COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Disher, 2020 ONCA 710
DATE: 20201109
DOCKET: C68327 and C68459

Feldman, Gillese and Miller JJ.A.

DOCKET: C68327

BETWEEN

Her Majesty the Queen

Respondent

and

John Disher

Appellant

DOCKET:C68459

AND BETWEEN

Her Majesty the Queen

Respondent

and

Reana Weaver

Appellant

Jeffery Couse, for the appellant John Disher

Leah Gensey, for the appellant Reana Weaver

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Tanit Gilliam, for the respondent

Heard by videoconference: October 8, 2020

On appeal from the sentences imposed on October 18, 2019, and December 17, 2019, by Justice James A. Ramsay of the Superior Court of Justice.

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Gillese J.A.:

I. OVERVIEW

[1] These two sentence appeals arise from events that took place on October 18, 2017. That day, police executed a search warrant on John Disher's unoccupied hotel room in Welland, Ontario, and seized packets containing 42.6 grams of mixed powder substances from a safe in the room. The substances included heroin, fentanyl, and derivatives of fentanyl. Carfentanil was found in one of the packets. The police also seized 47.5 grams of marijuana, two spring-loaded knives, and packaging material consistent with trafficking.

[2] That evening, the police conducted a traffic stop and arrested Mr. Disher and his girlfriend, Reana Weaver. Mr. Disher was seen to be throwing baggies out of the car window. The baggies weighed a total of 1.1 grams and contained a combination of fentanyl and other substances. Mr. Disher had in his possession a pair of brass knuckles, a cell phone, and currency ($250). He was subject to a weapons prohibition at the time. Ms. Weaver was found to have $190 in her purse,

along with a baggie containing methamphetamine and another baggie containing residue of heroin and cocaine.

[3] At the time of his arrest, Mr. Disher had been on release on recognizance for only two weeks on other drug charges.

[4] On the first day of trial, Mr. Disher pleaded guilty to all charges against him. He was convicted of a number of drug offences, possession of the proceeds of crime, possession of a prohibited weapon, breach of probation, and breach of recognizance.

[5] At Mr. Disher's sentencing hearing, the Crown asked for a sentence of 12 years' imprisonment. The defence sought a sentence in the range of five to seven years.

[6] The sentencing judge found that Mr. Disher was the principal actor in the drug trafficking and that the heroin being trafficked was adulterated with Schedule I substances that included cocaine, fentanyl, analogues of fentanyl, and, in one packet, carfentanil. The sentencing judge stated that fentanyl is a particular problem in Welland, where the offences took place. He noted that, at Ms. Weaver's trial, he heard that all heroin sold in Welland is now adulterated with fentanyl. He stated that the presence of fentanyl, and especially carfentanil, took the offences outside the normal sentencing range for heroin trafficking. The gravity of the offences, coupled with Mr. Disher's serious criminal record – which included

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numerous drug trafficking convictions – led the sentencing judge to conclude that the sentence fell in the range suggested by the Crown. He sentenced Mr. Disher to 12 years' imprisonment less credit of 7.5 months for pre-trial custody.

[7] Ms. Weaver, his co-accused, pleaded guilty to possessing a controlled substance (the methamphetamine located on her person at the time of arrest), breach of recognizance, and two counts of breach of probation. The matter went to trial on the balance of the offences.

[8] Mr. Disher voluntarily testified at Ms. Weaver's trial as part of her case. He claimed sole ownership of the drugs and weapons. His evidence was rejected and Ms. Weaver was convicted of the offences before the court.

[9] At the time of the offences, Ms. Weaver was 22 years old and had had minimal involvement with the criminal justice system having received a conditional discharge and two years' probation in 2016 for drug offences. She was also prohibited from associating with Mr. Disher. By the time the matter reached sentencing, she was 24 years old.

[10] At Ms. Weaver's sentencing hearing, the Crown sought a custodial sentence of eight years and the defence sought a custodial sentence of two years. She was sentenced to seven years' imprisonment less credit of six months for pre-trial custody.

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[11] Mr. Disher and Ms. Weaver both apply for leave to appeal against sentence. If this court grants leave and allows his appeal, Mr. Disher asks that it substitute a sentence of eight years' imprisonment. Ms. Weaver asks that her appeal be allowed and a sentence of four years' imprisonment be substituted.

