

Citation: R. v. Mastin  
2007 BCPC 0179

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File No: 183199-1  
Registry: Vancouver

**IN THE PROVINCIAL COURT OF BRITISH COLUMBIA**

**REGINA**

**v.**

**COLIN PETER MASTIN**

**EXCERPTS FROM PROCEEDINGS  
REASONS FOR SENTENCE  
OF THE  
HONOURABLE JUDGE T. J. GOVE**

Counsel for the Crown:

A. Campbell

Counsel for the Defendant:

M. Smith

Place of Hearing:

Vancouver, B.C.

Date of Judgment:

May 22, 2007

[1] THE COURT: After a trial, I convicted Colin Mastin of assaulting Jennifer Ley, a Vancouver Animal Shelter employee, by twisting her hand to get her to give up a leash that was holding the accused's dog, Bandit, who had been taken to the Animal Shelter for wandering without a leash. In doing that, he caused her harm. He damaged her hand which apparently continues to be problematic to date.

[2] I also convicted him of an offence under the ***Prevention to Cruelty to Animals Act***, s. 24(1), by causing his dog, Bandit, to be in distress. After he got Bandit away from Ms. Ley, he put Bandit onto his scooter and hit Bandit's head and back of his neck five to eight times thereby causing the dog to suffer a soft tissue injury and pain. The dog was taken to a veterinarian. By the next day Bandit had recovered. I am making that comment because the injuries to the dog were certainly far less than the injuries to Ms. Ley.

[3] At the time of the offences before me, which occurred on September the 14th, 2006, from the material that I have read, which includes a pre-sentence report, a psychiatric assessment, and several letters from acquaintances of the accused, as well as his mother, it appears as though he led a life outside the criminal courts. He was in his late 30s, educated, employed, athletic, and a keen dog lover.

[4] During 2006, something in his life appears to have gone off the rails. He separated from his girlfriend of many years. He tried to get back with her and she rejected his overtures. He and she had a dog, not the dog in issue here, but a dog whose name was Red. In a dispute over the ownership of that dog, the accused has been convicted of two assaults. One of the persons assaulted was the security person in the building where his ex-girlfriend lived. The other was a person who had *de facto* custody of Red.

[5] The accused was on bail for these two charges when the September 14th incident occurred. With respect to the September 14th incident, the accused was detained, I am assuming on the secondary ground, and I told spent 90 days in remand custody before being released on bail a week or so before the trial before me commenced.

[6] As I say, I have had the benefit, not only of submissions of counsel and some case law, but also of the pre-sentence report, the psychiatric assessment, and letters of reference. It is apparent from both the psychiatric assessment and pre-sentence report that Mr. Mastin is not suffering from a mental illness.

[7] The North Vancouver charges have come to a conclusion and I am informed by counsel that therein he received a suspended sentence for three years of probation which included reporting to a probation officer and attending for assessment and counselling as directed by the probation officer. On this case, the one before me, the Crown submits that I ought to consider a sentence in the range of 30 to 45 days. The Crown concedes or points out, of course, that he has already spent 90 days in custody, 180 days if one was to use the usual formula. In other words, he has served the equivalent of a six-month sentence. Therefore, I think it is common ground that a jail sentence has already been served.

[8] I also note that since he was released from custody, again, mid-December, he has been on bail and there has been no allegations of breaching terms of bail. This indicates to me that if he was not a good candidate for community supervision before his jail sentence, he is now.

[9] The case law on assault or cruelty to animals that I have been referred to is not particularly helpful. The cases are quite interesting. It is not an area of the law that we see much in the criminal courts and it is disturbing to see the ways in which people have found opportunities to be cruel to animals as set out in those cases. The assault, if I can call it that, and injury, if there was injury to Bandit, is certainly far less than any of the cases I have been referred to.

[10] Although his conduct caused the dog distress, I do not believe that Mr. Mastin intended to do so. I think, in the vernacular, he lost his temper and struck out inappropriately. The assault and injury of Ms. Ley causes me greater concern. She was doing her job. In fact, she was trying to help Mr. Mastin get his dog to his vehicle. He conducted an assault on her in a manner that is, frankly, outrageous.

[11] The time that he has spent in custody I am satisfied has served as deterrent for future assaultive behaviour. The assessment and counselling that has been ordered in the North Vancouver court will help him, I hope, address any problems in that regard and, in particular, addressing his relationship issues, referring there to the break-up with his girlfriend. It seems to have been the triggering point for his conduct in North Van and perhaps here.

[12] I am not satisfied that Mr. Mastin is a danger to dogs. In fact, his dog relationships seem to be the most important in his life. It would serve no purpose to exclude dogs from his life.

[13] Accordingly, on Count Number 1, which is the assault of Ms. Ley, I am sentencing him to one day. He need not go into custody. That reflects 30 days time served. On both that count and Count 2, on which there will be a suspended sentence, he will be on probation for a period of three years. I do not intend to repeat the terms for the North Vancouver order. In other words, I am not going to have him report on this order, as well. It does not make any sense.

[14] He is to keep the peace and be of good behaviour. He is to have no contact directly or indirectly with Jennifer Ley and he is not to be at the Animal Control Shelter on Raymur Street in Vancouver or within one block thereof.

[15] The victim fine surcharge will stay on and it will be payable on or before July 3, 2007.

(REASONS FOR SENTENCE CONCLUDED)