

R. v. Lussier, [2004] S.J. No.807 (Sask. Prov. Ct.), 2004 CanLII 52845 (SK PC)
6 months + 3 weeks pre-trial - possession + uttering small quantity US\$100 bills+ cheques

Mr. Lussier pled guilty to possessing two counterfeit US\$100 bank notes, two counterfeit US\$100 travelers cheques, and uttering a counterfeit US\$100 bank note. He also pled guilty to breaching a recognizance by failing to keep the peace.

Mr. Lussier travelled from Alberta to Saskatchewan to pass the counterfeit bills. On June 17, 2004 a clerk refused to accept one of the US\$100 bills because he suspected it was counterfeit. After Mr. Lussier left, the clerk then called the police. The police located Mr. Lussier trying to pass the counterfeit bill at another nearby business. The police arrested Mr. Lussier and found one other counterfeit US\$100 bill and two fake US\$100 traveller's cheques in his possession. The Crown indicated there was one other person involved in the scheme, but no further information was provided about that person. The Crown also indicated one counterfeit bill had been passed successfully in town.

Mr. Lussier was on bail having been released on a recognizance in Calgary on January 12, 2004 for several charges including assault with a weapon and break and enter. Mr. Lussier had been convicted 35 times, mainly for property offences, since 1993. His most recent conviction had been in August 2003 when he received a 90 day jail sentence and an unspecified period of probation. Mr. Lussier advised the judge he had a child who was living in Montreal, had been working as a drywaller, and was a cocaine addict.

The Crown noted that this was a planned offence that deliberately preyed on vulnerable businesses. The Crown suggested that, even with the early guilty plea, a sentence of 6 months, in addition to the 3 weeks spent in pre-trial custody, was appropriate in view of the seriousness of the offence and the need for individual deterrence.

The court indicated that it had been considering a penitentiary sentence, but imposed 6 months concurrent for the counterfeiting offences in addition to the pre-trial custody because of the Crown's position. The court imposed a month to be served consecutively for the breach of recognizance charge.

IN THE PROVINCIAL COURT OF SASKATCHEWAN
SWIFT CURRENT, SASKATCHEWAN

BETWEEN:

HER MAJESTY THE QUEEN

- and -

STEVE LUSSIER

July 7, 2004 SENTENCING PROCEEDINGS Lewchuk, PCJ

Mr. G. Herman, appearing for the Crown

Mr. S. Lussier, appearing on his own Behalf

A TRANSCRIPT OF A TAPE RECORDING

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THE COURT: Okay. On the Steve Lussier matter.

MR. HERMAN: Mr. Lussier's present, I don't know what he intends to do this morning, Your Honour.

THE COURT: What did you wish to do today?

THE ACCUSED: I wish to plead.

THE COURT: You want -- you've got to plead guilty or not guilty?

THE ACCUSED: Guilty.

THE COURT: Okay. You know what you're charged with?

THE ACCUSED: Yeah.

THE COURT: Okay. Waive the reading of the charges, and you're entering guilty pleas to each charge?

MR. HERMAN: Yeah. These are indictable matters, Your Honour, just so you're aware. They're straight indictable.

THE COURT: Okay.

MR. HERMAN: So it has to be put to his election.

THE COURT: Okay. Maybe I better read the charges to him then. You're charged that on the 17th day of June A.D., 2004 at Swift Current in the Province of Saskatchewan you did without

lawful justification or excuse, have in your custody counterfeit money to wit: two American \$100 bills and two American Express \$100 travelers cheques, contrary to Section 450(b) of the Criminal Code.

And on or about the 17th day of June A.D., 2004 at Swift Current in the Province of Saskatchewan you did without lawful excuse or justification utter counterfeit money to wit: a counterfeit \$100 American bill as if it were genuine, contrary to Section 452(a) of the Criminal Code.

Do you understand that on this charge you have the option to elect by whom you wish to be tried? You have a right to be tried by this court, a different court judge, or different court judge and 12 jury.

THE ACCUSED: (INAUDIBLE - AWAY FROM
MICROPHONE)

THE COURT: You want to be tried by this
court?

THE ACCUSED: Yeah.