[12] For the reasons that follow, I would grant leave and allow both appeals.

II. THE GOVERNING LEGAL PRINCIPLES

[13] Pursuant to *R. v. Lacasse*, 2015 SCC 64, [2015] 3 S.C.R. 1089, the following legal principles govern sentence appeals.

[14] Sentencing judges are in the best position to determine just and appropriate sentences. Therefore, as an appellate court, this court must show considerable deference to the sentences imposed by trial courts. Appellate interference is warranted in only two situations. First, where the sentencing judge commits an error in principle, fails to consider a relevant factor, or erroneously considers an aggravating or mitigating factor, and the error had an impact on the sentence (*Lacasse,* at para. 44). Second, where the sentence imposed is demonstrably unfit (*Lacasse,* at para. 51). In both situations, the appellate court may set aside the sentence and conduct its own analysis to determine a fit sentence in all the circumstances.

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III. MR. DISHER'S SENTENCE APPEAL

A. The Issues

[15] Mr. Disher acknowledges that deterrence and denunciation are the primary sentencing objectives for the offences for which he was sentenced and does not dispute the aggravating factors identified by the sentencing judge. He submits, however, that:

a. the sentencing judge erred in unreasonably discounting the mitigating factor of his rehabilitative efforts while in custody awaiting trial; failing to consider his prospects for rehabilitation; and rejecting undisputed facts in his pre-sentence report without affording counsel the opportunity to make submissions; and

b. 12 years' imprisonment is a demonstrably unfit sentence.

B. Analysis

[16] I accept that the sentencing judge erred by failing to consider Mr. Disher's rehabilitative prospects. As that error necessarily impacted on the length of the sentence imposed, I would allow his appeal on that basis.

The Complaints in the First Ground of Appeal

[17] I begin by considering the three complaints Mr. Disher makes on the first ground of appeal.

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[18] Mr. Disher's first complaint is that the sentencing judge unreasonably discounted his rehabilitative attempts while in custody. By rehabilitative attempts, Mr. Disher is referring to the numerous programs he took while in custody awaiting trial on these offences. Those programs include, among others, the successful completion of: Planning for discharge; Discovery of areas of growth; Exploration of family life dynamics; and two sessions of the four-part Celebrate Recovery program.

[19] The sentencing judge listed the programs Mr. Disher had taken while in prison and stated, "None of this has deterred him from or is likely to deter him from drug trafficking by itself". Respectfully, the conclusion that the programs had not deterred Mr. Disher from trafficking reflects a misapprehension of the evidence. Mr. Disher took the programs after the offences had been committed and while he was in prison awaiting trial. Therefore, the programs could not have had an impact on his commission of the offences for which he was being sentenced. The real question for the sentencing judge was whether the programs Mr. Disher completed might assist in his rehabilitation going forward.

[20] In my view, the answer to that question is "yes": the programs might have a mitigating effect on Mr. Disher's rehabilitation. The pre-sentence report discussed Mr. Disher's estrangement from his family and the role that may have played in his lifestyle choices. One program that he completed explored family dynamics and might assist him in coming to grip with those issues. More significantly, in my view,

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are the programs that Mr. Disher completed that may assist with his drug addiction. While in custody, he completed the Celebrate Recovery program not once but twice. This is a positive step in dealing with his addiction. Further, Mr. Disher has struggled to find employment in the past and some of the programs he took should assist him in finding and maintaining employment on release from custody.

[21] Mr. Disher's second complaint is that the sentencing judge failed to address his rehabilitative potential. The Crown submits that the sentencing judge was addressing rehabilitation when he described Mr. Disher as "a hardened, long-time, street-level drug trafficker" who had not been deterred by reformatory and the equivalent of penitentiary sentences (the "Statement").

[22] I do not accept the Crown's submission. Section 718 of the *Criminal Code* states that, "The fundamental purpose of sentencing is to protect society and to contribute … to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more" of six specified objectives. Deterring the offender and assisting in rehabilitating offenders are two of those objectives – and both must be addressed when crafting a "just sanction" that meets the fundamental purpose enunciated in s. 718. In the Statement, the sentencing judge is addressing only whether past sentences had fulfilled the objective of specific deterrence. Nowhere in his reasons does the sentencing judge expressly advert to the rehabilitation objective or consider Mr. Disher's rehabilitative prospects.

