

Action No.: 131147761P1  
E-File No.: RCP14MURPHYS  
Appeal No.: \_\_\_\_\_

IN THE PROVINCIAL COURT OF ALBERTA  
JUDICIAL CENTRE OF WETASKIWIN

HER MAJESTY THE QUEEN

v.

SKYLAR VINCENT MURPHY

Accused

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P R O C E E D I N G S

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Leduc, Alberta  
December 5, 2013

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1 Proceedings taken in the Provincial Court of Alberta, Courthouse, Leduc, Alberta

2

3 December 5, 2013 Morning Session

4

5 The Honourable Judge White Provincial Court of Alberta

6

7 W.T. Wilson For the Crown

8 T.E. Hayes For the Accused

9 (Agent for P.J. Royal)

10 T. Leier Court Clerk

11

12

13 MS. HAYES: Your Honour, I'm also appearing on the Skylar  
14 matter, I believe is the next one madam clerk has pulled, but with respect to Skylar  
15 Murphy, I'd like to stand that down. He's just arrived this morning and I'd like to  
16 confirm my instructions, although I anticipate will be summarily disposed of this morning.

17

18 THE COURT: Okay. Thank you.

19

20 (OTHER MATTERS SPOKEN TO)

21

22 MS. HAYES: Your Honour, if we could return to the Murphy  
23 matter, Skylar Murphy. Mr. Murphy is present in the courtroom and coming forward.

24

25 THE COURT: Mr. Murphy. All right.

26

27 Yes, possession of an explosive substance, indictable. What does he wish to do today?

28

29 **Election/Plea**

30

31 MS. HAYES: Your Honour, I can advise that I have  
32 instructions to enter a guilty plea to the single-count Information before you. I can also  
33 advise that section 606 has been complied with and I'm satisfied he understands the  
34 nature and consequence of his plea.

35

36 THE COURT: All right. So he is electing to be tried by the  
37 Provincial Court --

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39 MS. HAYES: That's correct.

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41 THE COURT: -- is that correct?

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And offering a guilty plea.

Please stand, Mr. Murphy.

You are offering a guilty plea to being in possession of an explosive substance and you are offering this guilty plea voluntarily, knowing that you are waiving your right to a trial; is that correct, sir?

THE ACCUSED: Yes.

THE COURT: You understand that you will have a criminal record, with this offence on the record. Any submission on sentencing is exactly that, a submission, the court decides the sentence. You understand that?

THE ACCUSED: Yes.

THE COURT: All right. Thank you. Be seated while I hear facts, please.

My I see the Information.

### Particulars

MR. WILSON: Your Honour, an unusual set of circumstances. On September 24th of this year, Edmonton International Airport RCMP received a complaint of a possible explosive device that was seized from a passenger attempting to go through airport security screening. The device was taken from a passenger on September 20th, while attempting to go through pre-flight screening. The passenger was identified as Skylar Vincent Murphy, who presented his carry-on bag for X-ray and inspection by the CATSA - C-A-T-S-A - employees.

An object, which was later confirmed by the RCMP explosive disposal unit members to be a fully functional pipe bomb, was first identified by an employee conducting an X-ray inspection of Murphy's bag. This bag was identified for closer inspection by another employee, who spoke to Mr. Murphy and confirmed that he was the owner of the bag.

Items were taken out of the bag in front of Mr. Murphy. The object was inside a small cloth bag and was made out of a 5 1/2 inch long metal pipe with 2 threaded end caps. One end of the pipe had a fuse sticking out of it that measured over 9 feet long. The pipe was filled with black powder.

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The pipe bomb was not given back to Mr. Murphy, and he was allowed to board his flight to Mexico.

Now, there was a significant delay here between when the pipe bomb was found and when it was seized by the RCMP. The RCMP believe that the pipe bomb -- but the pipe bomb -- they're satisfied that what subsequently was seized was what had been taken from him on the 20th.

So he left Edmonton on the 20th of September, and he returned to Edmonton a week later, on the 27th. Upon his return to Canada, he was arrested for being in possession of an explosive device. He was provided an opportunity to speak to a lawyer immediately upon arriving at the Leduc detachment, and members of the RCMP participated in a warned statement.

Mr. Murphy admitted that he either stole or -- and purchased the necessary material to build the device. Mr. Murphy explained how he and a friend, Tyler Thomas, had built the pipe bomb and planned to blow up a shed. Mr. Murphy also said he wanted to photograph the shed when he blew it up and that was why he had the bomb inside of his camera bag. When Mr. Murphy packed for his flight, he placed his camera bag inside his carry-on duffelbag. He emphatically denied that his intent was to cause damage to the airport or any aircraft. He claimed that he forgot the pipe bomb was inside his camera bag and he did not intend to try to take it on the airplanes -- on the airplane.

