

*R. v Vetesnik*, 2006 CanLII 57315 (MB P.C.), [2006] M.J. No. 505 (QL)

**1 year pre-trial plus 3 years imprisonment for making and distributing \$88,000 in counterfeit 50s and 100s**

Mr. Vetesnik pled guilty to possessing equipment for the purpose of making counterfeit money and making counterfeit 50 and 100 bills from June 1<sup>st</sup> to August 16<sup>th</sup>, 2005.

Mr. Vetesnik was involved in a very sophisticated operation which included making and distributing approximately \$87,000 to \$88,000 in counterfeit money. The court noted the impact on society as victims were not reimbursed. In addition, the court noted that businesses with low profit margins would have to make thousands in sales to recoup the loss from a single \$100 counterfeit note.

Mr. Vetesnik was 27 years old and had a very lengthy record for property offences which started when Mr. Vetesnik was still a 16 year old youth in 1996. His record included forgery, theft of credit cards and uttering counterfeit money in 1998. The record was continuous until 2001 when he received a 2 year sentence for possession of a controlled substance for the purpose of trafficking. These were his first convictions since 2001. Mr. Vetesnik indicated his earlier record and recommencement of criminal activity were related to his drug use and the death of his sister.

The court found there were mitigating factors including the guilty plea which saved the Crown from having to conduct a complex preliminary hearing and trial. The court also accepted that Mr. Vetesnik was remorseful and accepted responsibility for his actions. The fact Mr. Vetesnik had a gap in his record from 2001 to 2005 suggested to the court that if he stayed away from drugs he could avoid criminal conduct in the future. In addition, Mr. Vetesnik was still a young man with strong family support.

However, the court felt the sophistication and harm caused to society were key points in the sentencing. In addition, the court held:

The main thrusts of the disposition here speak to general and specific deterrence and of those two, general is by far the paramount. People like Mr. Vetesnik have to be warned that if they are going to enter into these sophisticated operations with the potential of causing great harm to society that they will spend lengthy periods of time in the penitentiary.

The court held the joint submission of 4-5 years was a fair one. The court gave Mr. Vetesnik 2 years credit for his 1 year in pre-trial custody and sentenced him to an additional 3 years imprisonment concurrent on each offence.

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THE PROVINCIAL COURT OF MANITOBA

|                       |   |                    |
|-----------------------|---|--------------------|
| BETWEEN:              | ) | Mr. Z. Tessler and |
|                       | ) | Mr. S. Johnston    |
|                       | ) | for the Crown      |
| HER MAJESTY THE QUEEN | ) |                    |
|                       | ) | S. Pinx, Q.C.      |
| - and -               | ) | for the Accused    |
|                       | ) |                    |
| MARK VETESNIK,        | ) |                    |
|                       | ) | Sentence delivered |
| Accused               | ) | December 1, 2006   |

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CUMMINGS, P.J. (Orally)

Mr. Vetesnik is a 27-year-old man who has pled guilty to two counts, both arising from the summer of 2005, one count of possessing equipment for the purpose of making counterfeit money on August 16th, 2005, and another count from June 1st to August 16th, 2005, of actually making counterfeit 50 and 100 dollar bills.

He is a young man, 27 years old, who comes before the court with a very lengthy property related record. That record started as a youth in 1996 and was pretty well continuous through to 2001 at which time he received a two year sentence for possession of a scheduled substance for the purposes of trafficking. At that time his record ends until the incidents which bring him to court here today. The explanation for the recommencement of criminal behaviour is related to drug use, as all of his record is, and is related specifically to the death of Mr. Vetesnik's sister in Texas, which event was enough to apparently set Mr. Vetesnik off to drug use and led him to commit the crimes here today.

In looking at his record, the court noted that as far back as 1996, he was involved in forgery and theft of credit cards and in 1998 was convicted with a count of uttering counterfeit money. So he had been involved in this type of crime before, however long ago and admittedly as a youth. Certainly Dr. Hershberg indicates in his report that is filed as Exhibit S2 that:

"Mr. Vetesnik went on to explain that he has had a long interest in the making of 'fake money'. He was captivated by the challenge of such an undertaking as he had been told that it could not be done. Initially, he took the challenge on as a 'hobby'. However, because of the product he produced, and how proficient were his endeavours, this hobby took off from there."

That probably is a very gross understatement because the hobby which took off is really a very sophisticated operation of making and then passing through society counterfeit bills.

Learned Crown, both Mr. Tessler and Mr. Johnston, described some of the steps that are involved in Mr. Vetesnik's crimes. Just the commitment of time and effort, as Mr. Tessler indicated to the court, the computers that were purchased and the hard drives, the necessity of using these programs in these criminal purposes, the fact two different printers are used, holographic stripes were put on. Mr. Johnston indicated that other security measures were defeated. The bills have to be cut exactly and the paper has to be manipulated to get the proper feel and texture. All of that just shows the very, very sophisticated crime that Mr. Vetesnik undertook which brought him before the court in 2005.

Then the next stage of that very sophisticated operation was Mr. Vetesnik was able, somehow, somewhere to find so-called cleaners, people who would take the bills from him and pass them in society and bring back a percentage to Mr. Vetesnik as his profits. All of that, together with the hotel room he was found in, just show the very, very sophisticated nature of the crime.

This is a young man who set out intentionally to do this. This was not the type of violent or even many of the property crimes that the court sees day in, day out, which are motivated by sudden events in people's lives or a one night of intoxication. This Mr.