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[23] Mr. Disher's third complaint relates to the sentencing judge's treatment of his pre-sentence report (the "Report"). The Report had been prepared in 2019 for a prior sentencing proceeding before the same sentencing judge. The sentencing judge said this about the Report:

> I have the benefit of a pre-sentence report that was prepared in 2019 when apparently I sentenced him to the six months on top of his substantial dead time. I treat with caution the self-reported factors in this. I'm sure that at this point of time with all his experience Mr. Disher knows his way around a pre-sentence report.
>
> He claims a rough childhood although when asked for specifics he's not sure of physical violence, but he thinks his stepfather was likely threatening. And he gives as an example that he was required to complete multiple household chores at an early age. That does not strike me as abuse. I think it was rough to the extent that his father left, his mother remarried, and I think he was rebellious from day one. [Emphasis added.]

[24] Mr. Disher submits that these paragraphs show two errors on the part of the sentencing judge. First, he contends that because the Crown did not dispute the facts in the Report, if the sentencing judge was not satisfied with its contents, he should have given counsel the opportunity to either adduce additional evidence or make submissions on the reliability of the evidence in it. Second, he says that the sentencing judge misapprehended the evidence in the Report. The sentencing judge's reference to the completion of household chores at an early age as an example of abuse ignores the Report's recounting of repeated physical assaults at the hands of his stepfather from the time he was a child until he was an adult.

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[25] I accept this submission. The sentencing judge was obliged to consider Mr. Disher's rehabilitative potential and the Report ought to have played a role in that consideration. His remark that Mr. Disher "knows his way around a pre-sentence report" suggests that he did not accept as reliable the information in the Report. As the Crown took no issue with the Report, if the sentencing judge was not satisfied with its reliability, at a minimum, he should have advised counsel of his concerns so that counsel had an opportunity to address them.

[26] Further, the quoted passage shows that the sentencing judge misapprehended Mr. Disher's information about the physical abuse he had suffered at the hands of his stepfather. There is nothing in the Report to suggest that Mr. Disher was unsure about the physical and emotional abuse he had suffered. Nor did Mr. Disher suggest that having to complete household chores from an early age was the abusive behaviour that he had endured. To say that Mr. Disher's childhood had been "rough" because his father left, his mother remarried, and he had been rebellious "from day one", misapprehends the Report's recounting of repeated physical and emotional abuse by his stepfather that continued until he was an adult.

Imposing a Fit Sentence

[27] *Lacasse* is clear: an error in sentencing justifies appellate intervention only when it appears that the error had an impact on the sentence (at para. 44). While

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I agree with the sentencing judge that deterrence and denunciation were the primary sentencing objectives, it was nonetheless an error to fail to consider Mr. Disher's rehabilitative potential. In my view, it appears that the error had an impact on the length of sentence imposed. As this court said in *R. v. Johnson*, 2012 ONCA 339, 291 O.A.C. 350, at para. 18, albeit in the context of consecutive sentences and the totality principle, "where the ultimate effect of the combined sentences is to deprive the offender of any hope of release or rehabilitation, the functional value of these sentencing principles meets the point of diminishing returns". Mr. Disher was 34 years old at the time of sentencing and had not before spent time in the penitentiary. While his prospects for rehabilitation may not have been strong, it was important that the sentencing judge consider them and what effect the combined sentences would have on his prospects for rehabilitation. Accordingly, appellate intervention is justified and it falls to this court to determine a fit sentence in all the circumstances.

[28] The aggravating factors are significant in Mr. Disher's case. At the time of sentencing, he had a serious and related criminal record that spanned 15 years, without any significant or recent gaps in his offending behaviour. Within two weeks of release on recognizance for other trafficking charges, he was trafficking in adulterated heroin that contained fentanyl and, in one instance, carfentanil – and he was running his business in Welland, where fentanyl is a particular problem.

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[29] In terms of mitigating factors, Mr. Disher has a long-standing addiction to crystal methamphetamine. He pleaded guilty to the offences, although on the first day of trial. Importantly, while Mr. Disher had previously been sentenced to the equivalent of penitentiary time, he had never actually been to the penitentiary. And, he had demonstrated some rehabilitative potential by having chosen to participate in virtually every program available to him while he awaited trial, including programs directed at addressing his addiction.

