

*R. v. Paolinelli*, [2004] A.J. No. 1300 (Alta. Prov. Ct.)

**2½ years and 2 months pre-trial custody for making counterfeit US\$100,000**

Mr. Paolinelli pled guilty to possessing and manufacturing US\$100,000 in counterfeit money. He also pled guilty to several other offences including possession of stolen property, uttering a forged document, obstructing a peace officer and impersonation.

Mr. Paolinelli gave a friend some counterfeit \$20 bills to bail out another friend. Mr. Paolinelli was questioned by the police after the counterfeit bills were detected by the justice of the peace. Mr. Paolinelli obstructed the officer by giving a false name supported by a forged driver's licence. Mr. Paolinelli was charged and released on bail after the police discovered his identity. The police investigation into the counterfeit money ultimately led to a search warrant on Mr. Paolinelli's home in July of 2004.

The police seized over US\$100,000 in counterfeit money at Mr. Paolinelli's home. The money was mainly in \$20 and \$100 denominations that were in various stages of production. The police also seized computers, scanners, printers and a variety of paraphernalia that had been used to make the counterfeit money. In addition, CDs with images of Canadian \$100 bills were seized. These images were of notes that had been identified in Ottawa by the R.C.M.P. lab and labelled inkjet 6. The officers determined that 159 complaints about these counterfeit \$100 bills had been recently made in the Calgary area. Numerous pieces of other fake identification and credit cards were found.

Mr. Paolinelli was 23 years old, had a Bachelors in Business Administration and two young children. In 2003, he had received conditional discharges for possession of controlled drugs and property obtained from crime. Later that year he had been fined for failing to appear and mischief. In 2004 he received 90 days for uttering counterfeit money and 30 days consecutive for possession of property obtained from crime.

Both counsel made a joint submission of 30 months in addition to the 2½ months pre-trial custody. Counsel relied primarily on *R. v. Christophersen*, [2002] A.J. No. 1330 (Prov. Ct), 2002 ABPC 173 and the significant savings to the system from the early guilty plea to support their submissions.

The judge accepted the joint submission and imposed a sentence of 2½ years for manufacturing and possession the counterfeit money. The sentences for the other offences were made concurrent.

Nos.040769085P101001  
040773095P101001-002  
040795528P101001-004  
040804437P101001-010  
040844201P101001-003

THE PROVINCIAL COURT OF ALBERTA

HER MAJESTY THE QUEEN

V

NATHAN MARIO PAOLINELLI

Accused

---

PROCEEDINGS

---

Calgary, Alberta  
24<sup>th</sup> September, 2004

Transcript Management Services - Calgary

1 Proceedings taken in the Provincial Court of Alberta,  
2 Provincial Courts Building, Calgary, Alberta

3 -----

4 \*September 24, 2004 - 2:00 p.m session

5

6 The Honourable Judge                   The Provincial Court of  
7 Gilbert                                   of Alberta

8

9 S. Kendall, Ms.                         For the Crown

10 G. Dunn. Esq.                         For the Accused

11 L. Espinoza                             Court Clerk

12 -----

13 THE COURT CLERK:     In custody, Nathan Paolinelli.

14 MR. DUNN:             Sir, this is the accused, Mr.

15         Paolinelli. We are going to be dealing with things a  
16         little bit on the fly. We do have some materials  
17         for the Court, there will be an agreed statement of  
18         facts, there will be a substantial Forfeiture Order.

19                 But we didn't have the dealings essentially  
20         showed up actually just a few minutes ago but things  
21         -- the proper foundation has been laid and we can  
22         proceed before you this afternoon. I will start with  
23         the pleas, Sir.

