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Chair

Mr. Ed Fast

Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order.

This is meeting 47 of the Standing Committee on Justice and Human Rights. Today is Monday, November 16, 2009.

You have before you the agenda for today. We are finalizing our review of Bill C-36. We have one final witness, Mr. Rick Sauvé. After the witness has testified and we've asked some questions, we'll then move to clause-by-clause.

Welcome, Mr. Sauvé. You've been told what the process is. You have 10 minutes to make an opening presentation and then we'll open the floor to the members for questions.

Please proceed.

Mr. Rick Sauvé (As an Individual): Thank you. I'm pleased to have this opportunity to speak today, but without the faint hope clause, I wouldn't have been able to be here.

In preparation for coming today, I was talking to my grandson this morning, and he asked me what Bill C-36 was about. He asked me to explain it to him in terms he might understand. He's 12 years old and very bright. I've never hidden from him the fact that I'm serving a life sentence. I'm still serving a life sentence, but I'm now in the community.

I explained to him that one of the pillars of our justice system is the jury process. I explained that when I was convicted of first-degree murder and sentenced to parole ineligibility for 25 years, after 15 years I could make application to go back to my community—the community where I was arrested and where the crime had taken place. It was up to the people from my community, 12 men and women, after hearing about the nature of the offence, how I served my time in prison, and my character, to make a decision on whether I would be considered to apply for parole and come back to their community. After a week of trial about my character and what I had been doing in prison for the past almost 16 years—and it wasn't at the 15-year mark that I got to go to court—after all that period of time in prison and after hearing from witnesses who testified about my character, would they feel comfortable with my applying for parole to come back to that community? They voted yes.

When I explained that to him, I said that one of the things we often hear is that the community has an interest about who's going to be coming back into their community. They want to feel a part of that process. They want to know who it is who's going to be their

neighbour. When I explained that to him, he said that it made sense to him and asked, “Why would we change that?”

I could talk about looking at it from a correctional perspective, that it gives hope, and it's a good correctional tool for Corrections to assist people in the rehabilitation process. But I think fundamentally, for me, it was about talking to people from my community and letting them know that I am somebody they can be aware of and that they were a part of that decision-making process. I feel it would be unfortunate if that was removed from them.

Thank you.

• (1535)

The Chair: Thank you very much.

We'll open with some questions, first of all from the Liberal side.

There are no questions? All right. We'll move on to Monsieur Lemay.

Do you have questions?

[Translation]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Mr. Sauvé, thank you for being here today. I don't want to get into the specifics of your incarceration or the sentence you served. If I understand correctly, you were sentenced to life in prison for first-degree murder, and you asked for a jury to be empanelled, in the community where you were judged. Is that what happened?

[English]

Mr. Rick Sauvé: That's correct.

[Translation]

Mr. Marc Lemay: How did you do prepare your case to have it heard by a jury, and how long did it take you? What factors were taken into consideration?

[English]

Mr. Rick Sauvé: My preparation began when I was convicted and went into the prison system. I'd never been in prison before. I'd never spent one second in jail before.

I looked at the sentence, and I looked at the prison environment where I was serving my time, and I knew that was not a place for me. People have asked me how I prepared for my hearing. It began at that point. I realized there was a chance—a chance—that at some point down the road I might be able to return to the community.

When I was convicted, the judge didn't say anything about the judicial review process or a section 745 application. He sentenced me to life and I believed him. I took that seriously.

When I started looking into the law, realizing that I didn't want to be in prison.... I didn't want to be there. I hated every second of it. I realized that if I was ever going to make it back into the community, I was going to have to live my life to the best of my ability inside those prisons. It was that process, and when I came out on parole.... I take parole very seriously, because I can be sent back at any time. A life sentence is forever.

[Translation]

Mr. Marc Lemay: You applied to be heard by a jury while you were sentenced to life in prison. It was in the 15th or 16th year of your incarceration?

