

1. William Bruce. Montague
2. A jury has found William Bruce Montague guilty of 26 firearms offences.
3. Two counts of storing a non-restricted firearm that was not unloaded under section 86 (2) of the criminal code and section 5(1)(8) of the storage display transportation and handling of firearms by individuals regulations made pursuant to the firearms act.
4. Three counts of possessing firearms without being the holder of a license contrary to section 91(1) of the criminal code. Two of these counts were stayed and no conviction has been entered on counts two and 10.
5. Five counts of having in his possession a prohibited device contrary to section 92 (2) of the criminal code
6. Nine counts of possessing a loaded prohibited firearm without a license contrary to section 95 (1) (8) of the criminal code
7. Three counts of altering a firearm so that it was capable of automatic fire during one pressure of the trigger contrary to section 102 of the criminal code
8. Four counts of having possession of a firearm knowing that the serial number on it had been defaced contrary to section 108 (1) (b) of the Criminal Code of Canada.
9. The charges under section 86 (2) carry a sentence of up to two years imprisonment
- 10.The charges under section 91 (1) carry a sentence of up to five years
- 11.The charges under section 92 (2) carry a sentence for a first offender of up to 10 years
- 12.The charges under section 95 (1) (a) carry a minimum sentence on indictment of one year in jail with a maximum of 10 years
- 13.The charges under section 102 carry a minimum sentence on indictment of one year in jail with a maximum of 10 years
- 14.The charges under section 108 (1) (b) carry a sentence of up to five years

15. The Crown proceeded by way of indictment on all charges.
16. Mr. Montague and his family live in an unorganized township outside of Dryden in northwestern Ontario. For years he supported his family working as a gunsmith. When the latest round of firearms regulations were imposed in the late 1990s he and his neighbors objected to many aspects of those regulations. They were particularly concerned about the need to register "long guns" and the complexity of the regulations which could result in honest citizens finding themselves contravening the law and facing serious penalties through inadvertence. There are many people who own guns in the Dryden area with several active gun ranges and the gun clubs. The initial reaction to the proposed regulations was that if everyone refused to comply then the government would have to reconsider its proposals. Most people, however, when the deadline for registration approached, acted as good citizens and registered their rifles and shotguns.
17. Mr. Montague is a man with very set views. "Stiff necked" is the biblical designation for such people. He refused to comply. It is too bad that he did not heed Cromwell's advice to the Scots before he defeated them in the battle of Dunbar: "I prithee for the sake of Christ, consider that ye may be wrong!" The new regulations impacted upon him not just in a personal manner but in a business sense. The complexity of the regulations frightened many gun owners into surrendering their guns. This shrunk the market for a gunsmith. The regulations also made it more difficult to carry on the work of a gunsmith. Mr. Montague was encouraged by others protesting the regulations and he toured Canada trying to enlist opposition to the new regulations. One of his "props" was a single shot .22 rifle of the kind that every 14-year-old boy could buy at one time in Canada and a sign to the effect that this rifle was unregistered and was for sale, the suggestion being that an unlicensed person might buy it. In effect he asked to be charged with contravening the regulations so that he would be in the position to challenge the constitutionality of the regulations in the courts. No one accommodated him by charging him while he was on this tour.
18. By the summer of 2004, however, the patience of the officials was wearing thin. Mr. Montague was arrested with his "prop" at a gun show and his house was searched. A number of guns were recovered in the search but the police were aware, partially because of prior registrations, that Mr. Montague had guns that were unaccounted for. Bail was denied for over a week until these guns were recovered. Finally it is said that the police brought a bulldozer to Mr. Montague's home then showed him a search warrant indicating to him that if he did not voluntarily disclose the location of the missing weapons the police were going to

"tear his house apart" until they found them. To understand the full meaning of this proposition one must understand that the Montague's have constructed, by the sweat of their own labor, a beautiful log house. Faced with the certainty of having his home destroyed he disclosed the location of a hidden room which was accessed through a wall in the basement. There the authorities found many more guns, some of which were prohibited or restricted weapons which were loaded or had ammunition readily available to them.