24 (OFF RECORD DISCUSSION)

25 MS. KENDALL:     Madam Clerk, could I have that  
26         list that I gave you?

27 (OFF RECORD DISCUSSION)

1 MR. DUNN: Sir, docket ending 7773.  
2 THE COURT CLERK: I don't have that.  
3 MS. KENDALL: Pardon me?  
4 MR. DUNN: Sorry?  
5 THE COURT CLERK: I don't have that one.  
6 MR. DUNN: Sorry?  
7 MS. KENDALL: Well I took it right off the  
8 Informations you have, Madam Clerk. Oh I might have  
9 written down wrong numbers.  
10 THE COURT Why don't we atand this down  
11 while the two of you sort it all out, and why don't  
12 we go onto the ones that are ready?  
13 MS. KENDALL: That's fine.  
14 THE COURT: Would that be easier to do?  
15 MR. DUNN Yeah.  
16 THE COURT: Yes, rather than have you --  
17 (OTHER MATTERS SPOKEN TO)  
18 THE COURT CLERK: Recalling in custody, Nathan  
19 Paolinelli.  
20 MR. DUNN: Sir, is it easier if I just take  
21 you through the docket?  
22 THE COURT: Sure that's fine.  
23 MR. DUNN: Okay, that's fine. I will start  
24 with -- this is the accused. Again, these matters  
25 are set up, we just haven't corresponded them to the  
26 docket numbers. I can advise the Court this  
27 individual has been fully appraised in accordance

1 with 606(1.1) of the Criminal Code. I expect there  
2 will be a joint submission for your consideration in  
3 view of sentence after the convictions are entered.

4 The two ticket matters will be withdrawn, that  
5 would be 8803K and 8825K. In respect to Information  
6 ending 9085, there will be guilty pleas to Counts 1  
7 and Counts 2. In respect to Information ending 5528,  
8 there will be guilty pleas to Counts 1 and Counts 3.

9 THE COURT: And that was on, sorry, 3095, did  
10 you say? No.

11 MR. DUNN: Sorry, 3095 -

12 THE COURT: Yes.

13 MR. DUNN: -- there will be guilty pleas to  
14 Counts 1 and 2, okay?

15 THE COURT: 1 and 2.

16 MR. DUNN: Sorry, 145(2)(a) and 450(b), I'm  
17 just following the docket down. The top two.

18 MS. KENDALL: Oh, the 145 is on a separate  
19 Information, Mr. Dunn.

20 MR. DUNN: Oh is that on a separate  
21 Information?

22 MS. KENDALL: Yeah.

23 THE COURT: I thought it was.

24 MR. DUNN: Thank you, sorry. 9805 then,  
25 yes, that will be a plea of guilty. And in respect  
26 to 3095 --

27 THE COURT: Yes.

1 MR. DUNN: -- Count 1, which would be  
2 450(b).

3 THE COURT: All right.

4 MR. DUNN: Okay. The --

5 THE COURT CLERK: Sorry, 3095 it's Count 1?

6 MS. KENDALL: Count 1.

7 THE COURT CLERK: Thank you.

8 MR. DUNN: Count 1, correct. 5528 I believe  
9 it's going to be Counts 1 and Counts 3.

10 THE COURT: Yes, thank you.

11 MR. DUNN: Information ending 4437, guilty  
12 pleas on Counts 1, Counts 3, Counts 4 and Counts 5.

13 MS. KENDALL: Hang on a minute, what did you  
14 say, 1 --

15 THE COURT CLERK: 8 and 9 is on here.

16 MS. KENDALL: That's not what's on the sticky  
17 is it?

18 THE COURT CLERK: On the sticky it says, Count 1,  
19 guilty plea, 3 --

20 MR. DUNN: Sorry, 1, 3 --

21 MS. KENDALL: Right.

22 MR. DUNN: Hold on.

23 THE COURT CLERK: 8 and 9.

24 MS. KENDALL: 8 and 9, that's right.

25 MR. DUNN: 8 and 9?

26 MS. KENDALL: Yeah.

27 MR. DUNN: Okay, 8 and 9 then.

1 THE COURT: Okay let's start that again. 1,  
2 3, 8 and 9?

3 MR. DUNN: 8 and 9. Information 4201, there  
4 will be no guilty pleas on that Information. That  
5 should be withdrawn.

6 MS. KENDALL: It's just a duplicate  
7 Information.

8 THE COURT: All right. Mr. Paolinelli -- how  
9 do you --

10 THE ACCUSED: Paolinelli.

11 THE COURT: Paolinelli. Could you rise?  
12 Your counsel says you are pleading guilty to a  
13 failing to appear, possession of counterfeit money,  
14 making counterfeit money, possession of -- what is  
15 it? I don't have that -- 528, Count Number 1.

