

***R. v. Steven Kelly Hayden*, 2006 CanLII 59807 (SK P.C.), [2006] S.J. No. 810 (QL)**

M. Hayden was stopped for speeding. 3 other individuals accompanied him. The vehicle had been reported stolen and was searched by police. They found a scanner and printer, a CD with scanned images of a \$100.00 bill's front and back and 7 counterfeit \$100.00 bills. The accused was arrested and charged with possession of a stolen vehicle and possession of counterfeit money.

The accused was 26 years of age and had a criminal record with 24 prior convictions, including possession of counterfeit money. An affidavit from the Bank of Canada was filed for the sentencing hearing. The accused spent 2 months in pre-trial custody.

The Crown prosecutor recommended a sentence of 28-30 months of imprisonment. The judge referred to the Bank of Canada affidavit in his decision and imposed a total sentence of 30 months of imprisonment.

IN THE PROVINCIAL COURT OF SASKATCHEWAN  
NORTH BATTLEFORD, SASKATCHEWAN

BETWEEN:

HER MAJESTY THE QUEEN

- and -

STEVEN KELLY HAYDEN

TRANSCRIPT OF SENTENCING PROCEEDINGS

HELD: August 15, 2006

A TRANSCRIPT OF A DIGITAL RECORDING

ROYAL REPORTING SERVICES LTD.  
300 - 2010 - 11<sup>TH</sup> AVENUE  
REGINA, SASKATCHEWAN  
S4P 0J3

IN THE PROVINCIAL COURT OF SASKATCHEWAN  
NORTH BATTLEFORD, SASKATCHEWAN

BETWEEN:

HER MAJESTY THE QUEEN

- and -

STEVEN KELLY HAYDEN

TRANSCRIPT OF SENTENCING PROCEEDINGS HELD IN NORTH  
BATTLEFORD, IN THE PROVINCE OF SASKATCHEWAN, ON THE 15TH DAY  
OF AUGUST, 2006, BEFORE THE HONOURABLE D.J. KAISER, A JUDGE  
OF THE PROVINCIAL COURT OF SASKATCHEWAN.

APPEARANCES:

D. CANN

Battleford Prosecution Unit  
North Battleford, Saskatchewan  
APPEARING FOR THE CROWN

J. SCOTT

Scott & Fehr Law Office  
Saskatoon, Saskatchewan  
APPEARING FOR THE ACCUSED

(There being no court reporter in attendance, the  
proceedings were taken by means of a digital recorder)

THE COURT: Mr. Scott, good morning. And  
your file or files?

MR. SCOTT: Is Mr. Steve Hayden, Your  
Honour.

UNKNOWN SPEAKER: Hayden?

THE COURT: Mr. Hayden, please.

MR. SCOTT: This is Mr. Hayden --

THE COURT: Good morning.

MR. SCOTT: -- this is Mr. Hayden, Your  
Honour, and his matter is scheduled for a show cause,  
but that won't be proceeding. And I've been in  
discussions with my friend in regards to the  
pleadings. I'm not able to enter any pleas for Mr.  
Hayden and he'll be entering pleas on his own with  
regards to 2, 3 and 4.

THE COURT: All right. The matters do  
require defence election.

MR. SCOTT: All right.

THE COURT: Has that been discussed with  
Mr. Hayden?

MR. SCOTT: I just want to double check,  
Your Honour.

THE COURT: All right. Thank you.

MR. SCOTT: Yes, Your Honour, he is  
electing Provincial Court.

THE COURT: On all of the counts. Now, does he waive formal reading of the election?

MR. SCOTT: Yes, he does.

THE COURT: All right. And he enters an election of Provincial Court on all counts. And then turning to Count -- I'm going to start with Count 2, Mr. Hayden, this is a count that you did have in your possession a 2000 Acura Vehicle, the property of Jonathon Cardinal, of a value exceeding \$5,000, knowing it was obtained by the commission in Canada of an offence punishable by indictment, contrary to Section 354(1)(a) of the *Criminal Code*. That's basically a charge of possession of a stolen vehicle having a value over 5,000. On that charge how do you plea?

THE ACCUSED: Guilty.

THE COURT: On the next charge, which is did have in your possession counterfeit money, contrary to Section 450(b) of the *Criminal Code*, how do you plead?

THE ACCUSED: Guilty.

THE COURT: And on the next count, which is that you did have in your possession an instrument that you knew had been used in making counterfeit

money, contrary to Section 458(d) of the *Criminal Code*, how do you plead?

