

R. v. Cripps, Ontario Court of Justice, April 18th, 2006

Mr. Cripps, Wilson and Molnar attended various businesses trying to pass counterfeit \$100.00 bills. They successfully passed nine counterfeit \$100.00 bills before being arrested. The police seized two counterfeit bills in the glove compartment of his car and two counterfeit bills on the accused. A total of \$865.72 in cash was recovered from the three parties at the time of their arrest. The police also seized invoices from the purchases made by the offenders.

The accused was charged with one count of possession of counterfeit money and one count of uttering counterfeit money. The three individuals were involved in the distribution of the counterfeit money, but not in the production. Restitution was made to the business owners. Mr Cripps was 24 years old at the time of the offence and had prior convictions. His pre-sentence report was not positive. An affidavit from the Bank of Canada was filed at the sentencing hearing.

Defence counsel recommended a sentence of 6 months of imprisonment. His suggestion was informed by the fact that his accomplice, Mr Wilson, had served 37 days in pre-sentence custody and was imposed a 12 month probation term. Crown counsel recommended a sentence of 15 months of imprisonment. The judge imposed a term of incarceration of 6 months. In his decision, the judge stressed the seriousness of the offences and the impact on the Canadian economy.

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

WILLIAM CRIPPS

PROCEEDINGS
(Guilty Plea, Submissions & Sentencing)

BEFORE THE HONOURABLE MR. D.G. CARR
on April 18, 2006 KITCHENER, Ontario

CHARGES: 450 (b) C.C.C.
452 (b) C.C.C.

APPEARANCES:

M Janzen

T. Brock

Counsel for the Crown
Counsel for the accused

TUESDAY, APRIL 19, 2006

5 MS JANZEN: We can deal now with the matter of William Cripps.

MR. BROCK: This is William Cripps now before you, sir.

10 THE COURT: Has your client read the pre-sentence report?

MR. BROCK: He has, Your Honour, and acknowledges the contents thereof. And I will simply ask that it be noted as the next exhibit please.

15 THE COURT: Yes, it will be the next exhibit. EXHIBIT NUMBER 1 - Pre-sentence report of William Cripps - Produced and marked

20 MS JANZEN: Your Honour, I've also been provided an affidavit from Manuel Carreira [sp] from the Bank of Canada in terms of the impact - victim impact information in here. I understand Mr. Brock takes exception to him referring to some case law, but it seems to me he's simply quoting a passage from Justice Reilly's decision. I'm not sure why that's a problem from...

25 MR. BROCK: Well he's swearing...

MS JANZEN: ...Mr. Brock's point of view other than the fact...

30 MR. BROCK: ...it from the point of that it's true. And I don't know the basis of that truth other than perhaps a reported decision. I just don't think it should become the subject of an affidavit. But in any event the document, although it purports to be an affidavit, it's

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an unsworn affidavit. And - and I'm content my friend refer to the areas that are of interest for the Court, but I simply note it's not sworn.

MS JANZEN: Well I would propose to file it as a victim impact statement, which seems to me does not need to be a sworn document and would have the same weight as a victim impact statement without it being sworn.

THE COURT: What do you say about that?

MR. BROCK: Well the victim being the Government of Canada.

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THE COURT: That is right, that is exactly right.

MR. BROCK: That's what it is.

THE COURT: Okay. So you do not have an objection based on that?

MR. BROCK: No. No.

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THE COURT: That will be the next exhibit.

EXHIBIT NUMBER 2 - Victim impact statement of Manuel Carreira - Produced and marked

THE COURT: Yes?

MS JANZEN: Just for the purposes of clarification, were the facts in fact read in on the last occasion?

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THE COURT: They were.

MS JANZEN: On all counts?

THE COURT: September 1st, 2005, Mr. Cripps entered a plea to an offence that occurred on that date, uttering counterfeit \$100 bills. That is it.

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MS JANZEN: All right. That's only in

relation to the one count then?

THE COURT: Yes.

