saskatchewan for passing bills. She had told Saskatchewan that they should look out for Mr. Grozell and two days later he was arrested. That does not necessarily in and of itself mean anything, but what it does mean is that there is a group of people involved in this and again, Mr. Grozell was one of them, known to the police even before he was arrested in Saskatchewan. Obviously he was known before he was arrested in Saskatchewan; he had been passing the bills in Nanaimo in November.

[31] Ms. Paterson asked a number of questions about an accused by the name of Palianali (phonetic), who I will refer to later, who was also involved in this group. Mr. Palianali was interviewed by Cpl. Kostaschuk in December of 2003. He indicated he was an associate of Mr. Grozell, that he travelled with Mr. Grozell to B.C., the interior, and Alberta. They usually would have a couple of young females, that Mr. Grozell would produce the counterfeit money, and he would utter some and the girls would utter some and Mr. Palianali would utter some.

[32] I am aware today that Mr. Palianali was sentenced in February of 2004 for uttering counterfeit money and possession of property obtained by crime over \$5,000. He received 90 days and 30 days in jail, I don't know if that is consecutive or not, and I know that he was convicted recently, very recently. On September the 24th he entered pleas in Calgary to offences of counterfeiting, the similar offences that the accused is being charged with, and Mr. Palianali was sentenced to a term of two-and-a-half years on September the 24th, 30 months, in addition to the time that he had served in custody, which was apparently 80 days given the credit for two times that to equate 160 days, so that the total amount is very close to the range of three years, even slightly more.

[33] The admission of facts that is relative to Mr. Palianali's guilty pleas said there was approximately \$101,000 in counterfeit American currency in various stages of production, in \$20 and \$100 denominations, two ink-jet printers, two ink-jet printers and scanners, homemade computer CDs containing images of Canadian and American currency, ultraviolet reactive markers, ultraviolet lights, a quantity of various types of gold foil, a Hewlett-Packard laptop, two computer towers with hard drives, cotton-blended stationery, a quantity of mail stolen from Canada Post addressed to other people, and I will get to that, a key for a Canada Post drop box with the serial number removed, stolen identification in various names, a Canada Post drop box key found in the residence, the property of Canada Post, some serial numbers of the \$100 bills or the JD series, all of which we know are Mr. Grozell's as well.

[34] Ms. Paterson, on behalf of Mr. Grozell, says that Mr. Palianali is a bigger player than Mr. Grozell, that this list of items that were seized relative to his guilty plea a couple of days ago consisted of more sophisticated items than Mr. Grozell's items that were seized, found in the truck, and further that Mr. Palianali had had a sentence of 90 days earlier on this year and apparently did not learn from that. The Crown's response to that is that Mr. Grozell had been charged in January of this year and didn't learn from that either and that although his equipment wasn't perhaps quite as sophisticated it was sophisticated. I agree that it is sophisticated equipment.

[35] Going back to Cpl. Kostaschuk, she provided an affidavit from the Bank of Canada. I will refer very briefly to that, in that I was provided with some statistical information. It would appear that the number of counterfeit notes passed annually in Canada has increased by just over 800 percent in ten years. In 1993 approximately \$2 million in counterfeit was passed. In the year 2003 \$12-and-a-half million of counterfeits were passed, which is an increase of 600 percent. The increase from 2002 to 2003, the number of notes, was more than 100 percent and the value was just over 250 percent. That is in one year.

[36] The affidavit further states that the Bank of Canada has spent two years and approximately \$7 million in research and development on the new bank note series. That includes the \$100 note that was issued in March of 2004. In addition, this new \$100 note will cost approximately 40 percent more per bill to manufacture because of the enhanced security features. This is a direct result of the counterfeiting problem.

[37] One thing that is of interest with counterfeiting, (Mr. Grozell claims to have not fully comprehended this, but quite frankly, I find that it is almost self-evident), I will state from paragraph 11 of the affidavit:

Victims of credit card fraud are usually protected from direct financial loss by the card's issuer if they have observed the card issuer's rules of use. In contrast, the Bank of Canada, like all other central banks in the world, provides no financial protection for a person who accepts a counterfeit bank note. All central banks, including the Bank of Canada, have concluded that providing reimbursement would act as an incentive that would inevitably lead to increased counterfeiting activity.

And paragraph 12:

The loss due to a single counterfeit note can be substantial for an individual on a fixed income or a small retailer with limited revenue. Counterfeiting losses can also have a strong negative impact on larger businesses. Grocers, for example, operate on narrow margins of as little as one to two percent. A grocer must sell five to \$10,000 worth of goods to recuperate the loss from a single \$100 counterfeit bank note. These losses lead to increased prices that are ultimately borne by the consumer. It is a reality of this particular crime that it is the small businesses that tend to suffer the most when they bring the counterfeit bill to the attention of the bank or they bring it to be put into their bank account. They are the ones who lose. It is not the bank.