THE COURT: Provincial Court, okay. And
do you understand both of those charges?

THE ACCUSED: Yes.

THE COURT: And do you want to plead
guilty on both charges?

THE ACCUSED: Yes.

THE COURT: Okay. And you're also pleading guilty to being at large on a recognizance as well?

THE ACCUSED: (INAUDIBLE - AWAY FROM MICROPHONE)

THE COURT: You didn't come in to court when you were supposed to, I guess?

MR. HERMAN: Nothing (INAUDIBLE) about that charge.

THE COURT: Oh, no, I'm sorry, that's the one --

MR. HERMAN: (INAUDIBLE) keep the peace (INAUDIBLE - AWAY FROM MICROPHONE)

THE COURT: It's didn't keep the peace, sorry.

THE ACCUSED: Okay. This has got to be in here, right, not in Calgary.

MR. HERMAN: No, this is going to be here. This is here now.

THE ACCUSED: Okay. There's no going to be in Calgary (INAUDIBLE)

MR. HERMAN: No, it's here now.

THE ACCUSED: Okay.

THE COURT: There's a charge that you didn't keep the peace.

THE ACCUSED: Which means from my probation
in Calgary, right?

MR. HERMAN: For the recognizance that you
were released on in Calgary, yes.

THE COURT: Yeah.

THE ACCUSED: Okay.

THE COURT: The fact that you were
convicted and now with two charges, that means you
didn't keep the peace.

THE ACCUSED: Yeah, that's -- okay.

THE COURT: Okay, so you're pleading
guilty then?

MR. HERMAN: Do you enter a guilty plea to
that?

THE ACCUSED: Yeah.

THE COURT: Okay. He's in a position to
take the sentence right away?

MR. HERMAN: Yes, I believe so. He's in
custody at present, Your Honour, has been for --
since July 7th -- or sorry, can't remember the last
date. For two weeks (INAUDIBLE).

THE ACCUSED: Three weeks.

MR. HERMAN: Three weeks? All right. The
endorsement will show it, Your Honour. You can see
the endorsement as to when he was last in court. I
don't remember the exact date.

THE ACCUSED: July 17th -- June.

MR. HERMAN:

In any event, Your Honour,

this is a situation where Mr. Lussier appears to have traveled here from Alberta, from Calgary, and we believe he traveled here with at least one other individual with the express purpose of passing some counterfeit money and counterfeit travelers cheques, basically, in Swift Current to gain cash to take back to his place in Calgary.

On the date in question, on June 17th, it was about seven p.m. in the evening. The police received a complaint regarding someone trying to use a counterfeit \$100 American bill at the Husky store here in town. The clerk at that time apparently felt that the bill was counterfeit and wouldn't accept the bill at the Husky store, so what the person did is the person went to another location very near, a Shell gas station, and tried to cash the \$100 counterfeit bill there.

What they did is they went into the store with -- and wanted to buy two packs of cigarettes, presented this \$100 American counterfeit bill. The police actually attended while he was doing that, and the officer was present at the time that the -- the clerk was negotiating with Mr. Lussier about the acceptance of the bill. The officer then looked at the bill and was aware at that time as well that it appeared to be counterfeit as well, so he was taken

into custody at that time. He claimed that he got it from the Walmart Store here in town, but we do not believe that is obviously accurate. We believe he clearly brought it with him.

They arrested him at that time. They found two American Express \$100 travelers cheques in his possession as well, which are counterfeit. They also found another \$100 American \$100 bill in his pocket, which was also counterfeit, and in fact, a couple of the bills have the same serial numbers. Obviously had been photocopied somehow.

And he was also in possession of a fake identification, and he had then identification -- piece of identification in the name of National Defence of Canada. It called him, I believe, a recruiter of some sort for the military, and it was a forged identification card as well, which was in his possession.

As I say, this is not the only incident in town of such a situation. There were -- it appears that there were other people -- at least one other individual working with Mr. Lussier who attended to Swift Current and passed some bills as well with the express purpose, as I say, of getting cash. People would essentially go

in and get something small like cigarettes and then try to get the change of course.

There's a record for Mr. Lussier. I think we've shown it to him last time because he had his bail hearing. Do you want to look at it again, Mr. Lussier? Just make sure it's accurate.