MS JANZEN: If he could be arraigned on the remaining counts then. I believe that was done for the purposes of initiating a pre-sentence report.

MR. BROCK: It was.

THE COURT: Okay.

MS JANZEN: If he could be arraigned on the remaining counts then please?

THE COURT: Are they indictable?

MS JANZEN: Yes, they're straight indictable.

THE COURT: All right. Does he waive the reading of the election?

MR. BROCK: Oh, yes, he does, sir.

THE COURT: And he elects to be tried by me today?

MR. BROCK: He does, sir, similarly as in count number one.

THE COURT: Okay.

COURTROOM CLERK: William Arthur Cripps, you stand charged on or about the 1st day of September, 2005, at the City of Kitchener, in the Central South Region, without lawful justification or excuse, did have in his possession counterfeit money, to wit: a counterfeit \$100 Canadian bank note, contrary to section 450 (b) of the Criminal Code.

How do you plead, guilty or not guilty?

WILLIAM CRIPPS: Guilty.

COURTROOM CLERK: And further that on or

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about the 1st day of September, 2005, at the City of Kitchener, in the Central South Region, without lawful justification or excuse, did utter counterfeit money, to wit: a counterfeit \$100 Bank of Canada bill as if it were genuine, contrary to section 452 (b) of the Criminal Code.

How do you plead, guilty or not guilty?

THE COURT: Just before you plead to that one, is that not the same count that I took a plea to before?

MS JANZEN: See part of the difficulty is there were several transactions, several utterances. And each one of the bills relates to a separate transaction.

THE COURT: Except I had the information on all passing. I believe nine times they tried to pass \$100 bills at various businesses.

You want an uttering each time he passed it?

MS JANZEN: That's my - that's my understanding as each separate count relates to an individual \$100 bill that was passed at a different store.

THE COURT: But it does not even specify the store.

MS JANZEN: I appreciate that.

THE COURT: It is just a general count. I am going to hear nine different accounts for the exact same offence.

MS JANZEN: But there are nine different

victims, individual store-owner victims.

MR. BROCK: But the - the counts haven't been particularized in that regard.

THE COURT: I would think, Ms Janzen, in order to do that, I think the counts need to be particularized. Otherwise I am left with the same facts for each count.

And indeed, when the facts were read in back when this plea was entered, I was told that this accused plus two others attended various businesses, passing \$100 bills. Nine times they passed these \$100 bills. Two further bills were obtained from the glove box of the car. And Mr. Cripps had two bills, which were counterfeit, on his person. And I was advised that he purchased the bills from somebody in Hamilton.

MS JANZEN: Very well.

THE COURT: So I mean I have all that information at this point.

MS JANZEN: That's fine. That's fine. I just understood Your Honour initially, when you indicated the facts were just a general count in relation to counterfeit bills being found on them, but if...

THE COURT: No, other counterfeit money.

MS JANZEN: All right. Okay.

THE COURT: So it is an indictable offence and all the facts are before me.

MR. BROCK: I guess the only count that hadn't been read on the last occasion that wouldn't

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fall in that categorization would be the possession of counterfeit money...

THE COURT: Which he just entered a plea to.

MR. BROCK: ...which he has just entered a plea to.

THE COURT: And I tend to agree...

MS JANZEN: Very well.

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THE COURT: ...with Mr. Brock that I have the uttering for all matters and now he is found in possession of two bills on his person. I think that is a separate issue altogether.

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I do not know if you want a further possession, if he is responsible for the two further bills found in the glove box of the car. I suppose that could be a different count as well.

MS JANZEN: So was he arraigned on count number one...

MR. BROCK: Yes.

MS JANZEN: ...originally, Madam Clerk?

COURTROOM CLERK: Two originally.

MR. BROCK: Two originally.

COURTROOM CLERK: And I just arraigned him on count number one.

MS JANZEN: Count number one refers to possession.

MR. BROCK: That's right.

MS JANZEN: So perhaps he ought to be arraigned on that count as well.