Further statements were obtained. A statement was taken from the friend, Tyler Thomas. He confirmed that he and Mr. Murphy made the pipe bomb at his, Mr. Thomas's residence. He also said that Mr. Murphy brought all the material needed for the pipe bomb to his residence, with the exception of the fuse. Mr. Thomas had provided a 10-foot length of fuse that he had been keeping at his residence. Murphy kept the device in his camera bag until the day it was taken from him at the -- at the airport.

So those are the circumstances we're alleging for the purpose of the guilty plea, Your Honour.

MS. HAYES:

That's admitted, Your Honour.

THE COURT:

Thank you. The guilty plea is accepted.

**Speaking to Sentence by Mr. Wilson**

MR. WILSON:

I -- I spoke yesterday to Constable Jim

1 Kirkpatrick, who was -- from K Division, who was in charge of the investigation, and it  
2 appears the police are of the view that it -- this is what it -- what it seems and that they  
3 take him at his word. In fact, the circumstances seem to -- all to lend toward that. What  
4 he says, what his friend says, the fact that he was allowed to board a plane to Mexico and  
5 returned a week later, coming back into the country, the police are of the view that he  
6 didn't have any real intent to -- he didn't have any intent to blow up the airport, blow up  
7 a plane, whatever. He did have some intent with respect to a -- to an old shed on a  
8 property that he and his friend wanted to destroy for fun. So his intent -- he had no intent  
9 when it came to the airport. And, in fact, you know, one -- one would -- on the video --  
10 on the surveillance video, which I didn't view but Constable Kirkpatrick described to me,  
11 he said it was obvious on the surveillance video, when the object was pulled out of his  
12 bag, the shocked reaction that he had, that it is what it looks like.

13  
14 So I have no criminal record to allege, Your Honour. And -- and you can see he's 19  
15 years old - '94, 2004. Yeah, he's 19 years old. A colossal error in judgment and -- and  
16 one -- one could question -- you know, I mean, it could be some cause for concern why  
17 anybody would even be making a pipe bomb. I mean, what's the -- what's the  
18 background there? But in terms of the location, we're satisfied, for the purpose of the  
19 guilty plea, that there was no intent to -- to do harm to people or buildings or -- or planes  
20 at -- at the -- at the airport.

21  
22 It is an unusual set of circumstances. I know that Mr. Clark, I don't know that he -- if he  
23 had any personal contact with defence counsel, but I do know that he had written contact  
24 and a position.

25  
26 It is an unusual circumstance, Your Honour, and, in this unusual circumstance, in terms of  
27 penalty, the Crown's inviting the Court to suspend the passing of sentence, place  
28 Mr. Murphy on a period of probation for 12 months with the statutory conditions, a  
29 condition for counselling as directed - because, again, it is of some concern why -- why  
30 anybody has this sort of a hobby, if you will, if that's what it was, is a -- it's of -- of  
31 concern - a condition that he make a charitable donation of an amount, perhaps \$500, to  
32 the children's -- to the Stollery, or the U of A burn unit, or an appropriate place such as  
33 that, and a condition that he not possess explosives or firearms for the period of the  
34 probation order. And, Your Honour, we're also seeking a forfeiture order under 491 of  
35 the *Criminal Code* of the explosive device itself so that it may be properly destroyed or  
36 otherwise disposed of by the RCMP, as they see fit.

37  
38 Those are the Crown's submissions, Your Honour.

39  
40 THE COURT: Thank you.

41



1 my understanding is some personal items were seized during the execution of a search  
2 warrant of the young -- of Mr. Murphy's house, and I believe Mr. Murphy and his family  
3 are seeking the return of those items.

4

5 MR. WILSON: We have no objection to that, Your Honour.

6

7 THE COURT: So the forfeiture is forfeiture of explosives.

8

9 MR. WILSON: That's right, Your Honour.

10

11 MS. HAYES: And then the remaining personal items perhaps  
12 can be returned to the rightful owners upon attending at the RCMP station within 90 days.