THE ACCUSED: Yes.

MR. HERMAN: I think he acknowledges the record, Your Honour.

THE COURT: All right.

MR. HERMAN: It's probably attached because we ran a bail hearing. Yes. In any event, Your Honour, he was also -- the breach allegation relates to him having been released in Calgary on some fairly serious charges. At the time that he committed these particular offences, he was released on a recognizance -- he had been released on that recognizance -- I'm just trying to find the date, it looks like January 12th, 2004. And he was released on some very serious charges, looks like assault with a weapon, possession of a weapon for a purpose dangerous to the public peace, theft over, break enter and -- I'm not sure if it's theft, but it's break, enter and commit an offence, assault peace officer, break and enter with intent times two, two counts of mischief.

So he was released on some fairly serious charges, one of the conditions being that he keep the peace and be of good behaviour. He was also not entitled to leave the Province of Alberta at all unless he had the permission of the person monitoring his conditions. So what he did, unfortunately, as I say, is took a bit of a road trip to Swift Current in order to pass these phoney bills and travelers cheques, obviously, to get money to go back, and it appears to have been a fairly organized scheme because it appears there was at least one other individual with him as well.

The concern of the Crown in this particular case, you'll note from his record that he has a very significant criminal record, 35 convictions in total by my count, dating back to 1993. Laced with numerous property offences, as the Court will see, including his most recent conviction in August of 2003 where he received a 90-day sentence and then a probation order to follow as well. The record doesn't seem to indicate the length of the probation order, so I'm not sure how long he was on probation after his intermittent sentence, but he was also released, as I say, on some fairly serious charges, which is an aggravating feature of this case in terms of doing this.

What I would say to the Court is that small towns are particularly vulnerable to this type of thing, and certainly businesses in small locations are vulnerable to this type of -- of problem. The people involved were successful in passing at least one bill, I know. Another location here in town that was accepted, unfortunately, and so that's the concern of the Crown is that what we feel the Court should do is send a message to Mr. Lussier and anybody else who was with him and anybody else who wants to travel from Calgary or anywhere else to prey upon our local businesses, that this type of conduct is very serious and will not be tolerated. And that's why they're indictable offences under the Criminal Code is because they are very serious offences.

So the Crown takes the position that a jail term is appropriate based upon all of the circumstances, including his record. Even taking into account the fact that he's served several weeks on remand, the Crown takes the position that as of today the Court should impose a six-month jail sentence in total with respect to these particular matters in addition to what he's already served to send that message to Mr. Lussier and to send that message to others. And with respect, that sentence might have been viewed on the

lower end of -- of the scale, but I'm taking into account from the Crown's point of view, at least, that Mr. Lussier is entering a guilty plea to these particular allegations.

THE COURT: Are they going to send him back to Alberta or you don't know?

MR. HERMAN: I suspect not, I suspect he'll serve his time here and in due course I don't know what Alberta will do, but he's obviously at large on their recognizance, and may well be taken into custody in due course again for those reasons.

THE COURT: What did you want to say?

THE ACCUSED: I would like suggest that I would plead guilty, but considers my (INAUDIBLE) in Edmonton and I'm not -- I don't agree with the Crown for six months, I think it's a little bit too much because the last sentence I get was like 90 days weekends, right. It's kind of a little bit jump. And he said I didn't -- like, he said to show it to me for other people in Edmonton, but other people has been convicted in Swift Current for counterfeit money in Regina, they're already sentenced in Regina Correctional Centre, and I don't think I'll agree with that either.

I'm ready to plead guilty about it because I did it, but I think it's going to be a little bit too much.

THE COURT: What kind of work were you doing?

THE ACCUSED: I'm doing drywall renovation in Calgary. I build houses.

THE COURT: Are you supporting a family or just yourself?

THE ACCUSED: Yes, I got -- I got a kid that's in Montreal, I got a wife too. I got an apartment in Regina and Edmonton, but I figured -- the big problem is I got an addictive problem for -- for crack cocaine, and those charges have been in Alberta and those ones here is just like following (INAUDIBLE) it's not stopping. I think --

THE COURT: What kind of charges do you have in Alberta?