THE COURT: He was just arraigned on possession,

MS JANZEN: Okay.

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5 THE COURT: And I have accepted his plea. So that is fine. His plea has been entered and I find that that certainly is a separate delict.

MS JANZEN: Thank you.

THE COURT: Then those are all the matters that you wish to proceed on?

10 MS JANZEN: Yes. So were there photographs filed on the last occasion?

THE COURT: Just before you go on with that, are you satisfied that the facts I have just indicated, which were given to me the last time, can be applied to his new plea today?

15 MS JANZEN: Yes, that's agreeable.

THE COURT: Are you content with that, Mr. Brock?

MR. BROCK: I am, sir, yes.

THE COURT: Stand up please, sir.

20 On your plea of guilty for the possession count today, based on the evidence I heard on the last occasion, with the consent of the Crown and consent of your counsel, I am satisfied on that count that I make a finding of guilt and you are found guilty of that count as well, sir. You may be seated.

25 MS JANZEN: Just before we proceed any further, I would propose to also file photographs in relation to the items that were found in possession of all three parties, which I would take a position that he's a party to whatever on that particular day in relation to the counterfeit - use of counterfeit money.

30 THE COURT: You are suggesting that they are

passing these bills as an enterprise in common.

MS JANZEN: That's right.

THE COURT: Comments on that Mr. Brock.

MR. BROCK: I - I haven't seen the photographs. If I could just see them prior to my friend....

Yes.

MS JANZEN: What we'll see is a series of \$20, \$10, \$50, \$5 as well as a number of \$100 bills. The \$100 bills are the counterfeit dollars bills and the remaining money is the cash that they received as change from items that were purchased. And there are three photographs because of the three separate accused.

THE COURT: Mark the three photographs collectively as the next exhibit.

EXHIBIT NUMBER 3 - Three photographs -
Produced and marked

MS JANZEN: And again there are a series of photographs of the items that were recovered from the vehicle, which was observed at the scene.

THE COURT: These \$100 bills are the counterfeit bills?

MS JANZEN: I believe those are the counterfeit bills. There should be - I think there were eight that were recovered.

THE COURT: There is seven here. And did they have the blue on the left-hand corner? There is blue on the photographs.

MR. BROCK: No.

THE COURT: Then again there is some blue on

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the photographs of the \$20s as well. I gather there is no allegation that those were counterfeit in any event. All right.

MS JANZEN: The officer simply refers to photographing counterfeit money as well as other items.

THE COURT: Okay.

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MS JANZEN: I would propose to file these next photographs as one exhibit as well, indicating various items that were recovered with receipts. And, in the receipts, there's reference to \$100 bills being passed and change then being obtained, a series of photographs can be one exhibit.

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COURTROOM CLERK: Exhibit 4.

THE COURT: I am sorry, what is this?

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MS JANZEN: Those are the items that were purchased with the counterfeit bills, items that were recovered in the vehicle and the receipts that were recovered to show that the \$100 had been passed and minimal purchases made and the change then was handed over to the person passing the counterfeit bill.

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Apparently a total of \$865.72 in cash was recovered from the three parties at the time of their arrest.

THE COURT: Okay.

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EXHIBIT NUMBER 4 - Series of photographs indicating items purchased with counterfeit bills - Produced and marked

THE COURT: And what are you asking to do in

regard to that money?

5 MS JANZEN: The - that money obviously is outstanding in terms of restitution.

THE COURT: Probably it should go to the store owner.

10 MS JANZEN: Yes. The \$204.55, that was recovered from Mr. Wilson apparently has already been - did you pay the 204 as well?

WILLIAM CRIPPS: No, I said I would...

MS JANZEN: Some of the money...

15 WILLIAM CRIPPS: ...pay restitution, but nothing was ever brought for me.

MS JANZEN: Mr. Wilson, whose plea was already taken, was ordered to make restitution in the amount of \$204.44 [sic] and I believe that was as a result of the cash that was recovered upon the arrest.