[38] Mr. Grozell and his cohorts, with their potentially \$1.4 million worth of counterfeit bills, are up in an astronomical amount of damage to an economy, and particularly small individuals. To do all of that they steal people's identification, steal their identity and use their credit cards. They are, quite frankly, an insidious group of young people.

[39] The crime statistics are shocking. It is equally disconcerting to note that even in the city of Abbotsford there is an increase in crime and counterfeiting is one of those crimes that has gone up. According to tab 9 of the Crown's materials, which is some sort of a newspaper report, counterfeiting incidents now represent five percent of all Criminal Code offences, making it the sixth largest crime category in Canada. The number of counterfeiting incidents has doubled in British Columbia in 2003. This is a very serious crime.

[40] Ms. Paterson has done an admirable job for Mr. Grozell in bringing to light everything that she possibly could to show that there is a larger group out there, not just Mr. Grozell, that he was one of many. She has argued that he is not the head of the organization, he is not even the neck of the organization, he might only be an arm of the organization. The reality is it is an organization and the information I have from all of these individuals through their statements is that they are finger-pointing at each other. Nobody is taking real responsibility. Mr. Grozell has minimized his involvement in this matter and has blamed the fact that he was addicted to drugs, and I might add that that's inconsistent with what he advised the probation officer when he went to his presentencing report meeting.

[41] The Presentence Report was ordered on the offence of possession of the licence plates on the rental vehicle in Mr. Blume's name. Counsel has said that that is not an attempt in any way to fool the presentence author. It was simply her desire to get background for Mr. Grozell, and I accept that. Mr. Grozell, in the Presentence Report, admitted to using speed on that date, as well as the previous three to four months, but indicated the amount was minimal, half a gram every two to three days. He said he did not feel he had a substance abuse problem and further indicated his usage was in no way linked to the offence, and yet here in court I have been told it is because he was addicted to drugs that he got involved in this whole process of counterfeiting and that he is just a dupe, a cutter of paper and nothing else. I do not accept that at all.

[42] Further, I note at page 5 of the Presentence Report, under the heading "Attitude and understanding regarding the offence," Mr. Grozell denies any responsibility for the offence. He reports he was acting in good faith, providing a favour for a buddy by driving the vehicle to Kelowna. Mr. Grozell further reports he was unaware the licence plate was stolen, but felt that because he was driving the vehicle he was guilty of possession of stolen property. That is not what I've been advised in this courtroom. What I was advised was that he knew who had rented the vehicle. Quite frankly, I am satisfied he rented the vehicle. He has testified that he knew who rented the vehicle and he knew it was all on false credit cards. I find his evidence and his versions to various people are inconsistent. I think it is just an attempt by him to minimize his involvement and his responsibility.

[43] The computer that was seized from the Hope investigation included images of other bills, not just the JD series, quite sophisticated images, quite frankly, from what I have seen. I am no expert, but there were American bills, \$5 bills, \$20 bills, and Canadian \$100 bills, and numerous pieces of identification from innocent citizens who had their mail stolen, their wallets stolen out of their cars, their cars broken into, their homes broken into, and in one case one person's, I think, purse or wallet was taken from the counter in their kitchen, all by this gang of thieves.

[44] Today Ms. Paterson called a witness by the name of Risbey, a correctional officer. Mr. Risbey testified about the circumstances surrounding Mr. Grozell's incarceration since May of this year in the North Fraser correctional facility. Apparently it is been a difficult time for him. It would appear it is been a difficult time for him because he has ripped off drug dealers on the streets by passing them counterfeit bills.

[45] Mr. Grozell has made his own bed. I am not satisfied that he is entitled to three times the dead time. His conditions, although they may be difficult, are certainly no more difficult than many other prisoners in jail who find themselves on the receiving end of anger of other prisoners because of their activities. The Crown has made this submission: that I should not even give Mr. Grozell the equivalent of two times his dead time because Mr. Grozell had been released from Saskatchewan on bail. He had been obviously released from Nanaimo on some type of appearance notice or bail. He failed to appear in Regina and he failed to deal with the Nanaimo matters until he was arrested in Hope, British Columbia, engaged in the same activity. It is clear that Mr. Grozell did not learn his lesson.

[46] The Crown has asked the court to consider a global sentence in the range of three to five years. Ms. Paterson has asked the court to consider imposing a conditional sentence order, taking into account the fact that Mr. Grozell has served five months' dead time, and that the court should at least double it, if not triple that, and that would take it from federal time down to two less a day, in which case the provisions of conditional sentence provisions of the Criminal Code of Canada.

