

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

ROBERT LEPP

P R O C E E D I N G S

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BROADCAST OR TRANSMITTED PURSUANT TO SECTION 517 (1) OF THE
CRIMINAL CODE OF CANADA BY ORDER OF JUSTICE C. MCLEAN, ONTARIO
COURT OF JUSTICE, DATED SEPTEMBER 1, 2018

BEFORE THE HONOURABLE JUSTICE M. HENSCHEL
on December 9, 2019, at NEWMARKET, Ontario

APPEARANCES:

Mr. G. Elder

Counsel for the Crown

Mr. B. Brody

Counsel for Robert Lepp

MONDAY, DECEMBER 9, 2019:

THE COURT: Could I see the information for Mr. Lepp's matter, please?

MR. ELDER: There should be multiple. It's just the most recent one, alleging an offence date last week that we're dealing with today.

MR. BRODY: Yes, Your Honour, obviously Mr. Lepp can't stand, so I'm gonna speak on his behalf, and I'm gonna ask Your Honour's indulgence that he can't actually stand at this moment. But - in - it's going to be a joint position plea for Your Honour's consideration. Mr. Lepp understands that by pleading guilty to a breach of a probation order, that he has to admit that he was put on conditions and that he intentionally violated one of those conditions. He has to admit that fact. He also understands that the Crown has to prove the case beyond a reasonable doubt at this point. And by pleading guilty, he effectively gives up the right to have them put in the position of having to prove the case beyond a reasonable doubt. So, he's giving up his right to a trial. He also understands that there's going to be a joint position for Your Honour's consideration, but that in the circumstances, if you find that this position is not appropriate, you're at liberty to change it. You're not bound by what the Crown and I say. He also has to understand that nobody can coerce or pressure him into pleading guilty, that it's an admission he has to make on his own, without any coercion or influence. He understands all of those things and

wishes to plead guilty before Your Honour. Is that true, Mr. Lepp?

ROBERT LEPP: Yes.

MR. BRODY: He said yes. He's also a little bit hard of hearing, so if everybody could speak up just a bit, Your Honour.

THE COURT: Okay. And just to confirm, is Mr. Lepp a Canadian citizen?

MR. BRODY: He is a Canadian citizen, Your Honour.

THE COURT: So, there's no there's no potential collateral immigration consequences.

MR. BRODY: There is no collateral immigration issues.

THE COURT: So, I'm gonna pass back the informations. With respect to the December 5th offence date alleging a breach of probation, that's - there's two counts of breach of probation. Is it both counts or one that you wish to have him arraigned on?

MR. BRODY: I, I believe he's pleading to the one count, which is... There was a condition that he not upload the main one of the complainants onto a, onto the internet.

MR. ELDER: So, it's --

THE COURT: Can you take a look at the -

MR. ELDER: It's count 2. It's a breach of probation. Count 1 alleges a breach of recognizance.

THE COURT: All right. If he could be arraigned then on the charge, breach of probation.

CLERK REGISTRAR: Mr. Robert Gordon Lepp, you stand charged on or about the 3rd day of December,

5 in the year 2019, in the township of King, and the
region and municipality of York, did while bound
by a probation order made by the Ontario Court of
Justice on December 4, 2019 without reasonable
excuse, fail to comply with such order namely, not
to mention, that is speak, write, email, post or
10 mention in any other manner or by any method of
social media online media video printed blog
online blog or otherwise mention in any other
manner or by any method, Helen Clarke, Jaclyn
Solomon, Mandie Eddie, or the Time 4 Paws dog
walking business in the any line [sic] media,
except in court, sorry Your Honour. Except in
15 courtroom, or any court documents in a courtroom
or through a member of the Law Society for the
purpose of matter before the court contained in s.
733.1(1) of the *Criminal Code of Canada*. How the
Crown to proceed? [sic]

MR. ELDER: Summarily.

20 CLERK REGISTRAR: Mr. Lepp, how do you plead after
the charges arraigned; guilty or not guilty?

ROBERT LEPP: Guilty.

CLERK REGISTRAR: Thank you, sir.

25 THE COURT: All right. So, sir, if you can listen
carefully, I'm going to ask the Crown to tell me
what the allegations are. Go ahead.

