

R. v. Mihalkov, [2005] O.J. No. 4178

18 months in addition to 15 months pre-trial custody for being a partner in making \$3.1 million of counterfeit money

Mr. Mihalkov was charged and committed for trial on a number of counts of conspiracy to make counterfeit money, counts of conspiracy to be in possession of counterfeit money as well as some counts relating to the possession of credits cards and social insurance number cards. After his committal, he re-elected and pled guilty.

In October 2003, Toronto police began an investigation into a counterfeiting operation carried out from the house of the accused. On March 19th, 2004 an undercover agent proceeded to purchase 240,000.00 worth of \$20.00 counterfeit bills from the accused. He was then arrested. The investigation revealed that the accused and his main accomplice, Mr. Todorov, used two premises as print shops and a third as a currency finishing shop. A search of the various locations disclosed a massive counterfeiting operation of \$10.00 and \$20.00 bills. Many thousands of fully cut and uncut \$20.00 and \$10.00 notes were seized as well as a number of Epson printers and all the paraphernalia associated with the production of counterfeit money. At one location, the police seized more than 40 boxes of Epson printers, thousand of print cartridges in garbage bag, gold leaf paper, heavy paper without bleach, metal stamps, dyes, paper cutters and a Heidelberg press. Mr. Mihalkov had \$25,000 in genuine money on him when he was arrested.

An RCMP expert in counterfeit detection testified that the counterfeit bills were of good quality. He estimated that approximately \$3.1 million worth of counterfeit money produced by the accused's operation had been put in circulation. An affidavit from the Bank of Canada was filed at the sentencing hearing.

Mr. Mihalkov was a young man with no record and positive antecedents. The Crown prosecutor recommended a 7 year sentence.

The judge concluded that Mr. Mihalkov was

... at least a partner in what was a sophisticated criminal organization engaged in a major assault on the integrity of the Canadian monetary system in a large-scale fraud perpetrated on innocent members of the Canadian public.

The court also noted that \$3.1 million dollars of counterfeit money would cause "an astronomical amount of damage to the economy, and particularly to small individuals."

The judge observed that, "Denunciation and deterrence of others has to be the most significant consideration of this court." The court credited the offender with 30 months for his 15 months pre-trial custody and imposed an additional 18 months for the counterfeiting and credit card offences. An additional 2 months was imposed on Mihalkov for breaching his bail.

THE ONTARIO COURT OF JUSTICE (TORONTO REGION)

HER MAJESTY THE QUEEN

against

MIROSLAV MIHALKOV

REASONS FOR SENTENCE

BEFORE THE HONOURABLE JUSTICE P. HARRIS,
at Toronto on June 15, 2005.

APPEARANCES:

J. Scutt
P. Scully

Counsel for the Crown
Counsel for the Accused

REASONS FOR SENTENCE

HARRIS, J. (Orally):

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This is a judgment in the sentencing hearing of Mr. Mihalkov.

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Now, Mr. Mihalkov was before the Court on a preliminary inquiry some months ago and was committed for trial on a number of counts of conspiracy to make counterfeit money, possession of counterfeit money; as well as some counts relating to possession of credit cards and possession of social insurance numbers.

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What transpired was that, ultimately, he re-elected in the Superior Court of this jurisdiction and re-attended before me and entered the plea of guilty to the following charges: first of all, there is a conspiracy count in relation to \$20 bank notes; secondly, there is a conspiracy count in-- the first count is in relation to making counterfeit money. The second count is in relation to conspiring to be in possession of counterfeit money, \$20 bank notes. So he plead guilty to counts one and two. Counts seven and eight are duplicates of the first two counts, except the counterfeit items are noted as \$10 bank notes.

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The fifth count was that-he was charged with failing to comply with his recognizance of bail,

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dated the 26th day of January, 2004, by "without lawful excuse having communication directly or indirectly with Stefan Tokouchev and Radoslav Nedialkov, except in the presence of counsel." The actual time on that information, that is the fail to comply, is between and including 26th of January and 19th of March, 2004. That is the fifth count.

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The sixth count is possession of a social insurance card. The seventh count is a possession of a credit card. The eighth count is possession of a credit card. The ninth count is possession of a credit card. The 10th count is possession of a credit card. The 11th count is possession of a social insurance number card. The 12th count is possession of a social insurance number card. The 13th count is possession of a social insurance number card.

