***R. v. Goruk*, 2007 BCPC 219 (CanLII), 2007 B.C.J. No. 1512 (QL)**
5 years + 2 months in addition to 5 months pre-trial for making $200,000 in counterfeit money – serious criminal record including 4 years for making counterfeit money in 1999

Mr. Goruk pled guilty to making and possessing counterfeit money, possessing equipment intended for use in making counterfeit money, and possession of marijuana and cocaine. A search warrant was executed on Goruk's apartment. The police seized $32,430 in Canadian counterfeit money and US$261 in addition to the usual computers, scanners, printers, specialized paper and so forth. Goruk admitted to the police he had made about $200,000 worth of counterfeits in the previous 3 ½ years. Mr. Goruk was making a modest living from his counterfeiting activities. He traded the counterfeits he made for drugs and equipment and sold the counterfeits for 10 cents on the dollar. One officer described the counterfeits as being average in quality while another described the counterfeits as being sophisticated.

Goruk was 52 years old and had been in and out of jail most of his adult life for property and drug offences and crimes of violence. He had previously served several lengthy sentences including 4 years for making counterfeit money in 1999. Mr. Goruk had acquired hepatitis, which was quite debilitating, from a tattoo he received while in prison.

The court indicated a sentence of three to four years might have been appropriate, but for Mr. Goruk's record.

> [11] Absent the prior conviction for counterfeiting and absent some of the more serious sentences on his record, I might have thought that the appropriate range for this offence, for this accused, given the small amount of money that was found on him and the fact that he was not in the six hundred, eight hundred thousand dollar range in terms of production, let alone the three million dollar range, a sentence in the range of three to four years might have been appropriate. But, the fact is that he does have a prior conviction for this offence and this is clearly an aggravating circumstance. The prior conviction tells me that specific deterrence of this accused is a prime consideration in this sentencing hearing.

The court noted that an affidavit from the Bank of Canada established that counterfeiting had increased 1800% from 1992 to 2005 and that victims received no reimbursement. The court observed that both businesses and consumers were disrupted by a lack of confidence in bank notes. Finally, the court noted the extraordinary steps the Bank had taken to improve bank notes and the increased policing costs involved.

> [15] These are important concerns because they tell me that the protection of the public is of high priority in this case, as is the principle of general deterrence and the companion principle of denunciation. Indeed, the sentences in cases of this kind are generally driven by the need to send a strong denunciatory message and deterrent message to others who might consider engaging in this type of offence.

The court indicated that an appropriate sentence for Mr. Goruk was six years. The court credited Mr. Goruk with 10 months for his 5 months pre-trial custody and imposed a sentence of 5 years and two months.

File No: 180896-2-C
Registry: Vancouver

In the Provincial Court of British Columbia

REGINA

v.

LYLE RONALD GORUK

REASONS FOR SENTENCE
OF
THE HONOURABLE JUDGE HOWARD

COPY

Crown Counsel: S. Cooke

Defence Counsel: J. Turner

Place of Hearing: Vancouver, B.C.

Date of Judgment: April 27, 2007

[1] THE COURT: This accused has pled guilty to a number of offences, three of them relating to counterfeiting of money. Count 1 is actual counterfeiting. Count 2 is possession of counterfeit money and Count 3 is possession of the equipment adapted and intended for use in making counterfeit money. He has also pled guilty to Count 4, unlawful possession of cannabis marihuana, and Count 5, unlawful possession of cocaine.

[2] Very briefly, the police were working on counterfeit money problems that were plaguing this city. During 2006, they received some information that the accused was a maker and supplier of such money. A warrant was executed on his residence, his apartment on West 11th Avenue in Vancouver, B.C. He was the lone renter of that apartment. During the course of the execution of that warrant on November 23rd, 2006, the police located a counterfeit money-making operation in the residence. They located counterfeit cash, the equipment normally associated with the making of counterfeit bills, including certain brands of paper used to simulate real notes, printers, scanners, computers and other devices.

[3] The accused was also found to be in possession of some rocks of cocaine, and a fair bit of marihuana was also located in the apartment, for which he took responsibility.

[4] The amount of counterfeit cash found during the search included some $32,430 in Canadian cash and some $261 in U.S. cash. Those were the completed bills. Other partially completed bills were also located. The police also found a number of ID pieces not belonging to the accused, some of which had been scanned into the computer hard drives found in the apartment. That raises a whole new level of concerns but he is only before me on the counterfeit charges.