30 MR. ELDER: So, Your Honour starting on Monday of
last week, that would be the 2nd of December 2019,
Mr. Lepp was tried before Justice Rose on an
allegation of two failing to comply with
recognizances. The substance of those allegations
were posting documents containing the names of the

5 three women outlined in the information, on his
blog which is at boblepp.com. He was convicted on
Wednesday morning, that is the 4th of December, by
Justice Rose, of one of those two allegations. He
was sentenced to time served, being, I believe it
was three days in custody -

THE COURT: Okay, sorry, I'm just gonna get you to
slow down a little bit.

MR. ELDER: Sorry.

10 THE COURT: Okay. So, on December 4th he was
convicted of - and what were the offences that he
was convicted of?

MR. ELDER: One count of fail to comply with
recognizance.

15 THE COURT: And that was in relation to
recognizance that prohibited posting, consistent
with the nature of the probation order that he's
now pleading guilty to?

MR. ELDER: Correct.

20 THE COURT: Okay.

MR. ELDER: He was placed on probation by Justice
Rose for three years, containing the term that is
outlined in the information. And to put it in
more simple terms, that he's not to mention their
25 names online, specifically on his blog. On
Thursday, that's December 5th of 2019, Mr. Lepp
posted a blog post to boblepp.com. Inside the
blog post was a scan or picture of a letter sent
to Mr. Lepp from a lawyer representing multiple
30 parties in civil litigation. Within that letter,
was explicitly the name Mandie Eddie. That's M-A-
N-D-I-E, last name is E-D-D-I-E. And, as a part

5 of this plea, Mr. Lepp is admitting that he willfully posted that letter, knowing that in doing so, he was breaching the probation he was placed on the day prior, by Justice Rose. He was also at the time, on a recognizance for outstanding allegations with the same term. Those are the allegations.

10 MR. BRYSON: Those allegations are admitted, Your Honour. Those allegations admitted, Bob? With a slight alteration, the letter was actually directed to his wife, not him.

THE COURT: But he admits that he --

15 MR. BRYSON: And, I'll explain later that that's what sort of infuriated him in putting it up on his blog, 'cause it was sent to his wife. He - he found that objectionable. But he understands that by putting it up, whether he thought it was objectionable or not, that it was a direct violation of his probation. Correct?

20 ROBERT LEPP: Correct.

THE COURT: All right.

MR. BRYSON: You have to speak up, Bob.

ROBERT LEPP: Sorry, correct.

THE COURT: So, upon --

25 MR. ELDER: I'm content with that amendment. -

THE COURT: Upon the admission of the facts and the plea of guilt, there's a finding of guilt. What is the Crown's position as to the appropriate sentence?

30 MR. ELDER: So, if I could speak to Mr. Lepp's record first, Your Honour. As you heard, he was convicted of failing to comply with recognizance

5 on Wednesday, placed on three years probation.
That is the only formal entry on his record.
However, he was also found guilty on Friday of one
count of harassing telecommunications and two
counts of failure to comply. He has brought post-
trial applications and he's not yet been sentenced
on those. So, on his record right now is just one
fail to comply. Mr. Lepp was arrested on Friday.
10 THE COURT: Well, sorry. Back up. At the time
that this offence was committed, he only had the
single conviction for December 4th of 2019. But
he's now been found guilty on the two other
counts, but that post dates this offence.

MR. ELDER: That's correct. Yes.

15 THE COURT: Sorry, go ahead.

MR. ELDER: There is a joint recommendation on
sentence here. Mr. Lepp was arrested on Friday.
Today is Monday. He's served four real days in
custody. The joint suggestion is that that be
20 enhanced to six days and noted and in addition
that he be fined \$1,000. There is not a joint-
submission that - there is no submission that he
be placed on a further probation because the
probation order that Justice Rose put him on is to
25 last three years. In support of this submission -
this was a very direct breach and it's aggravating
that it occurred only one day after he was put on
that probation order. On the mitigating side, I
understand that there are some legitimate health
30 circumstances that Mr. Lepp is facing and has
faced in custody. That has informed my position
on the matter. I'm hopeful that given his time in

5 custody and given a fine, if the court imposes it, that that will be sufficient as a specific deterrent to make sure in the future he does comply with that probation order as well as the recognizance that he's still on as a result of a trial before Justice Harpur. Subject to any questions, those are my submissions.