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I take it there were 13 counts he entered pleas of guilty to. Is that your record, Counsel?

MR. SCULLY: I think that sounds correct, Your Honour. The--

MR. SCUTT: I have 15.

MR. SCULLY: He pleaded to five counts of the credit cards, five counts of the social insurance card, two counts relating to the counterfeiting.

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THE COURT: That is 15 altogether. There is only 13 checked off here. Maybe I will pass it

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over to Mr. Scutt and he can tell me what is missing. There is 13 counts checked off there and--

MR. SCUTT: The Clerk's recorded in the-- where they record the counts, counts one and two, seven and eight, which are the four counterfeiting charges.

THE COURT: Yes.

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MR. SCUTT: Count 12, the breach of recognizance.

MR. SCULLY: Right.

MR. SCUTT: And then 25 to 30, and 33 to 36 which are the 10 possession of SIN or credit cards, so 15.

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MR. SCULLY: That's what I, that's what I have noted also.

THE COURT: You see if you turn it over, there are some that are checked in the margin and the check marks are missing on two counts...

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MR. SCUTT: Well, that may have been...

THE COURT: ...I guess.

MR. SCUTT: ...altered at some point. Let me see what we're missing.

THE COURT: Can I leave that with you? Not a whole lot turns on it, but I take it--

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MR. SCUTT: I've got 25 to 30 checked off and 33 to 36 checked off. All the--

THE COURT: Let us have a look

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MR. SCUTT: Were those the counts that Your Honour was-- and I'll just turn to the page where those counts start.

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THE COURT: Let us count them once more. I see, 36 is checked off but it is at the top. Okay, there are two other counts and they just happen to be covered up by a staple at the top of the page.

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One of the counts I did not mention was count number 29 on the Information, that is possession of a credit card, a Capital One Mastercard as it is called here. One other count I did not mention was number 36 - again covered up by the staple at the top of the page - and that is possession of a social insurance card with a number on it, that is number 36.

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So there is a total of 15 counts altogether.

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Essentially we have got four conspiracy counts, one fail to comply and 10 counts of either possession of credit cards or social insurance cards.

Is that about right?

MR. SCUTT: Yes.

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THE COURT: All right, the circumstances of these offences are as follows: In October, 2003, Toronto Police began investigating a counterfeit operation out of Cosburn Avenue that was the home of Miroslav Mihalkov.

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Police obtained about six counterfeit bills at one point and then put an undercover officer

into the field to make what are called
"opportunity buys."

In the meantime, in a parallel investigation, police tracked a stolen tractor-trailer to 920 Dennison Avenue in Markham. Police got a search warrant. There were a number of exhibits filed in relation to that particular search warrant. The exhibits can be looked at for the purposes of ascertaining the detail of what was recovered on those search warrants, at least the search warrant of the Dennison Avenue unit.

That search disclosed a fairly massive counterfeiting operation at that address, particularly in relation to \$20 bills.

Mr. Mihalkov arrived at the Dennison Avenue unit with a key while the police were present in the course of their search. As a result of that, I draw the obvious inference that he was involved in that enterprise as was the other person arrested on the premises, Mr. Nediakov. In fact, Mr. Nediakov was the registered lessee of 920 Dennison.

On July 23rd, Mr. Mihalkov was arrested in respect to being in the vicinity of some stolen property that was traced to 920 Dennison Avenue and was later released and ordered not to have contact with two individuals, one of which was

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Mr. Nediaikov. It is noted that he did not give the Cosburn address as his residence at the time of his release.

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Over the next couple of months he was in breach of this bail order many times as a result of sightings of the accused and Mr. Nediaikov at least on some occasions. He was the other individual that was named in the no-contact provision of his bail.

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The inference I draw is that the court order did not deter him in any respect and he went right back into full contact with these individuals.

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Meanwhile, the undercover officer was making headway with an intermediary he had been meeting with, one James Coughlin. Eventually a deal for \$240,000 worth of Canadian currency in \$20 bill was to be purchased by the undercover officer for about \$45,000, which was approximately 19 cents on the dollar.