20 THE COURT: And it is paid out to the business jointly and severally...

MS JANZEN: Yes. Actually...

THE COURT: ...according to the...

MS JANZEN: ...it was prorated; \$25.57 each.

THE COURT: I am sorry, 25?

25 MS JANZEN: Dollars and fifty-seven cents each.

THE COURT: Okay. What did Mr. Wilson receive on this matter?

MS JANZEN: Mr. Wilson had served thirty-seven days pre-sentence custody and was given a twelve month probation term to follow.

30 THE COURT: Okay.

MR. BROCK: I'm - I'm wondering if my friend

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might indicate what the record was of Mr. Wilson and whether Mr. Molnar - it might shorten my submissions, sir. I just....

MS JANZEN: I don't think Mr. Molnar's been dealt with.

MR. BROCK: Pardon me?

MS JANZEN: Mr. Molnar I don't think has been dealt with.

COURTROOM CLERK: He hasn't been dealt with.

MR. BROCK: Okay. And Mr. Wilson's record?

MS JANZEN: Just have a moment please.

THE COURT: How much pre-trial custody has your client served, Mr. Brock?

WILLIAM CRIPPS: About seven days.

MR. BROCK: Seven days he estimates, sir.

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In any event, by way of background, while my friend is looking for that, I can tell you, sir, that William Cripps is a twenty-four-year-old who is quickly amassing what I characterize as being something of an unenviable criminal record. His formative years were uneventful and he experienced a somewhat stable childhood. I can tell you today present in court is his brother, his step-father and his mother, seated at the back of the courtroom. He continues to have a positive relationship with the family members, sir.

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Academically, he did poorly due to issues pertaining to an attention deficit hyperactivity disorder. His peer groups are of concern as is a lack of stable residence.

Submissions on Sentence

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Presently, sir, he is unemployed and living in Hamilton at 468 Ottawa Street. He continues to reside with his surety.

THE COURT: What comments do you have to make about the comments in the pre-sentence report that says that he is a very poor participant in the probation orders.

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MR. BROCK: That is all acknowledged, sir. That all is acknowledged and that's attributed more to a lack of direction or more important a stability in his lifestyle, sir, simply living...

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THE COURT: They offered him some stability and he just would not accept it.

MR. BROCK: Yes.

THE COURT: And they are saying probation really has not worked for him...

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MR. BROCK: Hasn't been of great benefit to him.

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General deterrence, sir, is perhaps the most important sentencing principle today. It's an indictable offence punishable by a maximum of some fourteen years if we look at the section of the Code. And this will be his first significant period of incarceration notwithstanding the - the record, sir, in particular the conviction in 2002 on which he was sentenced to some fifteen days in jail.

THE COURT: Right.

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MR. BROCK: I am mindful, sir, of his plea of guilty. I am mindful of the disposition

Submissions on Sentence

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imposed to a co-accused who, in my submission, sir, embarked on a course of action that everybody was going to undertake at the time and benefit from, no matter who passed the...

THE COURT: To the detriment of us all, Mr. Brock, when you think of how many businesses now will not even look at \$100 bills.

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MR. BROCK: Oh, I know that, sir.

THE COURT: And this is the reason why.

MR. BROCK: Yes.

THE COURT: And it is a significant concern in my view.

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MR. BROCK: It is, sir.

And again I'm not aware of his co-accused's record, but it'd be my suggestion to you that, in these circumstances for this offender, sir, a disposition of six months would be appropriate. And I'm mindful of the co-accused having done thirty-seven days of pre-trial custody, equivalent to a little better than two months. But I would submit, sir, that might be on the low range and perhaps more was given to the pre-trial custody than otherwise is attributed to a two-for-one principle.

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But for this offender, given his background, sir, and the fact that he now appears before you without restitution, once again unlike his co-accused, I'm submitting to you that a sentence of six months would be appropriate.

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THE COURT: Thank you very much, Mr. Brock.

MS JANZEN: It may well be that the record was

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filed with the Court on the last occasion
because it does not appear to be....