16 MS. KENDALL: The 368, Sir?

17 THE COURT: 356(1)(b)

18 MS. KENDALL: Oh, it's possession of stolen  
19 property, Sir.

20 THE COURT: Okay. And uttering a forged  
21 document and forgery. And obstructing a peace  
22 officer and impersonation to gain -- for personal  
23 gain, is that correct?

24 THE ACCUSED: Yes, Your Honour.

25 THE COURT: Thank you very much.

26 THE COURT CLERK: And I can I confirm, election is  
27 for Provincial Court Judge?

1 THE COURT: And if -- I can't hear you, Madam  
2 Clerk.

3 MR. DUNN: Sorry, election is Provincial  
4 Court Judge, thank you.

5 MS. KENDALL: And upon acceptance of the plea  
6 and the facts in those cases I won't be proceeding  
7 with any of the other counts, Your Honour.

8 THE COURT: The other counts to be withdrawn?

9 MS. KENDALL: Yes, Sir.

10 THE COURT: All right, circumstances.

11 MS. KENDALL: Your Honour, this investigation  
12 into all of these matters began on May 11, 2004, when  
13 a young lady named Alicia Davey attended at the  
14 Calgary Remand Center to pay \$1,500 which was  
15 required for the release of a Taylor Carrington who  
16 was in custody there. Davey gave the presiding  
17 justice of the peace, 75 \$20 bills.

18 After providing the money to the justice of the  
19 peace, Ms. Davey left the Remand Center. Justice of  
20 the Peace Adamo scanned the \$20 bills provided to him  
21 by Davey under a Pro-Detect machine, which is used to  
22 discover counterfeit money and discovered that five  
23 of these bills were counterfeit. Each of the bills  
24 had identical serial numbers on them. So the justice  
25 of the peace contacted the Calgary Police Service and  
26 police officers were dispatched to the Remand Center.

27 At 4:00, Ms. Davey returned to the Remand Center



1 to pick up Mr. Carrington. She arrived in a truck  
2 being driven by Mr. Paolinelli, this accused before  
3 the Court. The two of them were detained by the  
4 police and when first speaking with the police, Mr.  
5 Paolinelli identified himself as Frank Walker and he  
6 provided an Alberta driver's licence with his  
7 photograph on it, in the name of Frank Walker.

8 Ms. Davey spoke separately to the police and she  
9 identified the driver of the vehicle as Nathan  
10 Paolinelli. Davey told the police that this accused  
11 had given her the money to bring to the Remand Center  
12 to bail out Mr. Carrington. So Mr. Walker, as the  
13 police thought he was then, but this accused  
14 Paolinelli, was arrested by the police for uttering  
15 counterfeit money.

16 He was read his rights to counsel and he told the  
17 police he did not want to speak to a lawyer at that  
18 time. He also told the police that while he did give  
19 the bail money to Ms. Davey, he didn't have any  
20 knowledge of the counterfeit money.

21 The police then spoke to officials at the Calgary  
22 Remand Center about their investigation. Police were  
23 advised that a Nathan Paolinelli had recently been  
24 serving -- had been a serving inmate at the  
25 institution. So the officials at the Remand Center  
26 provided the police with a computer generated report  
27 about the inmate Paolinelli. The photograph that

1 they provided to the police by the Remand Center, was  
2 the same as this person who had just identified  
3 himself as Frank Walker.

4 He was taken to '7' District Office and police  
5 conducted various computer checks of Nathan  
6 Paolinelli and Walker, and determined that this  
7 accused Paolinelli was currently on probation and  
8 prohibited from driving.

9 While the police were in the process of  
10 conducting all of their checks, the accused advised  
11 police that he wanted to come clean on his name and  
12 that he was not Frank Walker but rather was in fact  
13 Nathan Paolinelli. He told the police that he  
14 changed his name and used his friend Frank Walker's  
15 name to have a clean slate.

16 He fully -- he fully admitted using fraudulent  
17 driver's licences to the police to conceal his  
18 identity from the police, but continued to deny any  
19 knowledge about the counterfeit money. He was issued  
20 an appearance notice for the charges of obstruction  
21 of a police officer and impersonation, with a court  
22 date of June 11, 2004.

