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Citation: HMTQ v. Pouyan  
2004 BCSC 1067

Date: 20040628  
Docket: 48659  
Registry: Chilliwack

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Oral Reasons for Sentence  
Mr. Justice W.G.E. Grist  
June 28, 2004

**HER MAJESTY THE QUEEN**

**AGAINST**

**MATIN POUYAN**

Counsel for the Crown

R. McLeod

Counsel for the Defendant

P. Derksen

[1] **THE COURT:** Mr. Pouyan was arrested February the 14th, 2004 at a nightclub in Abbotsford where he produced and discharged a 9mm Glock semi-automatic pistol. The gun was fully loaded with 15 rounds of ammunition. He has pled guilty to possession of the weapon for a purpose dangerous to the public peace and carrying a concealed weapon.

[2] Mr. Pouyan was seen loading the pistol on the street prior to entry to the crowded nightclub. He apparently was going to deal in some fashion with one or a number of individuals inside of the premises. When he found them, there were words exchanged and Mr. Pouyan drew and fired the gun. He apparently did not aim at anyone in particular and the round went into a wall. Mr. Pouyan was set upon by the individuals he was confronting and received a significant beating before the bouncers were able to get him out of the area.

[3] Mr. Pouyan is now 23 years of age and lives with his mother and younger brothers. He is from Iran and has been in the country for approximately three to four years. He has a prior conviction for possession of a restricted weapon, a conviction entered six months prior to these events. He was on probation at the time of the offence. Possession of the firearm was a breach of an express provision of the probation order and the ten-year weapons prohibition imposed on the conviction.

[4] The Crown's position is that the range indicated by the Court of Appeal in the exacerbated circumstances of this offence is between 15 and 18 months incarceration. With nine months credit for the four-and-a-half month pre-disposition custody, this would result in a sentence of five to nine months further incarceration.

[5] The predominant sentencing principles are deterrence and denunciation. Possession of a handgun has always been judged to be a serious matter, highly regulated by Canadian law. The purpose has been to try to secure the public from the extreme violence associated with the prevalence of these weapons. These are weapons that have few legitimate uses.

[6] Hand in hand with this, denunciation of offences involving gun use expresses the value Canadian society places on a freedom from the fear associated with widespread access to this form of deadly force. If deterrence has any effect, it is most likely to operate in circumstances where the offence, as here, requires prior enterprise to gain the means to break the law. Obtaining a handgun for illegal use is not an impulse crime.

[7] The exacerbating features here are:

1. Possession for the premeditated purpose of confronting those the accused was going to deal with.
2. Actual discharge of the weapon in the crowded nightclub.
3. The prior record and complete disregard for the outstanding terms of prohibition and probation.

[8] On review of the B.C. Court of Appeal authority I agree with the Crown's submission that the appropriate range in similar circumstances is 15 to 18 months and wonder, quite frankly, whether this range is sufficient in light of the seemingly increased illegal presence of these highly destructive weapons.

[9] Here I impose a further jail term of nine months concurrent on each charge, to effect an overall sentence of 18 months after consideration of time served. In accordance with Section 109 and the circumstances of this offence, I increase the weapons prohibition to a lifetime term. That prohibition prohibits an individual from more than firearms but most notably it prohibits firearms and ammunition.

"W.G. Grist, J."

The Honourable Mr. Justice W.G. Grist