THE ACCUSED: Guilty.

THE COURT: And are we ready to go to sentence today?

MR. SCOTT: Yes, we are, Your Honour.

THE COURT: And is there a joint submission on sentencing?

MR. CANN: Generally.

MR. SCOTT: Virtually.

MR. CANN: In a realm, yeah.

THE COURT: All right. Mr. Hayden, you need to know this and I want to talk to you about this before I fully accept your guilty pleas.

THE ACCUSED: Yes.

THE COURT: You need to know that any arrangement made between the Crown and defence about sentencing is influential on a judge, but doesn't bind the judge.

THE ACCUSED: Yeah.

THE COURT: Sentencing is up to the judge.

THE ACCUSED: Yes.

THE COURT: Do you understand?

THE ACCUSED: Yeah.

THE COURT: All right. Mr. Scott, you've been over the nature of the charges with Mr. Hayden, I don't have to go through plea comprehension otherwise than what I've done here?

MR. SCOTT: No, Your Honour.

THE COURT: Thank you. Go ahead, please, Mr. Cann. Good morning, Mr. Beckie.

MR. BECKIE: Good morning, Your Honour.

MR. CANN: Your Honour, this matter commenced on June the 11<sup>th</sup> at about 10:21 a.m. At that point the police stopped a silver Acura which was eastbound on Highway 16 ten kilometres west of North Battleford. The vehicle was initially stopped for speeding and the fact it had a very cracked windshield. Upon approaching the vehicle, the driver -- the accused, was very -- was extremely nervous, seemed to be shaking, unusually bloodshot eyes. He provided an Alberta driver's license and registration in the name of one Jonathon Cardinal. There was a faint odor of marijuana coming from the vehicle as well as an overpowering odor of air freshener. The driver's reason for travelling made little sense to the officer. He was evasive about his travel or what he was doing.

The suspicious nature the officer asked the driver to sit in the back of the police car for further questioning. He -- the driver then stated that his passengers names were Dan Devero, Tara and Ryan. None of the passengers could provide any ID. They stated their names were Tara Brown, Robert Wallace and Jessie Hughes, different than the names he had said, except the one first name, Tara. The three passengers were removed from the vehicle, placed in a police car and provided different names from that of the driver. The vehicle was searched, conducted for ID. They did find a birth certificate under the name of Steven Kelly Hayden. A cheque book in the name of a David Wallace and a small amount of marijuana was located as well as paraphernalia for crystal meth. In the truck was a Hewitt Packard scanner and Hewitt Packard printer, seven counterfeit \$100 bills. All of the occupants at that point then were arrested and taken into custody.

A computer check shows that the suspect vehicle had been stolen earlier in the day in Edmonton. The -- there was a what's called a Sand Disk USB Drive was seized from this accused when he emptied his pockets. The Edmonton police





Alberta for possession of stolen property. Mr. Hayden -- and I will file it as a prior criminal record, I'll get to that in a minute. Mr. Wallace had convictions out of Ontario for fraud, impersonation with intent, fail to comply and fail to appear. We do have a criminal record.

MR. SCOTT: That's acknowledged, Your Honour.

THE COURT: Thank you.

MR. CANN: Highlighting that record for the Court, Your Honour, I counted 24 priors. In that there is possession of counterfeit money, laundering of proceeds of crime, possession of credit cards, false -- two counts of fraud, three break and enters, and a mischief. He -- he also has a couple of convictions for possession of scheduled substances. And not -- you will note in there under what we normally call the primary ground there are seven breaches of fail to appear and an obstruct peace officer. In addition he has possession of a weapon, uttering threats and possession of a restricted weapon. The -- not on the record, but what shows up, which was mentioned in the Bail Supervision Report prior completed, was a conviction in British Columbia in 2004 to which he received a five month sentence at

Prince George. I don't know what it's for. It's not on the CPIC, but it was mentioned in the Bail Supervision Report.

Your Honour, in that Bail Supervision Report that was filed prior indicates the accused stated he was "living off his savings", although it also indicates there, it says graduated - - he's 26, but since graduating from high school he only lists one year of employment in the -- that would be seven to eight years. He was in a position, however, advised to post cash bail. Now, that -- there's other factors -- other things encountered in there.

I would also like to file with the Court, forward to my learned friend, I don't think my colleague has in the past has filed this, this is the Affidavit of the bank account.

MR. SCOTT: I have seen that, Your Honour.