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Surveillance suggested that an individual by the name of Todorov delivered some of the boxes of money to Mihalkov for this transaction. The undercover officer attended with \$45,000.00 worth of buy money and Mr. Mihalkov produced 240,000 worth of \$20 bills. That, of course, was on March the 19th, 2004. Arrests were made and search warrants executed at 25 Cosburn, the

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address of Mr. Mihalkov, and the address of Mr. Todorov, who was alleged to have brought boxes of "money" to Mr. Mihalkov for the transaction. Mr. Todorov's address is 71 Grand Valley in Maple, Ontario.

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Both Todorov and Mihalkov in the course of these transactions were driving what could be described as late-model luxury cars. Todorov was driving a Mercedes-Benz; in Mr. Mihalkov's case it was a Cadillac STS registered in Quebec.

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The warrants resulted in evidence of counterfeiting on a rather grand scale. Mihalkov's manufacturing at the time of the search warrant was in relation to \$10 notes. There was many thousands of uncut \$10 notes on the premises at 25 Cosburn.

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Todorov had possession of many thousands of uncut \$20 notes as well as fully cut \$20 notes.

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At Mihalkov's residence there was a great many Epson printers linked, many were in boxes, but he had printers linked through a computer on a series of USB ports and the operation appeared to be capable of making boxes of currency by the hour.

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Mr. Todorov had a Heidelberg press and a paper cutter at his residence.

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It could be said that at 25 Cosburn, at least, there was a regular print shop in full swing. There was a number of boxes of Epson printers and all the usual paraphernalia for fully equipping a print shop. One part of the apartment was curtained off for the purposes of all of the computer and printing equipment necessary to produce this currency.

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The unchallenged evidence from Detective Palermo was that Cosburn Avenue was the print shop and Grand Valley was the currency finishing shop where they employed an electric Guillotine paper cutter and a hot-stamping machine to put the square gold leaf stamp on the \$20 bills.

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The currency-producing operation at 920 Dennison was even more elaborate; that is the location where Mr. Mihalkov had a key. There were some 40 boxes of Epson printers; thousands of print cartridges in garbage bags; everything from gold leaf papers to special heavy paper without bleach; rolls of tipping paper; metal stamps; dyes; a Heidelberg press manual - were found on the premises at the Dennison address.

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So there is little question that what was being conducted was a massive counterfeiting operation at a number of locations.

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At some point during the sentencing hearing an RCMP counterfeit examiner, Marcel Labelle (ph), who is qualified as an expert in counterfeit detection, filed a report and testified that the culmination of the project involved Mr. Mihalkov and others and the seizing of 480,000 of \$20 counterfeit notes and 221,000 of \$10 counterfeit notes.

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He described idiosyncratic features of the counterfeit notes that had been produced by the criminal organization that Mr. Mihalkov was part of. He describes this organization as producing good quality reproduction and he estimated that about 3.1 million worth of counterfeit money, characteristic of this group's printing system, had been put in circulation and the Canadian public was defrauded by that amount.

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Interestingly, a photo was found at the Todorov residence with Mr. Todorov standing next to what looked like 1.4 million, by a rough estimate, of counterfeit \$20 bills that were simply piled in bundles all around Mr. Todorov. That photo is in the exhibits that are part of this sentencing hearing.

The most telling piece of evidence is the document called "Project Greenback," it is Exhibit Number Nine, produced and filed in this

5 hearing, that has photographs and PowerPoint renditions of every step of this investigation. It reveals, in my view, that by all accounts this was a million dollar counterfeit operation and what Mr. Labelle describes as one of the most sophisticated operations that he had ever seen.

10 In addition to that, Mr. Mihalkov was found with 25,000 in hundred dollar bills in actual legitimate funds when he was arrested. Those funds were found in his apartment. An unassailable conclusion is that and the
15 inference I do make, is that unquestionably Mr. Mihalkov is at least a partner in what was a sophisticated criminal organization engaged in a major assault on the integrity of the Canadian monetary system in a large-scale fraud perpetrated on innocent members of the Canadian
20 public.

25 I do not accept that Mr. Mihalkov was a worker in this organization. Mr. Mihalkov's counsel, Mr. Scully, has done an admirable job of representing Mr. Mihalkov and has characterized him as a worker in this organization for a number of reasons, such as he seemed to have to get the final price from somebody else and he was not, at the time of the arrest,
30 manufacturing \$20 bills.. But it seems to be, and I regret to have to differ with counsel, but

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it seems to me that Mr. Mihalkov's computer skills were an essential ingredient in this operation. Mr. Mihalkov not only made and distributed fake currency, as far as I could see he ran the print shop of the production end of the money.