23 Police then from that point continued their  
24 investigation with respect to the driver's licence  
25 used by Paolinelli. Police learned that Mr.  
26 Paolinelli had obtained an original Alberta driver's  
27 licence in Red Deer Alberta on September 2, 2003 and

1 that on March 16th and May 20, 2004, Mr. Paolinelli  
2 obtained duplicate driver's licences. All of these  
3 driver's licences were in the name of Frank Walker.  
4 When obtaining the original driver's licence, Mr.  
5 Paolinelli provided the registry office with an  
6 interim B.C. driver's licence in the name of Frank  
7 Walker and a letter from his landlord. A photograph  
8 was taken at that time of this accused, Paolinelli  
9 and an Alberta driver's licence in the name of Frank  
10 Walker was issued to Paolinelli.

11 And then on the two other dates, March 16th and  
12 May 20, 2004, Mr. Paolinelli attended at registry  
13 offices in Calgary asking for duplicate driver's  
14 licences as he had lost the original Frank Walker  
15 driver's licence.

16 There is a real Frank Walker, Your Honour, who  
17 lives in B.C.

18 THE COURT: I assumed that.

19 MS.KENDALL: As I advised earlier, pursuant to  
20 the appearance notice, Mr. Paolinelli was to attend  
21 court on June 11, 2004 with respect to those charges  
22 He ended up in custody in Edmonton on unrelated  
23 matters and was unable to attend court that day. He  
24 eventually appeared in court on June 15th, was  
25 released on -- from custody on a recognizance with a  
26 cash deposit and the matters were adjourned to July  
27 5, 2004. On July 5th he failed to appear in court

1 and a bench warrant was issued.

2 After the events of May 2004, the police  
3 counterfeit unit continued their investigation into  
4 Mr. Paolinelli's counterfeiting activities. The  
5 investigation culminated in the execution of a search  
6 warrant at Mr. Paolinelli's residence, which is  
7 located at 232 Millview Place, Calgary. They  
8 executed that search warrant on July 6, 2004.

9 Mr. Paolinelli had been under surveillance by the  
10 Calgary Police Service on July 5th and 6th of 2004,  
11 was arrested at 2:30 in the morning after being seen  
12 departing his residence in a 1998 Black BMW vehicle.

13 He was driving the vehicle and he told the police  
14 when he was stopped that he was in the possession of  
15 the vehicle for several days prior to July 6th as he  
16 was considering purchasing the vehicle. Inside the  
17 vehicle, police found two US \$100 bills and two US  
18 \$20 bills with various serial numbers. Those were  
19 counterfeit bills.

20 During the search of the residence, police found  
21 a significant number of items indicating that Mr.  
22 Paolinelli had been producing significant amounts of  
23 counterfeit money. In the residence they found the  
24 computers and the tools that were needed to produce  
25 this money.

26 Among the items seized from the residence was, a  
27 1001 -- over \$100,000 in counterfeit American

1 currency, which was at various stages of production.  
2 It was mainly in 20 and \$100 denominations. There  
3 were five multiple sheet paper cutters, a substantial  
4 quantity of cotton blended stationary suitable for  
5 making this currency.

6 Two computer towers complete with hard drives, a  
7 Hewlett Packard Pentium laptop computer, two ink jet  
8 printers, two ink jet printers/scanners, numerous  
9 homemade computer CD's containing images of Canadian  
10 and American currency, ultraviolet reactive markers,  
11 ultraviolet lights, a quantity of various types of  
12 gold foil.

13 They found genuine American and Canadian currency  
14 that was being used at the parent bills in the  
15 production of this counterfeiting money --  
16 counterfeit money.

17 The police also found a quantity of mail that had  
18 been stolen from a Canada Post box. The mail was  
19 addressed to people other than Mr. Paolinelli and  
20 they found in addition, a key for a Canada Post drop  
21 box. So this would be one of those grey boxes where  
22 the -- where they are leaving mail that would then be  
23 distributed to homes. The serial number had been  
24 removed from the Canada Post drop box key.

25 There were three digital cameras and there was a  
26 number of pieces of identification in various names.  
27 The Canada Post drop box key obviously is the

1 property of Canada Post.

2 Detective Frizzell who is with the commercial  
3 crime unit and has some knowledge of computer --  
4 things computer, took an examination of some of the  
5 CD's that were found in the residence. One of the  
6 CD's was identified as files for Edmonton and on this  
7 CD, Detective Frizzell located files identified as  
8 perfect 'B' and perfect 'F'.

