

Exl.
Ban Appln

VANCOUVER REGISTRY
COURT FILE NO. 24922

IN THE SUPREME COURT OF BRITISH COLUMBIA

**CANADA
PROVINCE OF BRITISH COLUMBIA
CITY OF VANCOUVER**

HER MAJESTY THE QUEEN

AGAINST

DENNIS KARBOVANEK

STATEMENT OF FACTS

Pursuant to Section 655 of the Criminal Code of Canada R.S.C., 1985, Chapter C-46 and Amendments thereto, the following facts are hereby admitted for the purpose of dispensing with the proof thereof at trial:

1. Christopher Mohan resided at the Balmoral Tower and he was not associated to Corey Lal or anyone else in Suite 1505.
2. Edward Schellenberg and his nephew had been at the Balmoral Tower all day to complete the semi-annual fireplace maintenance in the suites. They were just completing the last of those fireplace checks on the 15th floor. Edward Schellenberg told his nephew to complete the maintenance in Suite 1508, and to leave when he was finished. Edward Schellenberg's last suite to check was Suite 1505. He had no association to Corey Lal or any other occupant in that Suite.
3. A Building Manager at the Balmoral Tower went up to the 15th floor of the Balmoral Tower as they had not heard from Edward Schellenberg that he was

done. The Building Manager arrived at Suite 1505 just before 1628 hours. He went into the Suite, saw the six occupants and believed initially that there may have been a gas leak. He asked his wife to call 911 and she did at 1628 hours. Police arrived soon after and the scene was secured. After concerns about a gas leak were ruled out, it was apparent that it was a crime scene.

4. The bodies of Ryan Bartolomeo, Corey Lal, Michael Lal, Christopher Mohan, Edward Narong and Edward Schellenberg were removed from suite 1505. The bodies were examined by a Forensic Pathologist who determined that the cause of death for each of the deceased: Ryan Bartolomeo, Corey Lal, Michael Lal, Christopher Mohan, Edward Narong and Edward Schellenberg were fatal gunshot wounds.
5. As a result of public safety issues, KARBOVANEK had been under Police guard since February 12, 2009. KARBOVANEK and Police Officers spoke about this matter and ultimately KARBOVANEK expressed interest in pleading guilty for his involvement in the Surrey 6 Murders. He was advised to seek independent legal advice, and did so.
6. On April 3, 2009 KARBOVANEK entered pleas of guilty to three counts of second degree murder for the murders of Christopher Mohan, Ryan Bartolomeo, and Michael Lal, and one count of conspiracy to murder Corey Lal.
7. On April 3, 2009 BACON and HAEVISCHER were arrested. On April 4, 2009 an Information was sworn charging HAEVISCHER and JOHNSTON with six counts of first degree murder for the murders of Ryan Bartolomeo, Corey Lal, Michael Lal, Christopher Mohan, Edward Narong and Edward Schellenberg. BACON is charged with one count of first degree murder for the murder of Corey Lal. BACON, JOHNSTON and HAEVISCHER are also charged with one count of conspiracy to murder Corey Lal.

DATED THIS DAY OF APRIL, 2009 AT THE CITY OF
, PROVINCE OF BRITISH COLUMBIA

Leonard Doust, Q.C.
Counsel for Dennis Karbovanec

Melissa Gillespie
Crown Counsel

PART 1

Crown's Sentencing Position

The Accused Dennis Karbovanec has pled guilty to three Counts of Second Degree Murder and one Count of Conspiracy to Commit Murder. The Crown requests the Court order that the Accused be sentenced to life imprisonment and not be eligible for parole for 15 years on the three counts of Second Degree Murder, and that he receive a sentence of life imprisonment for the Conspiracy Count.

PART 2

Criminal Code Sections

Principles of Sentencing:	s. 718; 718.1; 718.2
Parole Eligibility:	s. 745(c); 745.4
DNA Order:	s. 487.04; 487.051
Firearms Prohibition:	s. 109

PART 4

Victim Impact

1. Victim Impact Statements have been prepared by family members of the deceased, and have been entered as Exhibits. The Victim Impact Statements are from the following persons:
 - A. Eileen Mohan, mother of Christopher Mohan,
 - B. Cheryl Lal and Michael Lal, mother and father, Jourdane and Natasha Lal, sisters of Micheal and Corey Lal,
 - C. Rose-Marie Bartolomeo, mother, and Felicia Bartolomeo, sister of Ryan Bartolomeo,

D. Lois Schellenberg, wife, and Rachel Schellenberg, daughter of Edward Schellenberg.

2. All those involved have been irrevocably and significantly impacted by the deaths. That impact will last the rest of their lives. They have all eloquently expressed their deep and unabiding grief for the tragic and senseless deaths that have taken their loved ones from their lives.