19. Something like 200 guns were seized, some of which belonged to clients of his gunsmith business. By that time he had surrendered his license to work as a gunsmith in protest.
20. Inspection of the seized materials disclosed that there were not only long guns which were not registered but there were handguns which had been registered by him but which had been "deregistered" when he reported that they had been exported from the country. There were guns which had been converted to automatic fire by him. There were prohibited devices such as those intended to muffle sound. There were those which had had their serial numbers ground off or otherwise defaced.
21. With one exception the constitutional challenge failed for reasons which were delivered sometime ago. That exception had to do with the legitimacy of the minimum term of one year imprisonment mandated by sections 95 (2) and section 102 (2) my decision on that issue was deferred until the sentencing hearing on the ground that the issue might be academic if no conviction was found or the facts justified a term of imprisonment for a period equal to or greater than the minimum.
22. Several factors caused the police to be quite concerned about this accused. There was the large number of guns and the large amount of ammunition in his possession. There were the prohibited items such as illicit automatic weapons and mufflers. There were the automatic weapons whose serial numbers had been removed. There was dynamite. There were books on the creation of automatic weapons, the making of explosives from common household chemicals, survival techniques, and infantry tactics. There was the accused's attempt to justify his possession of these armaments on the ground that the citizen was entitled to be armed to protect himself in the event of the advent of a despotic government.
23. In the result much of this background proved to be a little or no importance. The justification for aims against the government was simply a recitation of the American justification for the right to bear arms reinforced by the English Bill of

Rights of 1689. In fact the accused prove to be a decent, hard-working otherwise law-abiding citizen who could not imagine circumstances which would lead him to take up arms against his government.

24. The manuals were things he had picked up over the years. The survival guides would be on the shelf of many Boy Scouts. The infantry tactics might be on the shelf of anyone interested in military affairs. The manual for making explosives would appeal to people like Mr. Montague who have an inquiring mind. The dynamite was held for peaceful purposes.
25. He says he had the manuals on how to convert rifles to automatic fire in order to better repair the automatic weapons which were legitimately brought to him in the course of his business. This needs to be taken with a grain of salt. Mr. Montague is a skilled gunsmith. The representative from the Crown for forensic sciences was quite open in his admiration for the quality of workmanship Mr. Montague showed in creating the automatic weapons. To some degree he made the weapons in order to see if he could do it. But in some degree he made the weapons because he felt that it might be useful to have automatic weapons sometime in the future. The trouble is that Mr. Montague is cursed with a sense of Armageddon. He has a vision of a world in flames with every man having to look after himself and his family.
26. After considering all of these facts the police concluded that they had a very dangerous man on their hands and treated him accordingly. This included proceeding by indictment on charges which might have been dealt with on summary conviction without a minimum term of imprisonment.
27. Mr. Montague will be 50 years of age this year. He was raised in Niagara Falls. He married his high school sweetheart while attending community college. In 1991 they moved to the Dryden area where they acquired some land in an unorganized township and began to build their dream home from the timber on the surrounding property. This move was motivated by a love of the Pioneer ethos, a feeling that should war come southern Ontario would be too close to the action and a desire to live in an area where one was not impeded by as many petty regulations as were found in the urban areas of southern Ontario. His disenchantment with firearms legislation came early in his life when an automatic weapon he had acquired legally was declared to be illegal and was in effect expropriated without compensation by the government.
28. The couple have two children away at University and one still at home. Mr. Montague worked for a number of years with NCR Waterloo as a highly trained computer technician then opened his own sports shop where he offered

gunsmith services. After the family relocated to Dryden he ran a gunsmith business. He also did other work including operating a water main leak location business providing municipalities with accurate location of water main leaks using electronic equipment which he had developed and adapted for the purpose. He held a trapper's license and a claim staking license. When he refused to renew his firearms licenses upon their expiry under the new legislation he was unable to renew his gunsmith license and vendors permit.