[30] The caselaw on sentences for trafficking in fentanyl is still developing. There are only a few such appellate decisions, which I discuss below. I also set out some relevant lower court decisions. Caution in considering the caselaw is warranted not just because of its inchoate state but also because of the difficulties in comparing quantities of fentanyl given the differences between patches, pills and powder. Bearing in mind these notes of caution, the caselaw indicates that a sentence of eight years is consistent with that received by offenders similarly situated to Mr. Disher, a mid-level recidivist trafficker of heroin adulterated with fentanyl.

[31] The appellant and respondent suggest that the following appellate cases warrant consideration: *R. v. Loor*, 2017 ONCA 696, [2017] O.J. No. 4628, and the cases of Mr. Loor's associates in the trafficking ring; *R. v. Lloyd,* 2019 BCCA 128, [2019] B.C.J. No. 631; and *R. v. Sidhu*, 2019 ONCA 880, [2019] O.J. No. 5630.

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[32] At para. 50 of *Loor,* this court said that offenders who traffic significant amounts of fentanyl should “expect to receive significant penitentiary sentences”. It upheld a six-year sentence for Mr. Loor, a member of a drug-trafficking ring who had trafficked in 45 fentanyl patches obtained through a forged prescription. Although Mr. Loor was a low-level member of the trafficking ring, he played a necessary role in it. He had a criminal record that included a prior conviction for trafficking.

[33] The two higher-ups in the trafficking scheme in which Mr. Loor was involved ultimately received sentences of six years and eight years respectively. See *R. v. Baks*, 2015 ONCA 560, [2015] O.J. No. 3996, supplementary reasons reported at 2015 ONCA 615, reducing a nine-year sentence to six years, with five years concurrent allocated to the 20 fentanyl trafficking counts and *R. v. Sinclair*, 2016 ONCA 683, [2016] O.J. No. 4737, reducing a nine-year sentence to eight years.

[34] In *Lloyd,* the British Columbia Court of Appeal upheld a six-year sentence for an offender found in possession of 51.29 grams of heroin mixed with fentanyl. The offences arose from a violent incident with the police and included a number of other convictions, including for weapons. Mr. Lloyd had ten prior convictions for possession for the purpose of trafficking.

[35] In *Sidhu*, this court upheld a net sentence of eight years and two months for an offender who trafficked in fentanyl, had a prior, related record, and returned to

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trafficking shortly after being released from custody. The quantity of fentanyl in *Sidhu* was 89 grams, more than twice that which Mr. Disher had.[1]

[36] Lower court cases are also consistent with a sentence of eight years. See, for example, *R. v. Baldwin,* [2018] O.J. No. 2447 (C.J.) (eight years; quantity of fentanyl was 115.09 grams); *R. v. Shevalier*, [2017] O.J. No. 7247 (C.J.) (eight years; quantity of fentanyl was 28.13 grams). While the Crown pointed to *R. v. Vezina*, 2017 ONCJ 775, [2017] O.J. No. 6027, where the offender was sentenced to 12 years less pre-trial custody, I do not see it as particularly helpful because the offender in *Vezina* had 204.49 grams of a blend of heroin and fentanyl for the purposes of trafficking – approximately five times the amount Mr. Disher possessed.

[37] Accordingly, I would sentence Mr. Disher to eight years' imprisonment less 7.5 months credit for pre-trial custody.

[38] In light of my conclusion on the first ground of appeal, it is unnecessary to consider the second ground.

[1] This court's reasons in *Sidhu* do not refer to the quantity of fentanyl which Mr. Sidhu was found to have in his possession. The sentencing judge at first instance, in unreported reasons, refers to both 89 and 89.5 grams of fentanyl.

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IV. MS. WEAVER'S SENTENCE APPEAL

A. The Pre-Sentence Report

[39] Ms. Weaver was 22 years old at the time of the offences and 24 at the time of sentencing. A pre-sentence report was prepared for the sentencing hearing (the "Report"), in consultation with Ms. Weaver, her paternal grandmother, her brother, and the operations manager for the Segue Opioid Addiction Methadone Clinic. The Report contained the following information.

[40] Ms. Weaver was born in Victoria, British Columbia. She identifies as Métis. Ms. Weaver was placed in the care of her paternal grandparents in Hamilton, Ontario, from the age of one to twelve or thirteen[2] because of her parents' substance abuse and involvement with criminal activity. She had two biological siblings who were also raised by her paternal grandparents. Her younger sister died of an accidental drug overdose in June 2018.