9 Inside the perfect 'B' file, there were images of  
10 the back of a scanned Canadian -- or 1975 series \$100  
11 bank note. And inside the perfect 'F', there were  
12 three images of the front of a scanned Canadian 1975  
13 \$100 bank note.

14 And the serial numbers on those bank notes had  
15 been identified by the RCMP in Ottawa as counterfeit  
16 bills. They have a center in Ottawa that deals with  
17 counterfeit money. And they actually give names to  
18 series of counterfeit money and these bills were  
19 known as ink jet 6.

20 Examination of the bank notes that Detective  
21 Frizzell found on the CD, revealed that there were a  
22 minimum, eight accidental characteristics that are  
23 identical and linked these images to notes uttered in  
24 -- in the Calgary area and had subsequently been  
25 seized by the police.

26 Detective Frizzell's examination of the files  
27 perfect 'B' and perfect 'F' determined that the files

1 were created on May 2, 2004. There had been a number  
2 of counterfeit complaints in the Calgary area and  
3 especially of \$100 bills. And Detective Frizzell  
4 determined that 159 of those complaints were with  
5 respect to bills that carried the same serial numbers  
6 as those depicted on the CD's found in Mr.  
7 Paolinelli's home.

8 As I indicated, there was also a significant  
9 amount of identification in the names of -- in names  
10 other than Nathan Paolinelli and Frank Walker.  
11 Specifically, there was a label overlay of a Florida  
12 driver's licence in the name of Luke Shepard. There  
13 was a partially done driver's licence overlay with a  
14 picture of Jared Paolinelli, who is this accused's  
15 brother, on a Florida's driver's licence.

16 There, was an insurance card in the name of  
17 Allison Monterey, a wallet with identification in the  
18 names Julie Hall and Dan Hall, including an Alberta  
19 driver's licence in the name of Dan Hall with Mr.  
20 Paolinelli's picture on it. There was a Florida  
21 driver's licence in the name of Kevin James Anderson,  
22 again with Nathan's picture on it.

23 There was an Alberta identity card in the name of  
24 Rhett (phonetic) Dalday (phonetic), a B.C. driver's  
25 licence in the name of Jared Paolinelli. There was a  
26 fake Florida driver's licence in the name of Jared  
27 Sporano with a picture of Jared Paolinelli on it.

1           There was a shoe box under the bed with mail,  
2           cheques, Canada Customs and Revenue Agency documents,  
3           all in the names of people other than Paolinelli and  
4           all with different addresses. There was a small  
5           wallet found with identification credit cards for  
6           Rick Donhauser (phonetic), the credit cards included  
7           a Sears credit card, a Visa and a social insurance  
8           card. And there was another wallet with a bank card  
9           for Rick and Anna Donhauser.

10           In addition to all of the documentation in other  
11           people's names, the police also found a significant  
12           amount of documentation in this accused's name. It  
13           included a box, it was a cracker or something -- or  
14           cereal box and it was full of documents from the  
15           custodial institution where this accused had served  
16           his sentence, all in his name. There was traffic  
17           violation notices and banking records. The police  
18           also found clothing and other items consistent with  
19           Mr. Paolinelli living at this 232 Millview Place  
20           address.

21           Further examination was done by the Calgary  
22           Police Service of the computer hard drives that were  
23           seized, and that examination showed files dating back  
24           to 2003 with images of Canadian and American \$100  
25           bills. There was also found scanned images of an  
26           Alberta driver's licences, with names and photographs  
27           other than that of Mr. Paolinelli.



1           And matching those images found on the hard  
2 drives to bills that had been circulated in Calgary,  
3 there was matches between what was -- what Paolinelli  
4 was making and what had been being circulated as  
5 counterfeit. Those, Sir, are all of the facts in  
6 support of the guilty plea

7 MR. DUNN:     Sir those facts are admitted by  
8 Defence.

9 THE COURT:       Thank you.

10 MS. KENDALL:     This accused does have a criminal  
11 record, Your Honour. In 2003, May 26th in Surrey,  
12 B.C., he was found guilty of possession of a Schedule  
13 2 substance under the Controlled Drugs and Substances  
14 Act, possession of property obtained by crime. He  
15 received a conditional discharge and one year  
16 probation on those charges.