13

14 THE COURT: Anything further?

15

16 MS. HAYES: Nothing, Your Honour.

17

18 THE COURT: Stand up, Mr. Murphy.

19

20 Mr. Murphy, are you aware of the penalty, the maximum penalty, for this particular  
21 offence?

22

23 THE ACCUSED: Yes, Ma'am, five years.

24

25 THE COURT: And what is that, sir?

26

27 THE ACCUSED: Five years imprisonment.

28

29 THE COURT: M-hm. So how do you learn to make a pipe  
30 bomb, Mr. Murphy?

31

32 THE ACCUSED: My friend and I did research on the internet.

33

34 THE COURT: M-hm. And what is your knowledge of,  
35 throughout the world, how pipe bombs are normally used?

36

37 THE ACCUSED: Not to any extent any really knowledge, no.

38

39 THE COURT: I am sorry?

40

41 THE ACCUSED: Not to any extent really knowledge, just what

1 I've basically seen on -- on television and movies.

2

3 THE COURT: Well, you should look into general news  
4 releases. Pipe bombs are used to kill people, to destroy property, they are used in war,  
5 they are used by terrorists, they are used by individuals who are in conflict, and they are  
6 very successful at killing people. Very successful. Or destroying property.

7

8 You decided you wanted to blow up some old shed, and you think you did your research  
9 so well that it would not backfire by one of the screw tops coming directly at you and  
10 hitting you in the chest, or your friend, or anyone else. Or you did your research to  
11 understand that when you blew up the shed, none of the debris would in some way cause  
12 a fire that may spread and cause further damage. Or you did your research to such a  
13 degree that the debris itself did not cause damage to other individuals or yourself. You  
14 did all that research, I am sure.

15

16 THE ACCUSED: No, Your Honour.

17

18 THE COURT: No.

19

20 Where did you get the black powder, the explosive?

21

22 THE ACCUSED: My mother's fiance works for the sheriffs and  
23 we have quite a number of ammu -- amount of ammunition in the house and I utilized  
24 that.

25

26 THE COURT: And I am sure he said, sure, take those bullets  
27 and empty them so you have black powder for pipe bombs.

28

29 THE ACCUSED: It was not to his knowledge.

30

31 THE COURT: Yes, I am sure it was not. So you stole. So  
32 you stole items to get the black powder.

33

34 Where did you get the pipe and the screws on either end?

35

36 THE ACCUSED: At the local hardware store.

37

38 THE COURT: And your friend managed to secure some form  
39 of fuse. Where did that come from?

40

41 THE ACCUSED: To my knowledge, he bought it off of a friend

1 of his.

2

3 THE COURT: A friend of his that just happens to carry  
4 around fuses?

5

6 THE ACCUSED: I had no contact with the said friend, so I -- I  
7 do not know, honestly.

8

9 THE COURT: I doubt very much a lot of people have fuses in  
10 their back pocket in this courtroom today, or anywhere else, so I would imagine if  
11 somebody has a fuse, they have it for other purposes that may be illegal. So if your  
12 friend knows that person, that is not very good for you to know that friend.

13

14 **Sentence**

15

16 THE COURT: Well, I am very concerned, Mr. Murphy, at not  
17 only the fact that you decided to take the route that you decided to take to blow up a  
18 shed, but at the fact that you took such a careless and irresponsible act that brings you  
19 now before a court of law. And the fact that you deceived someone that is reliant upon  
20 your honesty and your respect of that person's property so they do not necessarily get into  
21 trouble through your actions. It is very, very, very serious what you did here. Not only  
22 the fact you take it to the airport, whether or not it was -- well, I accept it was not  
23 intentional, you forgot it. Sometimes people do forget things. Often you see bags and  
24 bags of items that people forgot to take out of their carry-on luggage because they just  
25 forgot. But I have to say, forgetting a pipe bomb is something bigger than a pair of  
26 scissors for your nails. I would think, if I was engaged in stealing from my stepfather's  
27 bullet collection to get the black powder, and creating a pipe bomb, and putting in a fuse,  
28 I would think that I would remember I had a pipe bomb in my camera bag before I went  
29 on holiday to Mexico. So that shows, once again, how incredibly irresponsible you are.

30

31 Your counsel puts to this Court that you have family support, and that is to your  
32 advantage, counsel puts to this Court that you are an active individual in charitable  
33 organizations, and that is to your advantage, but I have to say there is a lot of things that  
34 are not to your advantage in this sentencing, and the biggest thing is the seriousness and  
35 the carelessness that you demonstrated. But I will take into consideration you were 18  
36 years of age at the time, and I will take into consideration that it is accepted that having it  
37 at the airport had nothing to do with the fact you were getting on a plane, and that you  
38 had no intentions on using it while you were on that plane or entering another country.