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I cannot disagree with Detective Palermo who says that the finishing end of it was at the Todorov end. It may have been at the Dennison Avenue property that both the manufacture and finishing processes were operating under the same roof until that operation was closed down.

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As things transpired, by March of 2004, it was clear that the printing equipment was mostly at Mr. Mihalkov's premises and the finishing part of the operation, that is the cutting equipment, was mostly at Mr. Todorov's premises. So I have come to the conclusion that Mr. Mihalkov is at least a partner in what was an extensive criminal organization.

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Now the sentencing principles, therefore, require that I consider the following: from all the case law, general deterrence is the paramount consideration.

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In terms of mitigating factors, I have to take into account Mr. Mihalkov's plea of guilty and acceptance of responsibility. I take into

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account that he had no prior record. But it does appear that some counterfeiting offences occurred while on bail and he has pleaded guilty to being in breach of bail condition; that is, having no contact with Mr. Nedialkov and another individual. He was actually seen rather brazenly leaving court in the company of Mr. Nedialkov.

I take into account as well that Mr. Mihalkov has an offer of employment and the support of Ms. Ekaterina. I accept that she finds that he is an individual with integrity and ability and she is prepared to support him when he finally comes out of custody. That is an important feature that I take into account, that he has support in the community.

Mr. Mihalkov addressed a letter to the Court and he indicates that he was provoked and dragged into this activity and he was responding to financial problems. Unfortunately, I do not find any evidentiary basis for accepting those statements. There are far too many instances of his travelling around in his late-model luxury vehicle, making vast quantities of money, counterfeit money, and he had 25,000 in cash when arrested. I cannot conclude my assessment of this without an inference that he is attempting to minimize his involvement in this criminal organization.

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So, the analysis I make is the following: I have considered the following legal issues. I have been asked to consider a conditional sentence on the basis that pre-trial custody of approximately 15 months with the usual credit applied would reduce the necessary sanction for these offences to a range where he would be eligible for a conditional sentence.

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The recent case of the Supreme Court of Canada, Regina v. Lynn Fice, unreported, is authority for the proposition that a conditional sentence is simply not available in this case. As it says at paragraph 15, the Court stated the following:

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"The time spent in pre-sentence custody notwithstanding, since the respondent was the type of offender who deserved a penitentiary term by operation of s. 742.1(a) in this court's interpretation of this requirement in Proulx, a conditional sentence was not available."

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The Court offered a number of other reasons which I will not go into, but they clearly say, the majority in the Fice decision clearly indicates,

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"... that it is inconsistent with a conditional sentencing regime to argue that pre-sentence custody should be taken into account in

determining the availability of a conditional sentence."

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So, the second issue I consider is that Defence has asked me to consider an enhanced credit for pre-trial custody given the conditions that were described by Counsel as extremely difficult at the Metro West Detention Centre. I have concluded that this is a classic example of a "disputed fact," given that the Crown does not accept the Defence characterization of the living conditions in detention.

"The onus of proof on a sentencing hearing where the Defence asserts a disputed fact is on a balance of probabilities."

That is from the seminal decision in Regina v. Gardiner: 68 C.C.C. (2d) 477 (S.C.C.)

Mr. Mihalkov has not provided any evidence to support his claim in respect to the conditions in custody. An absence of an evidentiary foundation leads me to the conclusion that I am not in a position to make a determination as to whether enhanced credit should be allowed for pre-trial detention. Accordingly, I will adopt the traditional standard of pre-trial credit on a two-for-one basis. I conclude that Mr. Mihalkov is entitled to a 30 month credit toward sentence based on his pre-trial detention to

today's date of approximately 15 months.

5 Now the case law is my third topic for consideration.

10 There are few legal precedents in this area of sentencing involving, as it does, a very sophisticated conspiracy to make and possess counterfeit money.