PART 5

Sentencing Principles and Ranges

A. Judicial Discretion with Respect to Parole Eligibility on Second Degree Murder Convictions

3. Section 745.4 of the Criminal Code confers discretion on the Court to set parole ineligibility at between 10 and 25 years.
4. In R. v. Shropshire, [1995] 4 S.C.R. 227 at paragraph 27, the Supreme Court of Canada held that:

... as a general rule, the period of parole ineligibility shall be for 10 years, but this can be ousted by a determination of the trial judge that, according to the criteria enumerated in s. 744, [now s. 745.4] the offender should wait a longer period before having his suitability to be released into the general public assessed. To this end, an extension of the period of parole ineligibility would not be "unusual", although it may well be that, in the median number of cases, a period of 10 years might still be awarded.

5. And at paragraph 29:

In permitting a sliding scale of parole ineligibility, Parliament intended to recognize that, within the category of second degree murder, there will be a broad range of seriousness reflecting varying degrees of moral culpability. As a result, the period of parole ineligibility for second degree murder will run anywhere between a minimum of 10 years and a maximum of 25, the latter being equal to that prescribed for first degree murder.

6. In fixing parole ineligibility, s. 745.4 of the Criminal Code directs the court to consider the following:

- i. The character of the offender,
- ii. The nature of the offence,
- iii. The circumstances surrounding its commission, and
- iv. The recommendation of the jury, if any, made pursuant to s. 745.2.

B. Codified Principles of Sentencing

7. Also applicable to this hearing are the principles of sentencing as set out in the Criminal Code at ss. 718, 718.1 and 718.2:

718. The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, 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 the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

718.1 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, . . .
- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; . . .

C. Sentence for Conspiracy to Commit Murder

Pursuant to Section 465(1)(a) of the Code, the maximum sentence for Conspiracy to Commit Murder is life imprisonment.

PART 6

Application to Dennis Karbovanec

A. Character of the Accused

a) General Background

8. The Accused is presently 27 years old, and was born on August 2, 1981. He is single and has no children. He was addicted to Oxycontin at the time of the commission of these offences.

b) Previous Criminal Record and Lifestyle



9. The Accused has a criminal record, which has been entered as an Exhibit. There are four convictions from 2006-2007: one breach of recognizance, one producing a controlled substance, one possession of a Schedule II substance for the purpose of trafficking, and one possession of a restricted firearm with ammunition.
10. At the time of the offences at bar, the Accused was a member of the Red Scorpion Gang.

c) Attitude, Including Remorse and Victim Empathy

11. The Accused has pled guilty at the earliest opportunity, [REDACTED]. He is remorseful for his actions.

B. Nature of the Offence and Circumstances Surrounding the Commission of the Offence

12. These offences are very grave, and the Accused's moral culpability was great.

C. Other Aggravating and Mitigating Factors

13. The most significant mitigating factor in the case at bar is the Accused's guilty plea.

D. Sentencing Principles

14. The Crown submits that the predominant objectives are the protection of the public, denunciation, deterrence and retribution. The Accused will be sentenced to life imprisonment, and will be subject to monitoring for the rest of his life. The National Parole Board will determine when, if ever, he is suitable for release back into the community.

PART 7

Conclusion and Additional Orders Sought

15. The Crown seeks a sentence of life imprisonment on all four Counts, and a parole ineligibility of 15 years for the Murder Counts.
16. Pursuant to s. 487.051(1) of the Criminal Code, the Crown is seeking an order in Form 5.03 authorizing the taking from the Accused, for the purpose of forensic DNA analysis, any samples of one or more bodily substances that is reasonably required for that purpose, by means of the investigative procedures described in subsection 487.06(1).
17. The order for DNA is mandatory where there is a conviction for murder pursuant to s. 487.04(a)(ii).
18. Pursuant to s. 109(1) of the Criminal Code, the Crown requests a lifetime weapons prohibition pursuant to section 109(3) of the Criminal Code.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9TH DAY OF APRIL,
2009 AT VANCOUVER, BRITISH COLUMBIA.

Melissa Gillespie
Crown Counsel