[41] Ms. Weaver's childhood and formative years were difficult. Her grandfather was an alcoholic and she witnessed domestic violence in the home. At the age of 12, she went to live with a paternal aunt and cousins for two years. She then lived with her biological father for one year, during which she became involved with illicit drug use. By the age of 17, she was living on her own and working periodically.

[2] The record is unclear on whether she was 12 or 13 when she left her grandparents' home and went to live with her paternal aunt and cousins.

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[42] Ms. Weaver's grandmother identified that Ms. Weaver was fifth-generation Indigenous. She herself had not gone to a residential school and neither she nor Ms. Weaver were raised in an Indigenous community.

[43] Ms. Weaver has a grade 11 education and is one credit short of obtaining her Ontario Secondary School Diploma. In relation to the missing credit, she explained that due to her illicit drug use, she missed an exam. While she had received letters of acceptance from two local universities, her admission to post-secondary education was compromised as a result.

[44] Ms. Weaver worked in various capacities in the service industry from the ages of 16 to 19 but, at the time of the offences, she had been unemployed for three years. She expressed interest in securing and maintaining employment.

[45] In 2016, Ms. Weaver was convicted of drug and weapon-related offences for which she received a conditional discharge and two years' probation. At the time of the offences in question, she was bound by a probation order that prohibited her from associating with Mr. Disher.

[46] Ms. Weaver began using ecstasy and cocaine at age 15. She refrained from drug use between the ages of 16 and 18 and then began using drugs again. For the following six years, she used prescription pills, hydromorphone, heroin, and crystal methamphetamine on a daily basis.

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[47] Ms. Weaver reported that she had refrained from illicit drug use for the preceding five months and had been participating in a methadone program prior to her admission into custody. Her participation was verified by the operations manager of the clinic Ms. Weaver attended. The operations manager also confirmed that Ms. Weaver had attended the clinic once per week to see her physician and once or twice per week to provide a urine sample. Ms. Weaver stated that she was willing to attend, and participate in, a residential drug-treatment program for a six-month period.

[48] Following her conviction, Ms. Weaver accepted responsibility for her part in the offences, apologized, and expressed remorse.

B. Reasons for Sentence

[49] After hearing from the parties at the sentencing hearing, the sentencing judge gave a short oral ruling from the bench. He listed the offences for which Ms. Weaver had been convicted and gave a one-paragraph summary of the circumstances in which they were committed. He then gave reasons for sentence of approximately two and a half pages in length.

[50] The points contained in the reasons for sentence are as follows.

- At the time of sentencing, Ms. Weaver was 24 years of age, identified as Metis, and was fifth generation Indigenous. Her ancestors had not been in residential schools.

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- Ms. Weaver had a rough childhood, told the author of the pre-sentence report that she had not used heroin in five months, and was amenable to long-term residential rehabilitation.
- Ms. Weaver was jointly in possession of the items in question with Mr. Disher, who was the main actor in the business. She was a necessary participant in the business.
- Heroin is a dangerous drug and essentially all heroin sold in Welland is adulterated with fentanyl. The nonmedical use of fentanyl is a national crisis and drug users are overdosing in unprecedented numbers.
- The mitigating factors are Ms. Weaver's age, Indigenous heritage, and heroin addiction.
- Heroin demands that "deterrence be paramount" and fentanyl and carfentanil "do so even more".
- The breach of recognizance requiring Ms. Weaver to stay away from Mr. Disher was serious and flagrant.

[51] The sentencing judge concluded his reasons with the following:

> For similar offences involving heroin and fentanyl, the provincial judges in Niagara and I have imposed sentences in the eight-year range on first offenders or offenders without much of a criminal record.

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> In the circumstances of this particular case something like that seems to be about right, subject to a reduction based on the offender's Indigenous heritage and taking into account the fact that she is an addict.

[52] He then assigned the sentences for each offence to arrive at the equivalent of a seven-year sentence.

C. The Issues

[53] Ms. Weaver acknowledges that, in sentencing an offender for possession of controlled substances for the purpose of trafficking, the sentencing objectives of denunciation and deterrence must play a role. However, she contends, the principles of restraint and rehabilitation should also have played a significant role in the sentence imposed in this case.