15 The Crown submitted a brief and I will simply just refer to these cases. The Regina v. Gross decision, Ontario Court of Appeal (1972) C.C.C. (2d). This case is a 1972 decision. In my view, it is dated. It is short on facts and analysis; and although the Court comes to the conclusion that an individual involved in a rather sophisticated operation of counterfeiting should receive a period of time of six years in custody, we have to consider that this case is some 33 years old. It seems to me that a more current appellate determination is appropriate in terms of assessing just how long Mr. Mihalkov's sentence ought to be.

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25 The decision in Regina v. Dunn, (1998) O.J. No. 807, (O.C.A) that is what was described as a small amateur operation and the conditional sentence of 21 months was imposed. The facts just do not seem to me to be comparable to the case before the Court.
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The decision of Regina v. Mankou, (2000) O.J. No. 1869 (O.C.A.) This is a \$300,000 counterfeit money where an individual is charged with possession only. The individual received a total of 23.5 months. It seems to me to be distinguishable on the basis that what we are talking about there was not the manufacturing of counterfeit money but simply possession only.

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On the Regina v. Bruno decision, (1991), O.J. No. 2680, once again, it is somewhat dated and dealt with a million dollars worth of US bills, possession only. A period of time of 30 months. Given that it is not a manufacturing but just a possession case, and not a conspiracy case, it does set a sort of a lower threshold for the sentencing range. It does not assist me much in determining what Mr. Mihalkov should receive.

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The Regina v. Haldane case, (2001) O.J. No. 5161. The individual in that case had a long record from ages 19 to 51, and it was described as an amateur approach to counterfeiting and a sentence of 30 months was ordered. It does not assist me in determining the sentencing in this case.

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The decision of Regina v. Leung, (1995) B.C.J. No. 2165 (B.C.C.A.) This gets a little closer to the case before the Court because it is about

5 a criminal organization involving approximately
\$500,000 worth of traveller's cheques. Some
individuals - 21, 22, 23 year olds - were found
in possession and each received about three
years. Considering the pre-trial custody, each
one, as I say, received about three years in
custody. It seems to me that three years is
pretty much the lower end of sentencing for
10 members of a criminal organization involved in
dispensing large amounts of counterfeit currency
or negotiable instruments.

15 The Regina v. Le case does not assist me at all.
That is (1993) B.C.J. No. 165. It is not really
applicable because it resulted in a nine month
sentence for possession and uttering of
counterfeit money. It was a total of \$2,400 in
hundred dollar bills. It is simply not in the
same range or type of operation that we are
20 dealing with here.

25 There are a number of cases submitted by the
Defence. These cases, in my view, establish the
upper limits of what should be considered here.
There are two cases R. v. Caporale and R. v.
Weber that, in my view, really provide a very
good insight into what the sentence ought to be
in some of the more extreme cases of
counterfeiting.

30 In the R. v. Caporale case, that is found at

5 (2005), O.J. No. 1509, a decision of the Ontario Court in Windsor, Ontario, 2005. That case dealt with \$725,000 worth of purchases involving five separate undercover transactions involving \$100 counterfeit notes. There are five separate undercover transactions. The last one was for about \$500,000 worth of counterfeit money, at which time the individual, Caporale, was arrested.

10 After a search warrant was executed, there was half a million dollars worth of counterfeit money on this individual's premises. Caporale had a record for similar offences: he was on parole as a result of a sentence in 2001. So let me say that again. At the time of this offence, he was on parole as a result of a sentence for counterfeiting money in 2001. He appears to have received about two years in jail for the 2001 offence of counterfeiting money. In the end, Mr. Caporale received a total of 5.5 years. Now, that seems to be the upper end of sentencing.

25 Unless I miss my guess, the judges in Windsor seem to have a pretty strong understanding of the issues involving counterfeit money. The second Windsor case I am going to refer to is a case called Weber, O.C.J. [2001] O.J. No. 6103, that involved 3.5 million dollars worth of counterfeit money. This individual was

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arrested and released, then he re-organized and kept counterfeiting money. He was on a conditional sentence for a related offence. He had two prior counterfeiting convictions and was on bail for counterfeiting money and kept right on counterfeiting money. He seemed to be absolutely unstoppable. It was a rather massive scale of counterfeiting, involving 3.5 million dollars worth of forged currency. He received a total of five years.

So, it seems to me that the most serious and most aggravating ways of committing counterfeiting involving the manufacture and possession, whether it is conspiracy or not, in my view, seem to attract sentences in the range of five years. I do not see Mr. Mihalkov as being quite in that range.