THE COURT: All right. Your submissions?

10 MR. BRODY: Yes, my friend's taken a very reasonable position under the circumstances. And

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THE COURT: Mr. Lepp?

MR. BRODY: Mr. Lepp.

15 THE COURT: I just want to make sure that you're hearing everything that's happening okay.

MR. BRODY: Can you hear me Mr. Lepp?

ROBERT LEPP: Oh yeah.

THE COURT: Okay. Sorry, go ahead.

20 MR. BRODY: Mr. Lepp has actually never plead guilty to any offence. So, this is the first time he's pleaded guilty so it's - I think that's a mitigating factor. There was *[sic]* numerous charges and he's always, he's always exercised his right to a trial. But this time he admits that he is guilty. In addition to that, his time in

25 custody has been very unpleasant. He's had incredibly high blood pressure. He's had heart surgeries. He's been handcuffed and placed in a detention facility. It's been very difficult for

30 him. And -

THE COURT: Is he

MR. BRODY: - I had a very strong --

THE COURT: Sorry, has he ever been in custody previously.

MR. BRODY: I don't believe he's ever spent more than a --

MR. ELDER: Only at #1 District.

THE COURT: So, he's been released. He's been taken into custody and then released from the police station previously?

MR. ELDER: He spent a night at least on one occasion. But, other than that, yes.

THE COURT: Okay.

MR. BRODY: This is his first time being in jail and I, I had a very strong - I'll use the word strong conversation with Mr. Lepp this morning, and with my friend and before I get into his background. This is what's going to continue to occur, except there's going to be, subject to Your Honour acceding to the joint position, longer and longer terms of imprisonment, should he continue to decide that he wants to breach his probation. I think the Crown is at the point now where they're at a dead end as far as what to do with him other than to incarcerate him. His chances of bail diminish considerably every time he breaches a court order so he's now in a position where he's got to make some very serious decisions on how he wishes to proceed. The background to the story - if I start it, we'd be here till Wednesday probably. So, I'm not going to get into all of, like all of his background. But there's an extensive background to this sordid sort of affair sort of occurred between him and the complainant

5 and this dog park but - what's clear is that Mr.
Lepp has a civil action that can deal with his
difficulties in that regard. He has to stop
contacting these people or uploading their names
on the internet. The reason he did it this time,
and it's no excuse, he advised me that because the
letter was sent to his wife, he thought it was a
bit of a threatening letter to his wife, he took
umbrage with that and posted it. Again, despite
10 his feelings of their wrongdoing or however
objectionable the letter might have been, he
understands that he can't post that letter on the
internet. His blog has been taken down by his
family and the password's been reset. It's their
intention to ensure that he does not re-establish
15 that blog. Their hope is that they've changed the
password and that's the end of his blog. He's 70
years old. He's got the one entry on his record.
Prior to all of this sort of, these charges that
20 have come across the court over the last couple of
years, Mr. Lepp remained out of trouble for the
majority of his life; up until his 60s. He has
one child that's 30 years old. His son's in the
body of the court. His wife is also in the body
25 of the court here to support him today. He's
semi-retired. He worked his whole career as an IT
consultant. He now is working part-time as an IT
consultant. He owns his own business. He helps
Google Maps, he helps businesses with Google Maps.
30 I'm not sure exactly what it is, but it's all, it
has to do with IT. He has some education,
graduated high school and was in IT for the

5 majority of his career. It's a shame that Mr. Lepp has spent until his 60s with no criminal acts prior to this and that this recent sort of situation between him and this group of people has really elevated into something quite serious. He's faced numerous charges over the, in the courts over the last couple of years and, one would hope that they all get settled somehow, they get dealt with in civil court and then Mr. Lepp can enjoy the rest of his life without having to sit in a wheelchair, handcuffed in a courtroom. So, my hope is that he's learned a valuable lesson about the seriousness of violating probation officer orders, that he understands that should he do it again, the court's almost going to be handcuffed, excuse the pun in having to give increased incarceration penalties. And I hope we never see Mr. Lepp before the court again. He can sort out his legal issues the proper, through the proper course and not through contact with any of the complainants. I think it was an excellent idea not to put him on any more probation being that he'll have a three-year probation. I'd ask Your Honour for about six months to pay the fine. Barring any questions, those would be my submissions on sentence.