THE COURT: I am not sure Mr. Wilson's record
was, but I have mister...

MS JANZEN: That's what I mean. That's -
that's what I was trying to - it does not
appear to be in the material here.

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Your Honour, obviously the concern is to most
of the members of our community in terms of how
we do - how we conduct business, to rely on
currency that is reliable, that we can go to
any place, hand over a legitimate bill and
receive goods in exchange, not to be treated
like criminals, not to be...

THE COURT: Most businesses will not even look
at a \$100 bill any more.

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MS JANZEN: Well - and even many of the Tim
Hortons, every single bill that is handed over
is screened because of people like Mr. Cripps
and his two buddies who think they are entitled
to basically rob and steal from all these
various store owners, without any consideration
for the losses that they incur, having to set
up, having to monitor, so on and so forth,
because of the breach of trust that these
people were prepared to engage in, on not only
one occasion. It wasn't just, "Let's see
whether we can get away with it the one time."

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This is in my respectful submission an
organized and a deliberate criminal conduct.

Submissions on Sentence

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First of all they have to purchase this money or obtain the money from some source. They in fact were prepared to pay money for it. And why are they prepared to pay money for it? Because they know there's money in it for them. THE COURT: And they have not revealed where they got it from.

MS JANZEN: Exactly. They've never identified - perhaps they made it themselves and are prepared to admit that. Perhaps in fact it's part of an organized operation operating out of either Hamilton or Toronto or wherever they obtain it. But they come to court here and basically - it's the tip of the iceberg in terms of the harm that's caused by the use of counterfeit money in the manner in which Mr. Cripps and his two friends were prepared to use in this jurisdiction. They're not even from this city, hopeful no doubt, hoping that they wouldn't be recognized, hoping that their car wouldn't be recognized by anyone. And they come to another town and rip off not only the store owners but every single citizen here.

The affidavit filed by - or the victim impact statement filed by Manuel Carreira, who's been employed by the Bank of Canada for a significant period of time as a senior analyst refers to a graph where the - with the advent of the incredible technology in terms of the preparation of or the actual making of this currency.

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5 THE COURT: They are trying to keep a step ahead of the technology of people that fraudulently make these bills so that they can perfect the technology so that the bills cannot be reproduced.

MS JANZEN: That's correct. And all of that...

10 THE COURT: And that costs all of us money.

MS JANZEN: Exactly, it does.

15 THE COURT: I am aware of that. And some of the things that are said in that material are chilling, about the amount of money that the taxpayer has to pay in order to avoid counterfeiting just like we have here.

20 MS JANZEN: It is for all of those reasons - this was FAXed to our office on March 23rd. It's not clear to me that it was available for the Wilson sentencing, which may have been dealt with prior to - what was the date of the Wilson sentencing, Madam Clerk?

COURTROOM CLERK: It was May 22nd - actually it says March 22nd, sorry.

MS JANZEN: March 22nd.

25 THE COURT: So you got it the day after.

30 MS JANZEN: And this was the day after. And, given the harm and as well Mr. Cripps' antecedents, he's not a stranger to these courts. He does not come before this Court with an excellent pre-sentence report, indicating that this was a blip of criminal conduct that he engaged in. It appears to be a pattern or a lifestyle choice that Mr. Cripps

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Carr, Prov. J.

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has made. And it is to the detriment not only
him and his family, but to the detriment of the
community in large.

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And for all of those reasons, both for specific
deterrence, general deterrence and in
particular denunciation, I would invite the
Court to consider a sentence in the range of
year to fifteen months.

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MR. BROCK: Just a brief reply. I don't know
how my friend can stand and, when her colleague
joins counsel for the co-accused in
recommending a disposition of thirty-seven days
of time served, which is equivalent of sixty-
four and we now jump, for Mr. Cripps given the
lack of social antecedent if you may, to
fifteen months. That doesn't address the
principles or issues of parity appropriately in
my respectful submission.