MR. CANN: This is the Affidavit from a gentleman who is an employee of the Bank of Canada and it is on specifically this case, but it does involve the whole area of counterfeit money and the difficulties they're having with it. The Court may find that interesting in background.

To be noted just for the Court knowledge, Mr. Hayden is 26, Mr. Wallace is 29, Tara Brown was 19, and Jessie Hughes was 19. All but Hughes had prior criminal records. Our belief, Your Honour, is that the paraphernalia found in the vehicle was actually how Mr. Hayden was making his living, he's a professional to do with counterfeiting. Your Honour, I advised my learned friend the Crown would be seeking a term in the range of 28 to 30 months incarceration, that's federal time. The accused has been on remand now for approximately two months, which I assume the Court will give him credit. And that would still leave a sentence in the federal range. And that's what the Crown is requesting.

THE COURT: Why do you feel that a federal sentence would be more appropriate than a provincial sentence?

MR. CANN: Because of the nature of the -- as I outlined in the difficulty this is causing. There's been a number of instances even this year where radio had been announced to be aware of certain counterfeit monies in our community and district, that the nature of the crime itself has been evolving. All -- in fact, for a while I know even in



MR. CANN:                                Yeah, there's an option that the feds have with the province on anything under a three year sentence and if it's non-violent that they may transfer him to -- but the feds then pay the province for housing the individual. So it doesn't cost the province the federal government pays for it.

THE COURT:                                Mr. Scott?

MR. SCOTT:                                Thank you, Your Honour. Mr. Hayden is wishing for penitentiary time.

THE COURT:                                Well, in fact, you're jointly submitting a penitentiary time sentence; is that correct?

MR. SCOTT:                                Yeah.

THE COURT:                                All right.

MR. SCOTT:                                Yeah.

THE COURT:                                Carry on.

MR. SCOTT:                                And as my friend says he's 26 years of age, he's single, he has one child. He was born in Saskatoon, but brought up in Ottawa and Edmonton and as my friend says, he has a Grade 12 education. He advises me that he was a plumber's helper up until April and that he was doing it for about two years, but that he's developed a form of stomach cancer, he's now on disability. And he says the reason he wants to go to a federal institution is

so that he can get -- he thinks that he'll get better treatment there for his stomach cancer at the federal institution.

In looking over the sentence for this type of crime because I hadn't had any experience with counterfeiting before, I found a case *Rafuse v. The Queen* out of the Court of Appeal for Saskatchewan, 2004. And I just wanted to -- I've advised my friend, but I just wanted to bring it to the attention of the Court, it was a case in which the sentence of 18 months was reduced to a year, but in that case it was only involved a possession and a impersonation. But it was a -- it was a large amount and the accused in that situation didn't have a prior record of this sort of thing. I think in this case because we're dealing with someone who has a prior record of counterfeit bills and also a longer record that -- that still being in penitentiary time would be within -- within a range of such an offence.

THE COURT: Thank you, Mr. Scott.

MR. SCOTT: Thank you, Your Honour.

THE COURT: Mr. Hayden, you have the right to speak on your own behalf, is there anything you'd like to say?

THE ACCUSED: I'd just like to say that I know most people try to go to federal -- in federal institutions just because they see a better chance of getting out earlier and in my case I know that that won't be because I'd breached my parole conditions two -- two times on my previous federal sentence. So I know I'm really stuck there for two-thirds and, like, that's by far the last reason why I want to go, so --

THE COURT: All right. Thank you, Mr. Hayden. All right. Mr. Cann in his submissions has pointed out what a problem counterfeit money is and I'm certainly highly aware of that. In this community very few businesses are accepting bills in denominations greater than \$20 thanks to counterfeiting. Basically cash has become a very unreliable means of transacting business. And I have had a chance to peruse the Affidavit of T. Miscowski (ph) provided by Mr. Cann. I'm aware of the problems there and I'm aware of the consequences.

This is a young -- relatively young man still, but he has really quite a bad record that deals with various kinds of crime, but in particular a prior offence of possession of counterfeit money. This is -- he's in a situation



where he's driving a stolen car, he's got counterfeit money with him and he's got the means to make more counterfeit -- to create more counterfeit money with him. I think the submission on sentencing, which is very close to a joint submission, is very much on the mark.

And in this instance I'm going to approach the matter as follows, I'm treating it as a 30 month sentence. I'm crediting him with five months served. And the sentence will be 25 months from this date, which, of course, is to be served in a federal institution subject to arrangements made between the province and the feds.



END OF PROCEEDINGS  
ON A DIGITAL RECORDING