39

40 If the authorities had missed that pipe bomb and you had gone, in Mexico, through a  
41 screening device, you would not even get a trial, more than likely. You would be in a

1 Mexican gaol and your grandfather and your family would be visiting you in that gaol.  
2 And you would probably be learning Spanish by now, if you survived. I doubt you  
3 would have survived. So this is what you are going to have to use.  
4

5 And kicks like blowing up sheds are not kicks. That is why your counsel said, and  
6 inquired of you, do you have difficulties psychologically because it is no kick to watch  
7 something blow up. That is not a kick, that is not something that is considered to be an  
8 enjoyable time. And if you think it is fun to see things blow up, then I would  
9 recommend that you talk to the Probation Office, because I will go with the joint  
10 submission. But I recommend you talk to the Probation Office and maybe ask to see a  
11 psychologist to ask why you think it is a thrill to destroy. Even if it is an old shed, it  
12 does not matter, you are using an element of violence, a tool of violence to get a kick to  
13 see a shed blow up. Uh-uh, that is not, in my opinion, the way you should be looking at  
14 life.  
15

16 The passing of sentence upon you will be suspended for a period of one year. I will tell  
17 you right now, Mr. Murphy, you breach this order, any term of this order, I am going to  
18 encourage the Crown to bring it back in front of me with a request to have you  
19 resentenced on this particular offence because it will tell me volumes about you which I  
20 do not know at this point - and part of it would be the fact that you are prepared to risk  
21 your freedom by breaching a term of the order - and that way I will know exactly what I  
22 am dealing with when I am sentencing you the next time, if that turns out to be the case.  
23 It better not be. It better not be.  
24

25 Anyway, the passing of sentence upon you is suspended for a period of one year. During  
26 that year you will be bound a probationary order.  
27

28 The terms of the probationary order are to keep the peace and be of good behaviour,  
29 appear before the Court when required to do so by the court, notify the Court or the  
30 Probation Office in advance of any change of name, address or employment, report to the  
31 probation officer today and thereafter as directed by the probation officer, attend all such  
32 assessment, counselling or treatment as may be directed by the probation officer, and you  
33 will actively participate and complete such programs to the satisfaction of the probation  
34 officer.  
35

36 You will provide written verification to your probation officer of required attendance at  
37 and your performance in all matters to which this probation order or your probation  
38 officer directs your attendance, performance or compliance.  
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40 You will not possess, in any way, for the full 12 months, any explosives or firearms or  
41 ammunition.

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How long will it take him to pay a charitable donation of \$500 to the University of Alberta burn unit?

And I am choosing the burn unit for this reason: explosions cause burns and, as a result of that, I think the burn unit would be appropriate place for you to give your charitable donation.

And it will be given to the burn unit by you personally, sir. And when you attend at the burn unit, you may want to see what is the outcome of burns. It is a horrific, horrific injury to sustain to one's body, to be burned.

MS. HAYES: Your Honour, I can advise he indicates that he would require two months to pay that.

THE COURT: Two months. Thank you.

So it will done by the end of February. By February 28th, 2014, you will provide a charitable donation, in person, in the amount of \$500 to the University of Alberta burn unit. Do you understand that, sir?

THE ACCUSED: Yes, I do.

THE COURT: All right.

You will provide proof of such charitable donation to your probation officer by March 14th, 2014.

Any other terms, Crown? Defence?

MR. WILSON: No, Your Honour. Thank you.

MS. HAYES: Nothing, Your Honour. Thank you.

THE COURT: The victim fine surcharge will be imposed, despite the charitable donation, of \$100. Time to pay on the victim fine surcharge will be until the same date of February 28th, 2014.

There will be a forfeiture of all explosive items and including the pipe bomb seized by the police on this matter. It will be forfeited to the Crown for purposes of destruction or disposition, as they deem appropriate.

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I do not think it has to be part of the order, I expect the Crown will instruct any other items seized be returned to their owner.

MR. WILSON: Yes, Your Honour.

THE COURT: Thank you.

Well, Mr. Murphy, I hope this is a learning experience for you and that you utilize this probationary time for reflection and getting information about the seriousness of the offence that you have been found guilty of, sir, because it is extremely, extremely serious. Do you understand that?

THE ACCUSED: I do. Thank you, Your Honour.

THE COURT: Thank you.

Outside and enter into your order, go down to Probation and report in. When Probation advises that you are free to go, then, and only then, are you free to go.

And I would think that you would want to talk to the gentleman whose bullets you stole. I am sure he is aware of that now and you may want to make peace there as well.

Thank you.

MS. HAYES: Thank you very much, Your Honour. That concludes my matters before you.

THE COURT: Thank you.

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PROCEEDINGS CONCLUDED

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