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30 MR. ELDER: I'll just indicate, I agree with everything that my friend has said. I would like to indicate as well; I did reach out to the complainant on this particular matter. Ms. Eddie, I spoke to her. She's content with the joint submission. She doesn't wish to give a further

Victim Impact Statement. She's already done one before Justice Rose.

THE COURT: Okay, thank you.

MR. ELDER: Thank you.

5 THE COURT: All right. Mr. Lepp, your breach of the probation order was absolutely flagrant. The day after you were placed on probation, you violated the terms of that order. And, it is exceptional to not impose a period of custody for
10 that type of a flagrant disregard for a court order. However, you've entered a guilty plea at a very early stage and have now fully accepted responsibility for that breach. And, I have no doubt, because of your medical situation that your
15 time in custody must have been a difficult time for you. I'm going to give you credit for the time that you've spent in custody on a 1.5 to 1 basis. So, you're receiving credit for six days for the four actual days that you spent in
20 custody. I'm going to impose a \$1,000 fine. And, you'll also be subject to the victim fine surcharge, which is 30 percent of the fine. With respect to the fine and the victim fine surcharge, you'll have six months to pay both the fine and
25 victim fine surcharge. If you are to breach again, this order it is extremely unlikely that you would receive a fine or any non-custodial disposition again, in the future. It is very likely that despite your medical circumstances,
30 that you will spend a much longer period of time in custody. And I hope you appreciate that. Because it's very unfortunate when people have

5 lived most of their lives without ever coming into
contact with the criminal justice system and then
let an emotional circumstances, and I don't know
all the details of what's happened and the
history, but let emotional circumstances get the
better of them so that they breach court orders
and commit criminal offences and find themselves
before the criminal courts. And I hope you can
break that cycle now that you've had the
10 experience of being in custody. And, as a result
of your plea today, I'm going to impose only a
fine for today's purposes, but it's not likely
that that would happen again.

15 MR. BRODY: Thank Your Honour, very much for
acceding to the position. I thank my friend also
for his work and reasonable position in the
matter.

THE COURT: Okay, with respect to the other count.

20 MR. ELDER: Thank you. There's only one count
remaining on that information. That's to be
withdrawn. I want to be clear that the other
informations have remand dates and those are to
return before Justice Harpur. I'm not withdrawing
any of those counts.

25 THE COURT: Okay.

MR. ELDER: And, Mr. Lepp should be aware that
he's also still on the recognizance with respect
to that information, as well as the probation
order.

30 THE COURT: Thank you. So, with respect to the
breach of recognizance count that was on the same
information of the breach of probation order that

you've entered a guilty plea on, that charge is
withdrawn? All other charges remain outstanding.
What's the next court date that you wish to have
this return to?

5 CLERK REGISTRAR: January 6, 2020.

MR. ELDER: That's right.

CLERK REGISTRAR: In 202, 9:00.

THE COURT: Okay.

MR. ELDER: Post-trial applications, potentially.

10 THE COURT: Okay, so we'll adjourn the matter to
January 6, 2020, courtroom 202 at 9:00. To be
traversed before Justice Harpur, is that right?

MR. ELDER: That's right.

THE COURT: Okay, thank you.

15

... E N D O F P R O C E E D I N G

14.
CERTIFICATION

FORM 2
Certificate of Transcript
Evidence Act, Subsection 5(2)

I, SHANNON HARRIS, certify that this document is a true and accurate transcription of the recording of R. v. Lepp in the Ontario Court of Justice held at 50 Eagle Street West, Newmarket, Ontario taken from Recording(s) No: 4911_202_20191209_083810__6_HENSCHMA.dcr which has been certified in Form 1 by Sahar Fanayipour.

February 6, 2020

SHANNON HARRIS

(Date)

(Signature of authorized person)

Legend
[sic] - Indicates preceding word has been reproduced verbatim and is not a transcription error.
(ph) - Indicates preceding word has been spelled phonetically.

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