I appreciate Mr. Scutt's position in this case is that Mr. Mihalkov should receive a sentence of approximately seven years. The Crown position has considerable merit given the massive scale of counterfeiting that was engaged in by the criminal organization Mr. Mihalkov was part of.

Yet based on that original case that was referred to, called Gross, seven years would not be out of the range, given that the individual in that case received six years. But I have

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come to the conclusion that Gross is rather dated and short on facts and analysis. I do not find there are any sentencing principles there that persuade me that the sentence should be in the range of seven years, particularly when more recent decisions of my own court, for more serious criminal involvement than Mr. Mihalkov is associated with here, have attracted sentences in the range of five years.

So the conclusion I come to is that the sentence should be more than three years based on Leung and Bruno and other decisions referred to; but less than five years based on the facts in Weber and Caporale which, in my view, were more seriously aggravating than they are in this case before the Court.

I just wanted to make a few comments. I am not going to keep Mr. Mihalkov in suspense any longer. I am going to tell you, Mr. Mihalkov, that I have determined that your sentence should be four years as a result of this analysis and I am going to impose an additional two months for the fail to comply. So it will be a total of 50 months. I know that you were hoping for something less.

I might tell you that I was seriously thinking of something in the range of five years and even higher, but I am impressed with your background

and I am impressed with your ability, and you are a young man with no record.

In my view, first of all, sentencing is an individual process and sentence for a first offender should not be such that it causes the individual to abandon all hope of a future.

Secondly, I have come to the conclusion that with your ability and the right level of supervision and perhaps this new relationship that you have, you could well become a productive member of society. I am prepared to take the chance that a sentence in the range of approximately five or six years is not necessary both based on the case law and based on your individual involvement in this case. Now that may not be a lot of comfort to you because you are probably looking for a shorter sentence, but I have to say the following: this kind of activity is a criminal organization designed to impact the community by the passing in the millions of dollars worth of counterfeit bills.

It is clear to me that the kinds of people that suffer in this kind of offence are not like victims of credit card fraud who are usually protected from direct financial loss by the cards's issuer, if they have observed the card issuer's rules of use. Here, the Bank of Canada

5 provides no financial protection for a person who accepts a counterfeit banknote. 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.

10 Here the evidence is that both Mr. Mihalkov and his cohorts have put approximately 3.1 million dollars of counterfeit on the street, and that is an astronomical amount of damage the economy, and particularly small individuals. To do that, they steal people's identification, steal their identity and use their credit cards. It is really a very insidious form of criminal activity. I can only think of the effect on small variety stores and small business operators who work with very small margins and probably have to recover the losses from a number of counterfeit bills by having to work many, many, many long hours to earn the money to pay for these losses.

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25 This kind of offense requires premeditation and planning and is driven entirely by the lust for as much money as can be made in the shortest time possible.

30 It is without question, in the circumstances of the case before me, go beyond simply planning and premeditation. It is a very sophisticated

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group of criminals who have sophisticated equipment, not only engaged in this activity, but when the Dennison Avenue property was closed down they continued to engage in this activity.

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Denunciation and deterrence of others has to be the most significant consideration of this court.

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No question that individuals that produce the money should be sentenced to longer sentences than the persons that distribute it and simply take it out on the street and try to move it. Mr. Mihalkov is one of the principals in a counterfeiting operation. The impact these individuals have on the integrity of the Canadian monetary system was described in evidence as "profound".

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So I have come to the conclusion that but for the pre-trial custody, I would have sentenced Mr. Mihalkov to a term of imprisonment of over four years, approximately 50 months altogether, representing four years for the counterfeiting involvement as well as the credit card offences and social insurance card offences, plus another two months for the fail to comply with his recognizance by brazenly continuing to have contact with individuals that were involved in this business.
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As a result of the pre-trial custody, I will take into account a 30-month credit towards the ultimate sentence Mr. Mihalkov will receive.

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The total sentence is as follows then, for the first count, that is the conspiracy to make counterfeit \$20 bills, the sentence will be 18 months in custody; the second count, conspiracy to possess \$20 counterfeit notes, the sentence will be 18 months concurrent imprisonment; the third count, conspiracy to make counterfeit \$10 notes, that sentence will be 18 months imprisonment concurrent; the fourth count, conspiracy to possess counterfeit money in the form of \$10 notes, that sentence will be 18 months concurrent.