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MS JANZEN: It may be the reason I couldn't
find Mr. Wilson's record was the fact that he
doesn't have any.

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THE COURT: All right. Stand up please.
Sir, I trust that perhaps now it is sinking in
how serious this offence is. This is a type of
offence that basically undermines the entire
financial stability of our country, on a small
scale of course.

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But those in the community, that work very hard
to earn a living and have money in their
possession and expect it to be accepted by

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Carr, Prov. J.

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businesses or wherever they do a transaction,
to be told that they do not accept these bills
anymore because there are just too many
counterfeit bills is something that is quite
serious and strikes at the very heart of our
monetary system.

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The statistics that were provided to me in the
unsigned material from the Government of Canada
is certainly chilling, to the effect that the
amount of money that is lost and the amount of
money that is spent to prevent counterfeiting
15 is enormous. That comes from the taxpayers'
pockets, sir. And this is just to ensure that
individuals like you cannot pass counterfeit
bills and receive a benefit that you are not
entitled to.

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You have a prior criminal record and your
counsel I think quite fairly describes it as
ever-growing or unimpressive. It is certainly
that. It commences in 1999 and your last
conviction is in 2002. During that time, you
were placed on probation three different times
and the results of that probation are something
25 that I must strongly consider. The pre-
sentence report author states as follows:
"Your response to community supervision was
poor. Your reporting was sporadic and you
failed to notify your probation officer of
30 changes of address as well as not completing
your counselling for anger management, which

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you expressed that you had difficulty
controlling. It is questionable whether you
would respond differently to a period of
supervision as his lifestyle of poor peer
choices, unstable residence as well as concrete
employment has changed little in the last two
and a half years."

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Your pre-sentence report is not a positive one,
sir, and that is just a small portion of the
pre-sentence report that causes me a
considerable amount of concern about you. You
have not benefitted from probation and your
counsel has indicated that perhaps it is
because of your poor antecedents. That may
well have a role to play and be a factor, but
the probation office is attempting to assist
you and you just do not want their assistance.
You have made it perfectly clear that this
assistance as offered is not something you are
prepared to accept and you just will not do it.

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You are still a very young man at twenty-four
years of age and it is indeed unfortunate that
you have seen fit to take the route that you
have. You have to understand, sir, that
breaking the law and being found guilty of
offences as serious as this are going to result
in periods of incarceration that will increase
as the offences do. I trust the realization is
going to strike you soon, sir, that this is not
the lifestyle that you want to lead.

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Reasons for Sentence
Carr, Prov. J.

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Taking into account your pleas of guilty on the two counts, I would ask that seven days of pre-trial custody be placed on the informations before me. In my view, sir, a period of incarceration, specifically to deter others that would act like you in my view, is required and necessary in this particular matter.

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In my view the period of incarceration suggested by your counsel is an entirely appropriate one and I therefore sentence you to a period of incarceration of six months. If I thought probation would benefit you thereafter, I would impose probation. But it has not benefitted you before and there is no indication or likelihood that it will in the future. Therefore I will not impose any further probation.

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So the sentence will be six months incarceration.

MR. BROCK: Thank you, Your Honour.

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THE COURT: Now the money, I gather you wish an order forfeiting the money or has that already been done?

MS JANZEN: I believe there was an order of forfeiture in relation to Mr. Wilson, was there not?

MR. BROCK: And I'm content one issue today.

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THE COURT: In regard to Mr. Cripps, it will be ordered forfeited as well for distribution among the business owners in the community.

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MR. BROCK: Thank you, sir.
THE COURT: Thank you.

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THIS IS TO CERTIFY THAT THE
foregoing is a true and accurate
transcription from my recordings
to the best of my skill and ability

Photostatic copies of this transcript are not certified and
have not been paid for unless they bear the original signature
of Ann Kip.

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Ann Kip
Court Reporter

Transcript ordered..... July 04, 2006

30
Transcript completed..... July 31, 2006

Ordering party notified..... August 25, 2006