THE ACCUSED: Oh, for -- I got those charges of assault and B and Es in Edmonton.

MR. HERMAN: That's what I just read to Your Honour.

THE ACCUSED: But it doesn't mean they're on -- they're on trial, right. Like, the assault, I didn't (INAUDIBLE) for the B and Es and the stolen car, I did it, so I'm going to plead guilty, but a few of those charges been -- are probably going to

be dropped because it wasn't me, right, (INAUDIBLE) mischief. It's like -- it's a car had been broken into and the prints are my friend's prints, they're not mine and that's got (INAUDIBLE) either. Like, you cannot base on this because you cannot know if they're real or not, right.

THE COURT: All right. What's the maximum jail sentence for this?

MR. HERMAN: It's an indictable offence, Your Honour, let me just have a look.

THE COURT: They're pretty serious charges.

MR. HERMAN: They're very serious, and that's why they're straight indictable offences, because this is something where businesses get ripped off every year on. Fourteen years is the maximum -- or 14 years is the maximum sentence.

THE COURT: That's on each one, you see, so.

THE ACCUSED: Yeah, (INAUDIBLE)

THE COURT: You know, you're pretty fortunate the Crown's recommending only six months. The Court was considering close to a penitentiary sentence, so -- so I think that that's pretty lenient with your record in the circumstances.

So you'll be given six months, but we'll make it concurrent, so you'll just have to serve the six months.

THE ACCUSED: (INAUDIBLE) six months by now?

THE COURT: Six months as of today.

Yeah. I'm considering the time spent in custody as well. As I say, the Court was prepared to sentence you to a lot heavier jail sentence than that. So on the second one it'll be six months, but that's concurrent to the one, so you're not going to have to serve any more time than six months.

THE ACCUSED: I'm sorry, Mr. --

THE COURT: You won't have to serve any more time than six months.

THE ACCUSED: Six months total?

THE COURT: Yeah. On that, but I think on the breach you're going to be given one month, and that'll be consecutive. That's pretty serious business.

THE ACCUSED: The breach -- the breach we're talking about now, it means the breach -- that's what I was wondering, because you said that breach of probation in Calgary, right?

THE COURT: Yeah. Yeah.

THE ACCUSED: Okay. It means when I -- if Calgary asked me to go back it won't be -- it won't be asking again, right?

THE COURT: Probably not, so you're probably lucky on that, but that means you'll serve a total seven months --

MR. HERMAN: Seven months.

THE COURT: -- altogether, but on good behaviour you'll get out pretty fast, but you better stop doing what you're doing because --

THE ACCUSED: Sorry, six months or seven months (INAUDIBLE - BOTH SPEAKING AT ONCE)

MR. HERMAN: Seven months. Six plus one, seven.

THE ACCUSED: That's seven now, it's not six?

MR. HERMAN: It's seven now.

THE COURT: Yeah. You've got six and six and then one plus, so -- but one is concurrent, so you end up with seven months total. Do you understand? You got a total 13 months, but six months is considered concurrent, so you end up with a seven-month jail sentence. But as I say, on good behaviour you're going to get out pretty fast. You know, if you don't change your ways you're going to be in the penitentiary very quickly because I might say that -- my first thought

was how close to the penitentiary sentence should I be giving you.

THE ACCUSED: Could I ask you something?

THE COURT: Yeah.

THE ACCUSED: Considered my problems is addictive, I mean, if you will have thrown me in jail for five years I don't think it will fix the problem. If I could go down to a detox place or a place who can help me --

THE COURT: Well, you can -- you can ask for help in there and they'll help you in there.

THE ACCUSED: Huh?

THE COURT: You can ask for help in the jail.

THE ACCUSED: Okay. And they will -- they will program something for me?

THE COURT: They'll give you something, yes.

THE ACCUSED: Okay. Thank you very much.

THE COURT: You have to ask for it otherwise they will -- okay. We'll waive the surcharge in your circumstances. But I think you're pretty fortunate, as I say. Ordinarily you should have got a lot longer jail sentence than this. Okay.

END OF PROCEEDINGS
ON TAPE RECORDING