17 THE COURT:       He received a conditional  
18 discharge?

19 MS.KENDELL:       Yes. British Columbia, Sir. In  
20 2003, on October 14<sup>th</sup>, he was convicted of failing to  
21 appear for fingerprinting and mischief. He received  
22 a \$100 fine on the fail to appear for fingerprints  
23 and \$300 on the mischief.

24           And then on February 5<sup>th</sup> of 2004, Mr. Paolinelli  
25 was convicted of uttering counterfeit money, under  
26 Section 452(a) of the Criminal Code and possession of  
27 property obtained by crime over \$5,000, which I

1 understand was a stolen motor vehicle. And he  
2 received 90 days on the counterfeit money and 30 days  
3 on the possession of stolen property.

4 THE COURT: And was that concurrent or  
5 consecutive?

6 MS. KENDALL: My records show that it was  
7 consecutive, Sir. So he served a total of four  
8 months.

9 THE COURT: And that was in what month of  
10 '04?

11 MS. KENDALL: That was February --

12 THE COURT: February.

13 MS. KENDALL : -- 5, 2004.

14 THE COURT: Yes.

15 MS. KENDALL: Your Honour, Mr. Dunn and I have  
16 had some significant discussions with respect to  
17 these matters. I did prepare a list of authorities  
18 for Your Honour.

19 THE COURT: I gather -- I gather from Mr.  
20 Dunn when he first started there is a joint  
21 submission? Is that right?

22 MS. KENDALL: There is, Sir.

23 THE COURT: Yes, okay.

24 MS. KENDALL: Our joint submission, Sir, is for  
25 a period of incarceration of a totality - and we  
26 really didn't talk about splitting it up - of 30  
27 months. Mr. Paolinelli has been in custody now since

1 July the 6th when he was arrested by the police, he  
2 was detained by your brother, Judge Pepler.

3 And he -- so he has been in custody on these  
4 charges for a period of two months -- two and a bit  
5 months.

6 MR. DUNN: That's correct.

7 MS. KENDALL: So that our -- our thinking, Sir,  
8 was that if he received a sentence now of two and a  
9 half years on top of the time that he has now spent  
10 in custody, the total sentence would be one of three  
11 years in a penitentiary.

12 Given, Sir, the nature of the offences, the case  
13 law which seems to suggest that goal first of all is  
14 the appropriate disposition. There was a decision by  
15 your brother, Judge Allen, in Regina and  
16 Christopherson, which is really what I looked to in  
17 determining what the appropriate sentence would be in  
18 this case. Christopherson was very similar facts in  
19 terms of licences and money that he was  
20 counterfeiting.

21 There was some significant aggravating factors in  
22 Christopherson. There was a gun found in the house  
23 and he did have a preliminary inquiry. Mr.  
24 Paolinelli is pleading guilty at a very early time  
25 and as Your Honour can well imagine, given the nature  
26 of these offences, to prepare for trial would require  
27 the police technical services, the RCMP lab in

1 Ottawa, and the Crown's significant resources in  
2 order to properly present the case. And so Mr.  
3 Paolinelli has presented a great savings to the  
4 administration of justice by pleading guilty.

5 The aggravating factor obviously is the very  
6 recent convictions of a similar nature, the amount of  
7 money, the significant impact that it has had on the  
8 community. Interestingly, Sir, the Calgary Police  
9 Service provided me with a number of statistics with  
10 respect to counterfeiting offences.

11 They were at a high in April, May and June of  
12 2004 and dropped off significantly in July of 2004.  
13 And while we can't say -- can't prove for certain  
14 that that's because of Mr. Paolinelli who was  
15 incarcerated in July. So it seems to have had a  
16 significant impact on the community, Sir.

17 THE COURT: Yes, yes, well whether it can be  
18 tied to that or whether it's just pure coincidence,  
19 it sounds like we're grateful for it. Now, I  
20 understood you to say this then, looking at all of  
21 the circumstances and taking into account the  
22 totality principle, the appropriate sentence in this  
23 case would be 30 months, but giving him credit for  
24 time spent, you are seeking by way of a joint  
25 submission, two and a half years incarceration -

26 MS. KENDALL: That's correct.

27 THE COURT: -- in a federal penitentiary.

1 MS. KENDALL: That's correct, Sir.

2 THE COURT: And are you asking for forfeiture  
3 of all items?

4 MS. KENDALL: I am asking for forfeiture of a  
5 number of items, Sir, and I've actually prepared an  
6 Order for the Court, where I have attached the report  
7 to justice and dealt with it by way of items.