29. Mr. Montague is a person who does not drink to excess, who is frugal, hard-working, and willing to help others. He was a long time active member of the Lutheran church until these charges arose. Then he found it uncomfortable to remain with his congregation and moved to another church. Over the years he has been very helpful to the local school in the presenting of plays and has engaged in other volunteer community work. He has been a productive, useful and valued member of the community. He has no prior criminal record.
30. Unfortunately, Mr. Montague is stubborn and tenacious to a fault. He has acted very foolishly. By his violation of the firearms laws in making automatic weapons and silencers, in grinding serial numbers off his automatic weapons and disregarding the storage regulations he deflected attention from the point he wanted to make: that the new firearms regulations are sometimes ludicrous and unconstitutional. He has also exercised poor taste in involving his young daughter in his campaign for the right to bear arms.
31. The pre-sentence report indicates that there is no significant evidence to suggest that this offender represents an imminent danger to the safety of an individual or the public. While I agree with this assessment on the evidence before me, I would also note that there is no indication that the officer preparing the report discussed the matter with the police or had access to their threat assessment.
32. The Crown takes the position that a conditional sentence is not available in this case where mandatory minimum charges are involved. S 742.1 excepts an offence that is punishable by a minimum term of imprisonment
33. The Crown concedes that there are mitigating circumstances, that is that the accused is a valuable member of his community. The Crown argues that there are also aggravating circumstances, namely the large number of firearms involved, a number of which were loaded contrary to the law, the systematic production of automatic weapons, and the deliberate removal of serial numbers.

34. The legislative scheme is to gradually eliminate certain types of firearms from our society. Those who created the present system chose not to attempt to confiscate these firearms from their immediate owners. Instead a scheme was created whereby those who had lawful possession of such firearms could pass them to a certain class of person, namely others who have lawful possession of similar firearms and immediate family but over time this pool of people who might legitimately possess certain firearms will shrink and eventually disappear. The Crown points out that the introduction of unlicensed automatic weapons defeats this scheme and while Mr. Montague may be a responsible owner there is no assurance that those who subsequently take possession will be the same.
35. The Crown submits that three years penitentiary is appropriate for the offences under sections 102 and 95 and 108 with a year incarceration for the other charges all of which can run concurrently.
36. The Defence submits that the imposition of a mandatory minimum sentence in the circumstances of this case is grossly disproportionate for this offender being so excessive that it would outrage society's sense of decency.
37. The Defence submits that the ability of the Crown to mandate a minimum sentence simply by proceeding by way of indictment rather than by way of summary conviction contributes to the sense of indecency society would feel by the imposition of the mandatory minimum in this case.
38. The Defence submits that prisons should be kept for violent offenders. These are not dangerous people. The Defence submits that in fact he has been convicted of a breach of regulatory offences. While similar factual cases are not easily found the Defence relies upon the decision of R. v. Knight (Dec 11 2007), a decision of the provincial Court of British Columbia where an individual who had possession of some 600 weapons and some 44,000 rounds of ammunition many of which weapons were unregistered and improperly stored was given a conditional sentence notwithstanding that the Crown asked for a sentence of three to four years imprisonment.
39. In determining what I have concluded to be the appropriate disposition in this case I have taken into consideration the fact that Mr. Montague is going to lose approximately 200 firearms many of which show the evidence of his own skillful modifications. This is a substantial blow. In addition to this he experienced some 11 days of pretrial incarceration. He was made to feel uncomfortable enough in his home congregation that he sought another congregation. Over the period of the year this charge has proceeded in this court he has had an opportunity to repent his actions and if he has not acknowledged remorse at least he has

acknowledged regret for getting his family into this situation. I have also taken into account the hardship which his wife will suffer as a result of his incarceration, living in a rural area with a wood furnace to stoke, driveways to plow, cars to maintain.

40. Section 86 (2): Counts 6, 6 I do not consider the offences of storing the two non-restricted firearms in a not unloaded condition are particularly serious in the context of this case. There is no doubt that common sense as well as the regulations dictate that he made a mistake. On the other hand Mr. Montague has been described as a man who was very meticulous around firearms and as an instructor in firearms safety was meticulous in observing and teaching proper firearms etiquette. There were no very young children in the household. The shotgun was stored in their bedroom. They lived in a rural area. Under slightly different conditions he might have stored that shotgun with ammunition readily available. The .22 rifle which was loaded was in the secure room. Only he and his wife had access to this room. It should not have been loaded but the danger it posed was minimized, not minimal, but minimized!

I would suspend the passing of sentence, place the offender on probation for a year on terms that he keep the peace.