Vetesnik set out while high on drugs and while sober. This was a long planned event that took considerable effort and all of those remarks the court is emphasizing because the sophisticated nature of this operation lies at the heart of this sentence that must be given to Mr. Vetesnik here today.

The bills that have been recovered as a result of Mr. Vetesnik's operation total between \$87,000 and \$88,000. It is very difficult to determine really how much was passed in society but basically somewhere in that range of dollars was passed throughout society with its multiple effects as described by the Bank of Canada affidavit. As the court indicated, the court does not have a lot of sympathy for the Bank of Canada in the sense that much of the affidavit seems to be pleading that if these crooks weren't around that there would not have to be any security measures for our money. That's not true. The security measures would have to be in place at all times. Everyone knows that in society and in fact everyone expects the Bank of Canada to keep our money supply secure and to do that it must stay ahead of all the people out there, including Mr. Vetesnik who wishes to counterfeit bills. So the court has very little time for an affidavit that indicates that the notes that are now developed, called the Canadian Journey notes, now cost nine cents to produce as opposed to 6.5 cents to produce. That is a cost the Bank of Canada could expect as their security measures become more and more sophisticated.

What the court is struck with and what is important here is the victims in society as a result of the crime Mr. Vetesnik has perpetrated, those victims are set out in a very small sort of part on the affidavit, in paragraphs 13 and 14 of the affidavit. "The impact of counterfeiting on the direct victims" is the title of the paragraph and "A. No reimbursement." The paragraph goes on to say:

"Victims of credit card fraud are usually protected from direct financial loss by the card's issuer if they have observed the card issuer's rules of use. In contrast, the Bank of Canada, like all other central banks in the world,

provides no financial protection for a person who accepts a counterfeit bank note. All central banks, including the Bank of Canada, have concluded that providing reimbursement would act as an incentive that would inevitably increase counterfeiting activity."

And then paragraph 14 is entitled "Counterfeiting losses can substantially impact individuals and businesses".

"The loss due to a single counterfeit note can be substantial for an individual on a fixed income or a small retailer with limited revenue. Counterfeiting losses can also have a strong negative impact on larger businesses. Grocers, for example, operate on narrow margins of as little as 1-2%. A grocer must sell \$5,000-\$10,000 worth of goods to recuperate the loss from a single \$100 counterfeit bank note. These losses lead to increased prices that are ultimately borne by the consumer."

That paragraph, one can quibble as learned defence counsel, Mr. Pinx, did and say maybe it is not one or two percent, maybe it is three or four percent or five percent. In any event, at those sorts of profit margins that many businesses in society, as we are very competitive in society these days, with those sorts of profit margins, it takes thousands of dollars to recover from the loss of a single \$100 counterfeit bank note.

Mr. Vetesnik, by his sophisticated operation was responsible for about \$80,000 worth of bank notes to be released into society. Once again, the sophistication, the harm to society are two very key points in the sentencing of Mr. Vetesnik here today.

There are mitigating factors respecting this matter and they are certainly clear and were pointed out by learned defence counsel.

Firstly, Mr. Vetesnik, by his guilty pleas here has avoided the Crown from entering into a complex preliminary hearing and complex trial and certainly that is a factor to be taken into account in deciding sentencing.

Secondly, Mr. Vetesnik's guilty pleas indicate a remorse and an acceptance of responsibility. That, in addition to the statement he gave to the police on an early date are an acceptance of his responsibility and that is an important factor here in determining sentence. It is clear as well that drug dependency drives all of Mr. Vetesnik's criminal conduct and that he has shown from 2001 until 2005 he was able to maintain no criminal conduct, he was able to somehow stay clean. That gives the court hope that Mr. Vetesnik in the future can find a way to stay away from drugs. If he stays away from drugs there will be no reason at all that he might be involved in criminal conduct.

Finally, Mr. Vetesnik is a young man. He has very strong family support as shown by the presence today of his stepfather, who is really, for all intents and purposes, his real father, and his mother. That family support includes, fortunately for Mr. Vetesnik unlike many people who come before this court, financial support as well so that when he is released into society, he need not look to steal, to just maintain a financial status and have a roof over his head.

As well, Dr. Hershberg holds out hope that as a young man, as Mr. Vetesnik is, that he can be a contributing member of society and the court believes that Dr. Hershberg is right in that analysis.

The court has before it a joint range of four to five years for this conduct. The court accepts that that joint range is a fair range to be given to the court. Mr. Vetesnik has served one year of dead time, so-called dead time, and that should be multiplied by a factor of two as is suggested by both counsel to the court.

The main thrusts of the disposition here speak to general and specific deterrence and of those two, general is by far the paramount. People like Mr. Vetesnik have to be warned that if they are

going to enter into these sophisticated operations with the potential of causing great harm to society that they will spend lengthy periods of time in the penitentiary. Given that fact, the court has a tendency to go on the upper end of the range as suggested by learned counsel and that in fact will be the disposition of the court. It will be one year time served followed by a further three years of incarceration.

Are there other matters that must be dealt with today respecting this, Mr. Tessler, Mr. Pinx?

MR. PINX: No, Your Honour.

MR. TESSLER: Your Honour, the order for confiscation has been made?

THE COURT: Was made, yes.

MR. TESSLER: That is it, Your Honour.

THE COURT: And that is a concurrent disposition on both and of course given the nature of the disposition, waiver of the surcharges.

MR. TESSLER: Thank you, Your Honour.

THE COURT: Good afternoon.

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