[54] She submits that the sentencing judge erred in:

a. failing to properly consider the principles of restraint and rehabilitation; and
b. imposing a demonstrably unfit sentence.

D. Analysis

[55] I accept Ms. Weaver's submission on the first issue. As those errors would necessarily impact on the length of the sentence imposed, I would allow her appeal on that basis.

[56] Ms. Weaver was 22 years of age when she committed the offences and 24 at the time of sentencing. She had never before served a period of incarceration,

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having received a conditional discharge for her convictions for drug and weapon-related offences in 2016. The pre-sentence report spoke positively of Ms. Weaver's rehabilitative potential. It noted Ms. Weaver's realistic wishes to apply for post-secondary education and secure legitimate employment; the steps she had taken to address her drug addiction, including refraining from illicit drug use in the previous five months and a willingness to attend a residential treatment program to further address her underlying drug addiction; and that she took responsibility for her role in the offences and expressed remorse for it. In the circumstances, both the restraint principle and rehabilitation were important considerations in fixing the appropriate period of incarceration.

[57] The sentencing judge mentioned Ms. Weaver's age, her Indigenous heritage, and drug addiction in his reasons. However, he did not discuss these matters or indicate what consideration he might have given them in determining the length of the sentence. In arriving at a sentence of seven years' imprisonment, he simply stated that an eight-year sentence was warranted and reduced that by one year "based on the offender's Indigenous heritage and taking into account the fact that she is an addict".

[58] Significantly, the sentencing judge made no reference in his reasons to the restraint principle or how it was consistent with the lengthy penitentiary sentence he imposed on a youthful offender who had never previously received a custodial sentence.

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[59] The principle of restraint, as reflected in ss. 718.2(d) and (e) of the *Criminal Code*, directs that a first period of incarceration imposed on a young first offender should be as short as possible, while giving adequate weight to the principles of general deterrence and denunciation: *R. v. Rocchetta*, 2016 ONCA 577, [2016] O.J. No. 3871, at para. 35. As s. 718.2(e) specifically directs, while the restraint principle should be considered for all offenders, particular attention should be given to the circumstances of Aboriginal offenders, a class of offenders to which Ms. Weaver belongs. Sentencing judges are to give effect to the principles in s. 718.2(e) even where the offence is serious and the sentence involves imprisonment: *R. v. Batisse*, 2009 ONCA 114, [2009] O.J. No. 452, at para. 36.

[60] Nor did the sentencing judge address Ms. Weaver's rehabilitative prospects. He stated that deterrence was the paramount sentencing consideration, given the seriousness of the substances being trafficked. While I agree that general deterrence and denunciation are important factors to be considered in a case such as this, it is an error to fail to consider individual deterrence and rehabilitation, especially when sentencing a first offender: *Batisse*, at para. 34; *R. v. Thurairajah*, 2008 ONCA 91, at para. 41; and *R. v. Mohenu*, 2019 ONCA 291, [2019] O.J. No. 2003, at paras. 12-13.

[61] The sentencing judge's failure to consider the principles of restraint and rehabilitation necessarily impacted materially the length of the jail term he imposed. Accordingly, appellant intervention is justified: *Lacasse,* at paras. 43-44.

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[62] The caselaw indicates that a sentence of four years is consistent with sentences for offenders similarly situated to Ms. Weaver, including in communities where fentanyl is prevalent and a serious problem. See, for example, *R. v. Gagnon*, 2017 ONSC 7470, [2017] O.J. No. 6535 (four years less pre-trial custody) and the sentence of imposed on the co-accused Ms. Clark in *Shevalier* (four years less pre-trial custody).

[63] Accordingly, I would impose a sentence of four years in prison less credit of six months for time served in pre-trial custody.

[64] In light of my conclusion on the first ground of appeal, it is unnecessary to consider the second ground.

DISPOSITION

[65] I would grant both Mr. Disher and Ms. Weaver leave to appeal sentence.

[66] For the reasons given, I would allow Mr. Disher's appeal and substitute a sentence of eight years' imprisonment less credit of 7.5 months for pre-trial custody. I would allow Ms. Weaver's appeal and substitute a sentence of four years' imprisonment less credit of six months for pre-trial custody.

Released: November 9, 2020 ("K.F.")

"E.E. Gillese J.A."
"I agree. K. Feldman J.A."
"I agree. B.W. Miller J.A."

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