41. S. 91(1): Count 1 While it can be argued that the possession of a firearm without being the holder of a license under which you may possess it is a regulatory matter it is important that people understand the importance of these regulations. Obviously the reason why the individual does not have a license is very important. A person who is ineligible for a license or who is engaged in nefarious activities will be treated much more seriously than a person who is inadvertently without a license or who is trying to make a point. But the person trying to make a point must understand that making that point may involve costs.

Deliberate defiance of the law in this respect regardless of the motives calls for a sentence of six months imprisonment.

42. Count 20: S 92(2): The possession of the silenced .22 pistol, the "James Bond" pistol as it was called, must be viewed with some concern. While one can understand how a man with the curiosity and technical skill of Mr. Montague might be tempted to see what he could make and while he might try to justify this as a scientific experiment so that he would be better able to repair the equipment at the mill the end product was a gun which would be very valuable to criminals and ultimately could be expected to find its way into their hands notwithstanding the best of intentions by Mr. Montague. As a judge once said to a horse thief, I am not sentencing you for stealing a horse but rather that horses

may not be stolen. People who are similarly inclined as Mr. Montague must understand that the construction of such a weapon, and it was more than just a silencer, it was a total weapon, even with innocent intention, can expect to be dealt with firmly.

This calls for a sentence of 12 months imprisonment.

43. Count 35: possession of the prohibited device intended to muffle the sound of a fire arm simpliciter without a license by a person who used it simply to keep from disturbing his neighbors can be met by a 90 day sentence to be served in the community.
44. Counts 14, 31 and 38 being possession of oversize magazines can also be met by a 90 day sentence to be served in the community.
45. s 95(1)(a) being possession of loaded prohibited or restricted firearms or prohibited firearms with a readily accessible and ammunition. The criminal code calls for a minimum of one year imprisonment and a maximum of 10 years imprisonment for this offence. The weapons involved were all secured within a room accessible only by Mr. Montague and his wife. Mr. Montague was warned when he started his gunsmith business that undesirable elements might be attracted to it with a view to obtaining guns. Mr. Montague considered that he had a duty to protect the weapons in his possession and a number of the handguns that were loaded were located on a shelf immediately inside the door of the secured room. It can be argued that they posed no threat to anyone else. It does seem strange that there should be a minimum penalty of a year in jail under these circumstances. However given the totality of sentencing in this case I cannot find that the imposition of the mandatory minimum on these charges would shock the conscience.

There will be a term of imprisonment of one year on counts 12, 7, 19, 22, 26, 28, 33, 43 and 45

46. s 102 counts 13, 29, and 34 being the alteration of firearms to fire automatically. This also carries with it a mandatory minimum term of imprisonment of one year with a maximum term of 10 years. I view these charges as the most serious before the court in the context of this case. There was no legitimate reason to have automatic weapons. The manufacture of automatic weapons did nothing to advance his claim that the gun laws in question were unconstitutional. The alteration of these weapons in this manner was simply an exercise of ego proving to himself and perhaps to others that he could do this and that he was immune from punishment for so doing. With his knowledge of firearms

regulations I can only infer that he was well aware of the mandatory minimum prison sentence for what he was doing. This was a deliberate and a dangerous flouting of the law. This is not a case where he was involved in criminal activity otherwise. This is not a case where he did this for financial gain. Both would be aggravating factors. But a message must he sent to those who are tempted to play with semiautomatic weapons that converting them to automatic fire is verboten.

There will be a sentence of 18 months imprisonment on counts 13, 29, and 34

47.s108 Similarly, the deliberate defacing or removal of the serial number on the four weapons named in counts 24, 30, 36. and 37 might have had serious ramifications in the future. There was no legitimate purpose for doing this. Indeed, the actual purpose was to avoid the effectiveness of the regulations. It had nothing to do with challenging the legality of the regulations. That conduct must be denounced.

There will be a term of imprisonment of 12 months on these counts.

48... all of the terms of imprisonment shall be served concurrently. The term of probation and the conditional sentence shall be concurrent and commence upon completion of the custodial sentences.

Summary: total of 18 months imprisonment to be followed by probation or conditional sentence to be served over a period of one year.

Other Orders:

49.Forfeiture: Firearms to the Crown

50.Firearms prohibition: Life