[5] The accused was completely cooperative during the execution of the warrant and on his arrest. He gave a statement to the police wherein he accepted sole responsibility for the operation that had been uncovered. He advised the police that he had been engaged in this illegal activity for some three and a half years and had produced approximately $200,000 worth of bills. They included fives, tens, fifties, twenties, hundreds and one thousand dollar bill. The accused has explained during his sentencing submission that he was not initially able to actually produce bills that could successfully be passed in the marketplace. Over the last three and a half years he slowly acquired the equipment (all secondhand computers and printers, et cetera) and worked on his techniques for actually producing the bills. It was not until early 2006 that he had any product that could

be actually presented in the market. With respect to the thousand dollar bills, I am advised that he never did produce anything that he ever thought could be successfully passed. They would be spotted as counterfeit right way, from his perspective.

[6] The accused is as 52-year-old gentleman. It is clear from his record that he has basically been in and out of jail for most of his adult life, serving some very long sentences. There are a couple of breaks in his record, the last is the most recent one. His last conviction was a four-month sentence for PPT and possession of a prohibited weapon in October of 2002. I am advised that upon his release from that sentence he was, once again, back **in** the community without any real way of making a living. He had acquired hepatitis in prison as a result of a prison tattoo. That illness was debilitating. He was not able to engage in heavy labour or any work that he was suitable for. That left him on welfare and it left him prone to returning to his drug addictions, which he did. He was struggling to survive and pay for that addiction. This led him to reconsider this particular type of criminal enterprise. I say "reconsider," because this is not his first conviction for counterfeiting.

[7] It is clear from the photographs of the apartment where

the accused was living that he certainly was not making a great deal of money off of this particular operation. I am advised, and the police appear to concur, that he was basically a hermit who rarely left his little apartment. People came to him. He would trade his counterfeit cash for things that he needed like secondhand computers, et cetera, and/or drugs, and he would sell his money at the rate of ten cents on the dollar. Looking at the way he was living, it is hard to imagine that he was making a great deal of money. This was a one-man operation that was kicking along, sufficiently successful for the accused to be able to support himself better than he could on his welfare payments.

[8] This counterfeiting operation certainly is not equivalent to the type of operation that was present **in** the ***Kiss*** case, where the accused was convicted of conspiracy. The ***Kiss*** case is [1995] O.J. No. 5002 Ontario Court of Justice. Although the accused **in *Kiss*** appears not to have had a record, the

amount of money that was manufactured and distributed was in the range of 3.5 million dollars. That is a great deal more than the accused's estimate of his own production, that being perhaps $200,000. Moreover, in ***Kiss,*** the money surfaced in 20 different countries. The accused in ***Kiss,*** notwithstanding the

lack of a record, received a seven-year jail sentence.

[9] There is some question as to just how sophisticated the accused's operation was, or to put it perhaps more correctly, how good his handiwork was. One local constable has described it as average, another expert in the field described it as a sophisticated, from the accused's perspective, he was still working on his skills, by his own admission to the police, trying to improve his ability to produce new counterfeit bills that were better than the bills that he had been producing.

[10] I turn to the accused's personal situation. His record is of enormous concern. He has basically spent much of his life behind bars since 1971. In the seventies, he was averaging -- he had some small sentences but he was averaging one to two years a crack on his convictions up until 1979, when he received -- he was convicted of robbery and attempt robbery and got four years concurrent on each charge. In 1984 he was back in jail on a three-year-six-month sentence for robbery plus one year consecutive for use of a firearm, I presume during that robbery. Later in the year, he received a five months consecutive sentence for trafficking. The next year, there was a theft under - three months consecutive. In 1988 a robbery netted him a five year sentence consecutive to the time he was then serving and one year for possession of a weapon. He was paroled in 1989 but recommitted later that

year. There are a number, a couple of smaller offences and then he seems to have gone from 1992 to 1999 with no convictions. Then, in March 1999, for the offence of counterfeit, he was sentenced to four years in jail. He did receive statutory release in 2001 but was recommitted in 2002 as a violator. And then later in 2002, he received a four-month jail sentence for possession, possession for the purpose of trafficking and possession of a restricted weapon. He is now back before the court on these new counterfeiting charges.

[11] Absent the prior conviction for counterfeiting and absent some of the more serious sentences on his record, I might have thought that the appropriate range for this offence, for this accused, given the small amount of money that was found on him and the fact that he was not in the six hundred, eight hundred thousand dollar range in terms of production, let alone the three million dollar range, a sentence in the range of three to four years might have been appropriate. But, the fact is that he does have a prior conviction for this offence and this is clearly an aggravating circumstance. The prior conviction tells me that specific deterrence of this accused is a prime consideration in this sentencing hearing.