[47] I have been provided with a number of cases by both counsel and there appears to be not very many cases that deal with these type offences. It has not been dealt with extensively by the courts, but one can see with an 800 percent increase in the offences in the last ten years it is going to be.

[48] The Crown provided me with the case of R. v. Le (1993), B.C.J. 165, from the British Columbia Court of Appeal. That was a case where the accused was sentenced to nine months' imprisonment. He was a 30-year-old sign painter with no criminal record. He supported a wife and two children. He was sentenced to nine months' imprisonment partly because he gave several versions as to how he came into possession of the bills. He was convicted of possession, uttering counterfeit \$100 bills, and possessed 24 of them. He was given nine months. At paragraph 6 Chief Justice McEachern stated:

Counterfeiting is an offence for which, in my view, deterrence is a far more important factor than it is for many other offences. It requires premeditation and planning and is driven entirely by greed.

[49] That is without question the circumstances in the case before me, but it is beyond simply planning and premeditation. This is a very sophisticated group of criminals, who have sophisticated equipment, who not only engaged in this activity but when caught simply started up all over again and continued to engage in this activity. Denunciation and deterrence of others has to be a very significant consideration of this court.

[50] The Crown also cited the case of *R. v. Berntsen* (1988), B.C.J. 1180. Six months' imprisonment was imposed by the County Court judge and that was upheld. It was considered a fit sentence. The circumstances were the accused uttered a U.S. counterfeit \$20 bill. He had other bills, 11 of them, rolled up in his socks when he was arrested. The trial judge said in imposing sentence, "This is a most serious offence in any country in the world," and imposed a sentence of six months. Mr. Justice Hutcheon on the Court of Appeal said:

The cases that have been put before us indicate, in relation to counterfeit offences, a sentence of imprisonment is usually called for unless there were quite exceptional circumstances. *Berntsen* is 25 years of age. He has no previous criminal record and was at the time of the offence steadily employed. I see no reason to conclude the sentence was other than a fit sentence.

[51] The Crown also cited the case of *R. v. Yue*, another British Columbia Court of Appeal decision, (1996), B.C.J. 385. He was convicted on four counts. Count 2 was stayed on the basis of *Kienapple*. This had to do with possession of equipment to commit forgery with respect to credit cards. It was cited because Mr. Sadegur, apparently Mr. Grozell's accomplice in Saskatchewan, was given a six month conditional sentence order, and this case, the *Yue* case, was cited by the Crown for the following proposition at paragraph 15 by Madam Justice Rowles:

In my view, in all the circumstances in this case, both the two year and six month sentences for the appellant were fit sentences. The imposition by one trial court of an excessively lenient sentence on a co-accused does not bind another court to impose a similar sentence on the other accused. Instead, a fit and proper sentence should be imposed. In this case the appellant was convicted of the serious offence of possessing equipment designed to counterfeit credit cards. Obviously he was not only involved in the use of credit cards, but also with their manufacture.

[52] That is definitely the case that I have before me. The accused was involved in their manufacture. Not only was he involved in their manufacture, he was involved in co-opting young women to pass these bills and working with other individuals to do so.

[53] Printers of counterfeit bills and other persons who take a lead role in these type of counterfeiting operations usually should be sentenced more severely than those who merely distribute the money. Mr. Grozell is not a mere distributor. He was involved in the printing and passing, distributing, and the transportation of the equipment of a very sophisticated, far-reaching, extensive counterfeiting ring. This is a large operation. It can affect a local economy. In some cases these type of offences can affect the economy of a whole country. The degree of sophistication of the product, and I accept that these are sophisticated bills, and the prevalence of the distribution are matters that I have to take into consideration. I agree with Ms. Paterson that sentencing is an individualized process, and I am dealing with it in that manner.

[54] Ms. Paterson has cited the case of *R. v. Rashid*, an Ontario Provincial Division case, (1994), O.J. 4228. A 26 year old was convicted of possession of counterfeit currency and uttering counterfeit money. He was a first-time offender. He was sentenced to five months' imprisonment and 23 months' probation. The Crown in that case called evidence about the prevalence of the crime in the community, which is the case before this Court. In that case the Crown also had evidence that there was in fact a police officer employed to co-ordinate and deal with the influx of counterfeit money, which is the case before this Court.

[55] Ms. Paterson also cites the case of *R. v. Manhas*, a B.C. Supreme Court decision, (2001), B.C.J. 1398. I haven't read the full case. Mr. Manhas was involved in drug trafficking. He was educated, intelligent, and he had studied criminology. He was sentenced to nine months' imprisonment for each count, to be served concurrently. He was actively involved in a commercial operation on a significant scale. A conditional sentence was contrary to the fundamental purpose and principles of sentencing and he served his time.