8 THE COURT: And Mr. Dunn, has he signed it?

9 MS. KENDALL: I don't think he has signed it.

10 THE COURT: Why don't we have you sign it  
11 with your consent on it, Mr. Dunn, and then we won't  
12 have any question later.

13 MS. KENDALL: Sir, I might just add, it's not  
14 in the Forfeiture Order, items number 67 and 68, were  
15 genuine cash that were seized from the residence and  
16 I am prepared to have that money paid to Mr. Dunn for  
17 his legal fees.

18 THE COURT: Well we would certainly want to  
19 make sure that Mr. Dunn isn't stiffed, so --

20 MS. KENDALL: The rest --

21 (OFF RECORD DISCUSSION)

22 MR. DUNN: Sir, I see in the order there is  
23 just not a place for me to sign, where do you want -

24 THE COURT: You just write it at the bottom,  
25 approve and consented to, signature line, sign it and  
26 then put down, counsel for the Defendant -- or  
27 accused, sorry. And that will be good enough for me,

1 Mr. Dunn.

2 MS. KENDALL: Perfect.

3 THE COURT: Madam Clerk, here is the order,  
4 thank you. Mr. Dunn?

5 MR. DUNN: Sir, I don't have substantial  
6 submissions to guild the lily in any event, it is  
7 what it is. They are serious charges, it's a fairly  
8 substantial operation and obviously the sentence is  
9 designed to protect the integrity of the monetary  
10 system in this country. Obviously by emphasizing the  
11 principles of denunciation and deterrence.

12 In terms of mitigation, we do have a relatively  
13 young offender, only 23 years of age. He is an  
14 individual who is educated, he has a college degree,  
15 Bachelors in Business Administration at the  
16 University of Northern British Columbia. He is  
17 obviously someone that's employable and has skills  
18 and can work in the work force, upon release, so he  
19 is not someone that's dead in the water.

20 Family man, two children, six and three years of  
21 age. He plays a role in their life, financial and  
22 both emotional and as a father figure. A very early  
23 guilty plea, substantial court resources have been  
24 saved in the conduct of pleading guilty before this  
25 Court this afternoon.

26 And again we do have a criminal record and  
27 somewhat -- I mean there is a related charge on it

1 but I think that the -- if you look at a time frame,  
2 there may be some degree of overlap and plus it's a  
3 -- it's not another --

4 THE COURT: Well it certainly seems to be in  
5 relation to the related conviction, about the time of  
6 these matters.

7 MS. KENDALL: I would agree, yes.

8 MR. DUNN: Thank you.

9 THE COURT: I mean --

10 MS. KENDALL: Yeah, no there is no doubt about  
11 that.

12 THE COURT: Now counsel, let me just put this  
13 to both of you, because Mr. Justice Berger has made  
14 this clear in a number of cases. That where a Judge  
15 receives a joint submission, particularly in a case  
16 like this that is, I gather, quite complicated and  
17 has involved months of investigation and also much  
18 time in discussions between counsel as to the  
19 vagaries, weaknesses, strengths and so on of the  
20 case.

21 Is there anything that you haven't told me that  
22 lies behind the joint submission that I should be  
23 aware of? That's a nice open question I like to ask  
24 because then when it goes upstairs you see and you  
25 say other things, they say, well you didn't tell the  
26 Judge that.

27 MS. KENDALL: Well, Sir, from the Crown's

1 perspective, the matters that I took into account  
2 were first of all, the significant time savings with  
3 respect to what would have had to have been done by  
4 the laboratories to get this case ready for trial.  
5 It involves a search warrant, there could always be  
6 some sort of challenge to the search warrant of  
7 residence. The search warrant involved informant  
8 information. So I certainly take that into  
9 consideration.