[121 Now, the Crown has also put before me as factors to be

considered in the sentencing process here, the public interest issues that are associated with this type of offence. I have before me an affidavit filed from an employee from the Bank of Canada, a Trevor Fryers, who is working for the bank in part, at least, on the counterfeiting problem. He has collected statistics that one would expect the bank to be collecting regarding the prevalence of counterfeiting and the fact that it has risen over eighteen hundred percent from 1992 to 2005. On behalf of the Crown, Mr. Cooke has pointed out that that this increase probably corresponds to the rather extraordinary development in technology with respect to computers and printers that enable counterfeiters to do a much better job and a much faster job than ever prior to those technological developments.

[13] I have also been asked to consider the impact on the victims of this crime, be it a little person running a 7-Eleven or the Bank of Canada, as a whole. It is clear that when a store owner receives a hundred dollar bill in exchange for some produce and that bill turns out to be counterfeit and the bank will not accept it, then that little store owner is out and there is no compensation. He cannot turn to anyone to have his loss covered. And I agree with the Crown, that is in stark contrast to the credit card fraud situation. At least

the credit card company will reimburse someone who is out a great deal of money because of some fraud in relation to his or her credit card.

[14] Businesses as a whole are affected in other ways, be they small or large. We are all very familiar with the signs in this city that tell us that they will not take fifty dollar bills or hundred dollar bills and now even twenty dollar bills. This becomes very disruptive for everyone. It is also fair co note that in order to protect the currency of the country, the government and the Bank of Canada have had to take extraordinary steps, including redesigning and reproducing various notes that have been subject to the attention of counterfeiters. The constant pressure to improve the security devices embedded in the notes and the expense associated with those efforts can sometimes been seen as quite overwhelming, as are the policing costs associated with trying to discover and apprehend the counterfeiters.

[15] Those are important concerns because they tell me that the protection of the public is of high priority in this case, as is the principle of general deterrence and the companion principle of denunciation. Indeed, the sentences in cases of this kind are generally driven by the need to send a strong denunciatory message and deterrent message to others who might

consider engaging in this type of offence.

[16] The Crown has provided me with a number of authorities, I will just cite them briefly, ***R. v. Le,*** [1993] B.C.J. No. 165 B.C.C.A., ***R. v. Grozell,*** [2004] B.C.J. No. 2794 B.C.P.C., ***R. v. Kiss,*** as I have already mentioned, [1995] O.J. No. 5002 O.C.J., ***R. v. Weber,*** [2001] O.J. No. 6103 O.C.J. and ***R. v. Pahalklov,*** [2005] O.J. No. 4178, again the Ontario Court of Justice.

[17] Those cases present a range of sentences for circumstances that, of course, do not precisely match the circumstances before me and for offenders, who clearly do not match the offender before me. The Crown's suggestion that, for this offender and this offence, a sentence in the range of seven to nine years would be appropriate, is perhaps, to some degree, supported by the case law when one takes into account the accused's record. On the other hand, I am looking at the nature of the offence before me, the accused's actual offence, and I am of the view that that range is too high.

[18] In my view, given the prior conviction and the accused's unrelenting record, all of which suggests that for one reason or another, be it for this type of offence or others, we should be very concerned about protecting ourselves from this accused. I am satisfied that the sentence, the appropriate

sentence would be in the range of six years. That is step up from the prior sentence for the same offence of four years imprisonment. It is appropriate, in my mind, given that the accused, notwithstanding the message we tried to send to him the last time, engaged in a premeditated and a time consuming plan to commit this offence once again.

[19] He has spent approximately five months in custody. I am proposing to give him credit for that, double time credit, which is 10 months, so the sentence that I will impose in this case, taking into account the pretrial detention time, will be five years and two months in jail.

[20] Exempt on the surcharge, no ability to pay.

[21] MR. TURNER: Thank you.

[22] :HE COURT: Is there any other --

[23] MR. TURNER: Nothing from me.

[24] THE COURT: -- order that has to be made?

[25] MR. COOKE: Just with respect to the various counts.

[26] THE COURT: Oh, okay. Sorry. That sentence will be Counts 1, 2 and 3, concurrent with one another. The sentences for pcssession of marihuana and the possession of cocaine will

be three months in jail concurrent with one another, and concurrent with the five years, two months. Okay.

[27] THE CLERK: Sorry, Your Honour, it's five years, two months jail time for the [indiscernible].

[28] THE COURT: Time served. Record to reflect five months.

[29] THE CLERK: Thank you.

[30] THE COURT: Plus five years and two months in jail. Sorry, I was not very clear about that. All right.

[31] MR. COOKE: That's everything, Your Honour.

[32] MR. TURNER: Thank you.

(REASONS AT SENTENCE CONCLUDED)