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So at this point we have a total of 18 months concurrent.

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In addition to that, on the fail to comply charge, the sentence will be two months consecutive. That will mean that your entire sentence at this point will be 20 months.

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Counts five to 15, at least the numbered counts, with the exception of the fail to comply, that involve either possession of credit cards or possession of social insurance numbers will be sentenced on the basis of 30 days concurrent on each. The total sentence is 20 months.
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Following that, there will be a period of probation of two years. The terms are as follows: keep the peace and be of good behaviour; report to probation officer forthwith, thereafter as required. You will have no contact, directly or indirectly, with Ronald E. Todorov, Saro Comert, Elena Todorov, Maria Mihalkov, Radoslav Nedialkov, James Gerald Coughlin, Vladimir Jevtic.

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Any other names, Mr. Scutt, that you would like to have included?

MR. SCUTT: No.

MR. SCULLY: If I can assist the Court.

THE COURT: Yes.

MR. SCULLY: My client is in the midst of divorcing, so if I may say--

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THE COURT: Except through counsel in the context of a court proceeding.

MR. SCULLY: Thank you.

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THE COURT: All right. So when you are referring to Maria Valentino Mihalkov, could you add, Madam Clerk, 'except while involved in court proceedings and only through counsel'. I was thinking of a term that sounds something like "Not have in your possession any credit cards or identification in a name other than your own"; "you will not have in your possession any instruments for the production of negotiable instruments." Maybe that is a little redundant.

5 I am trying to think of a way of talking about ensuring that Mr. Mihalkov can use computer equipment but not for any purposes that involve counterfeiting. Is there any phraseology, Mr. Scutt, that you would recommend?

10 MR. SCUTT: Well, there is a phrase that is used with respect to child pornography cases, where it's often, you know, because computers are essential in many aspects, that he not possess a computer except for purposes of employment approved of by his probation officer. So if he needs to use a computer at any work he's at, he has to have permission of the probation office to confirm that it's required; or, alternately, not to be in possession of any computer or else not to possess any computer in your residence and--

15 THE COURT: It is almost like not having a telephone.

20 MR. SCUTT: I know, it's--

THE COURT: Because I am sure people use the internet to communicate. He may have relatives in different parts of the world. So his--

MR. SCULLY: May I offer this suggestion, sir?

25 THE COURT: Yes.

MR. SCULLY: Not to be in possession of more than one printer, because it's the multiple printers that--

THE COURT: Okay, well, I think that is one thing, more than one printer or--

30 MR. SCUTT: I guess the Crown's only concerns

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are obviously, in our view, Mr. Mihalkov has a skill in creating the template which he could easily then pass off to someone else to do the printing. So it's not so much the printer - although I agree with Mr. Scully - but I think it's the creation of the counterfeit that's the difficulty because once that's done, anyone can sort of do the printing part.

THE COURT: Well, it usually sounds something like "Any equipment for the purposes of making or producing negotiable instruments."

MR. SCUTT: Technically, that would include any, anyone's computer because they're all capable of doing that.

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THE COURT: I guess so. Well, I do not know if I can preclude his use of computers at all because it may be a form of communication necessary for his rehabilitation in terms of communication with his relatives, other places on the internet, whatever. So I do not think I can preclude his use of the computer in his family home. More than one printer or identification in a name other than his own is about all I think I can impose, Mr. Scutt. If you can think of any other wording that would preclude his use of instruments for counterfeiting. I mean, for example, a Heidelberg press and a Guillotine cutting machine would be two items that I think should be prohibited as well.

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All right, I am going to order the following:
do not have in your possession any credit cards
or social insurance cards or identification in a
name other than your own. You will not have in
your possession more than one printer or any
Guillotine paper-cutting equipment; any metal
printing stamps; any printing dyes; any tipping
paper; any gold leaf paper.

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I think that is everything I can think of for
the time being.

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You will make reasonable efforts to seek and
maintain employment. I think that is about it.
Any other issues Counsel wish to raise?

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THIS IS TO CERTIFY that the
foregoing is a true and accurate
transcription of my recordings,
to the best of my skill and
ability.

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Lisbeth Jensen
Court Reporter

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