[56] Ms. Paterson also cited a number of other cases, including the case of *R. v. Wast*, which talks about presentence custody, and I accept what that decision basically states. I'll read at paragraph 44 to start with. The court states:

I see no advantage in detracting from the well-entrenched judicial discretion provided in section 719(3) by endorsing a mechanical formula for crediting presentencing custody.

Paragraph 45:

In the past many judges have given more or less too much credit for each month spent in presentencing detention. This is entirely appropriate, even though a different ratio could also be applied; for example, if the accused has been detained prior to trial in an institution where he or she has had full access to educational, vocational, and rehabilitation programs. The often-applied ratio of two to one reflects not only the harshness of the detention due to the absence of programs, which may be more severe in some cases than others. It reflects also the fact that none of the remission mechanisms contained in the Corrections and Conditional Release Act apply to that period of detention. Dead time is real time. The credit cannot and need not be determined by a rigid formula and is thus best left to the sentencing judge, who remains in the best position to carefully weigh all the factors which go toward the determination of the appropriate sentence, including the decision to credit the offender for any time spent in presentencing custody.

[57] In this particular case before me the defence is arguing that I should consider giving credit for three times the time Mr. Grozell has spent in custody, which would be the equivalent of approximately 15 months. Ms. Paterson supplied a number of cases and some descriptions of cases which give a synopsis of cases that go anywhere from three to one, two to one, two-and-a-half to one, and I accept that there is a wide range for credit for pretrial custody. The Crown has argued that Mr. Grozell should not get three times, that perhaps he should not even get two times, as it is his own folly that he ended up in custody. If he had stopped committing crimes, having been arrested in Regina, he would not be in custody now. That is true. That said, though, I do intend to give Mr. Grozell credit for his time in custody.

[58] The Criminal Code of Canada directs that I consider a number of matters for sentencing. Section 718 says:

718 The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders and an acknowledgement of the harm done to victims and to the community.

718.1 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

718.2 A court that imposes a sentence should also take into account the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing ... evidence that the offence was committed for the benefit of, at the direction of, or in association with a criminal organization ...

which then is defined in 467.1.

"Criminal organization" means a group, however organized, that

- (a) is composed of three or more persons in or outside Canada and;
- (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group.

It does not include a group of persons that forms randomly for the immediate commission of a single offence.

[59] In this case I am satisfied that the group that Mr. Grozell was involved in is a criminal organization. There is evidence before me that Mr. Grozell sent money, wired money, to Mr. Wah. There is evidence that he wired money on behalf of Mr. Palianali to Mr. Wah. There is evidence that Mr. Palianali and Mr. Sadegur knew Mr. Wah. There is evidence that this JD series was passed by people from August of 2003 through and until now and may still be being passed. This is a criminal organization. I am satisfied that that is an aggravating circumstance.

[60] Ms. Paterson has asked me to consider imposing a conditional sentence order. A conditional sentence order falls under s. 742.1 of the Criminal Code of Canada.

Where a person is convicted of an offence, except an offence that is punishable by a minimum term of imprisonment, and the court

(a) imposes a sentence of imprisonment of less than two years, and

(b) is satisfied that serving the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing set out in sections 718 to 718.2,

the court may, for the purpose of supervising the offender's behaviour in the community, order that the offender serve the sentence in the community, subject to the offender's complying with the conditions of a conditional sentence order made under section 742.3.

[61] I go back to 718. 718 says the court has to impose just sanctions to have one or more of the following objectives: to denounce unlawful conduct; to deter the offender and others from committing offences; to separate offenders from society where necessary; and to assist in the rehabilitation of offenders.

[62] In this case I am satisfied that a conditional sentence order is not appropriate. I would but for Mr. Grozell's time in custody have sentenced him to a term of imprisonment of over three years in jail. I am taking into account the fact that he has served the equivalent of one year imprisonment, which actually is more than the two-for-one principle. I am going to impose a sentence of imprisonment on you, sir, in the amount of 26 months. The victim fine surcharge will be waived.

[63] Is there anything else?

[64] MR. FINN: I'd ask for forfeiture of the equipment that was seized, Your Honour.

[65] THE COURT: All of the items that were seized relative to counterfeiting are forfeited. Ms. Paterson.

[66] MS. PATERSON: Excuse me, Your Honour. Is that 26 months less the year --

[67] THE COURT: No.

[68] MS. PATERSON: -- or 26 months plus the year?

[69] THE COURT: That's 26 months now, taking into account the fact that he's served the equivalent of one year.

[70] MS. PATERSON: All right. Thank you, Your Honour.

[71] THE CLERK: And 26 months on all counts?

[72] THE COURT: That is a global sentence. I am not breaking it down. For the record, if I broke that sentence down I would impose consecutive terms. That would amount to probably more than that time.

(EXCERPT CONCLUDED)