10 Your Honour, I think is right in pointing out  
11 that the previous convictions while somewhat  
12 aggravating, all really fell within the same time  
13 frame. And the other things I took into account was  
14 the significant amount of money, the high end nature  
15 of the --

16 THE COURT: Yes, and in that sense it seems  
17 slightly differentiated from Christopherson, because  
18 there, the amount involved wasn't quite the same  
19 magnitude.

20 MS. KENDALL: Right.

21 THE COURT: And there, the fellow received  
22 three years and eight months.

23 MS. KENDALL: And he had a shotgun in his  
24 home - -

25 THE COURT: Yes.

26 MS. KENDALL: -- and committed offences while  
27 on release.



1 THE COURT: Yes he did have a shotgun -  
2 MS. KENDALL: Right.  
3 THE COURT: -- and that does make that  
4 different, all right. So nothing then counsel, that  
5 hasn't been put out on the table?  
6 MS. KENDALL: No, Sir.  
7 THE COURT: To be viewed by all? Thank you.  
8 Mr. Paolinelli, would you rise? Is there anything  
9 you wish to say on your own behalf?  
10 THE ACCUSED: Your Honour, I messed up badly in  
11 Calgary and -  
12 THE COURT: You are obviously a bright enough  
13 chap that -- that you can coordinate all these  
14 things. You might want to put those skills to good  
15 use on the other side of the law and on the safe side  
16 of the law rather than the unsafe side, but that's  
17 for you to determine while you sit there in prison  
18 over the next while.  
19 Yes, I accept the joint submission, counsel, and  
20 accept all the facts and the guilty plea to all of  
21 the charges before me. And accordingly impose a  
22 sentence, looking at the totality principle, of two  
23 and a half years of federal time.  
24 Now, let's just try to divide this up into the  
25 various -- the failing to appear I think we can  
26 simply say there, 30 days' concurrent to what I am  
27 going to be imposing. The 3095, Count 1, there would

1           be two and a half years. Now it really should have  
2           been at least three years but we have given him  
3           credit for time served of six months, using a  
4           slightly more than two for one principle.

5           Also, Information 5528, Count Number 1, at two  
6           and a half years. And 5528, Count Number 3 -- and  
7           that's possession of what again?

8   MS. KENDALL:                    The mail and the Canada Post key.

9   THE COURT:                      Oh yes. All right, so 60 days  
10           there but concurrent to the two and a half years.  
11           Uttering the forged document, Information 4437, six  
12           months again concurrent.

13   THE COURT CLERK:               Is that Count 3, Sir?

14   THE COURT:                      That is Count Number 1 of 4437.

15   THE COURT CLERK:               And that's a six months?

16   THE COURT:                      Six months, yes.

17   THE COURT CLERK:               Thank you.

18   THE COURT:                      And the forgery also six months,  
19           again concurrent. And the obstructing peace officer,  
20           4437, Count Number 2 -- sorry not 2.

21   MS. KENDALL:                    I think it's 8.

22   THE COURT:                      Yes, 8. 30 days. And Count  
23           Number 9, 90 days. Again, all concurrent. So I  
24           think we have that, do we not? Does that seem a  
25           reasonable division of the total sentence?

26   MS. KENDALL :                   Yes, Sir.

27   THE COURT:                      All right. Madam Clerk, on the

1 Information where two and a half years was imposed,  
2 would you kindly write down that this gentleman  
3 spent --

4 MS. KENDALL: From July 6th, Sir.

5 THE COURT: Yes. Two months and 19 days in  
6 pre-trial custody. And there will be no victim fine  
7 surcharges in the circumstances.

8 MR. DUNN: Thank you.

9 MS. KENDALL: Thank you, Your Honour.

10 THE COURT: Thank you.

11

---

12 PROCEEDINGS CONCLUDED

13

---

14

15

16

17

18

19

20

21

22

23

24

25

26

27

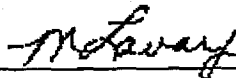
1 \*Certificate of Transcript

2 I hereby certify that the foregoing pages are a true

3 and, faithful transcript of the proceedings taken down by  
4 a digital recording device and transcribed to the best of  
5 my skill and ability.

6 Dated at the City of Calgary, Province of Alberta,  
7 this 4th day of November, 2004

8

  
\_\_\_\_\_  
M. Lavay

9 11

10

12

13

14 /4th November, 2004