[English]

Mr. Rick Sauvé: You're only eligible to apply after you have 15 years in. You have to wait for 15 years.

• (1540)

[Translation]

Mr. Marc Lemay: Are we to understand that you are still subject to the control of correctional authorities?

[English]

Mr. Rick Sauvé: That's correct. In order for me to come here today, I needed to have a travel permit. I need to have a travel permit to go outside the area that I'm in. If I don't, that's a violation of my parole. I can be sent back to prison for that.

[Translation]

Mr. Marc Lemay: They agreed to release you on parole, but what conditions do you have to comply with until the end of your 25-year sentence? How often do you have to report to authorities? Every week? Every month? How are you currently being monitored?

[English]

Mr. Rick Sauvé: I'm going to have to report not for 25 years, but for the rest of my life. When you're on parole with a life sentence in Canada, you're on parole for the rest of your life, and if you don't get parole you never get out. So there are many men and women serving life sentences who are never going to get out of prison. They're going to die in prison. Since I've been out for a longer period of time, the parole board and my parole officer look at that. They can make application to have some of those restrictions removed.

I work for an organization called LifeLine, and since I've been out I've talked to young offenders, high school students, and community groups. I've talked to virtually thousands of people and told them that I am a lifer on parole, and how I got through the sentence and came back into the community. Not one person has ever said that I should still be in prison.

[Translation]

Mr. Marc Lemay: Does that make things hard in your day-to-day life? What is your life like on a daily basis? I know that you have to report to the Correctional Service of Canada regularly. How often? Every week? Every month? What does it entail?

Some people think that once you are released on parole, you are as free as a bird and can do just about anything. Of course, I do not agree with that. Could you tell us what restrictions you will be under for the rest of your life? How does that affect your day-to-day life?

[English]

Mr. Rick Sauvé: I'm in kind of a unique position because I go back into the prisons and work with men and women—men mostly—serving life sentences. I go back inside and go through ion scans and everything else. If I get pulled over by the police, the first thing I have to do is show them my parole papers. For anything—for a RIDE program—I have to notify my parole officer that I've had contact with the police. If I want to travel outside my area where I'm paroled, I have to get permission. I have to carry a travel permit with me. If they say I can't do that, then I can't do that.

If I want to quit my job, I have to get permission. If I want to move, I have to get permission. If they want to have more frequent contact with me, I have to do that. For years I reported to the police on a weekly basis. If there are changes in parole legislation, they directly affect me.

The Chair: Thank you.

Mr. Comartin, you have seven minutes.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you, Mr. Sauvé, for being here. I'm going to ask you a series of questions just to get more history.

Following up on Mr. Lemay's question, my understanding is that you didn't apply in the first year—the 15th year—you applied in the 16th year of your sentence. Is that correct?

Mr. Rick Sauvé: I made application in the 15th year, but then you have to go through the process. A judge has to be picked and a crown attorney. You can only begin the application process after 15 years. You can't begin the process prior to that.

• (1545)

Mr. Joe Comartin: We've heard a fair amount—and it's a specific concern I have with this amendment—about gathering the information of psychiatrists, psychologists, and other people who have assessed you while you were incarcerated, and that it takes some time. What was your experience in that regard? Did you gather that information?

Mr. Rick Sauvé: I did.

Mr. Joe Comartin: How long did that take?

Mr. Rick Sauv : It took several months. I had to go through freedom of information because a lot of the files weren't readily available to me or my lawyer. At the same time as I was doing that, Corrections identified someone as a witness for the courts. They provide documents for the courts. They're not a witness for the applicant or against the applicant; they're a witness for the courts.

As for the way the process works now, a judge determines whether or not there's a likelihood or probability that the application will be successful. So even after the applicant has applied, the judge can determine there's no probability, and that person will not get to apply.

Mr. Joe Comartin: How long after the date in the fifteenth year did you first apply? Did you apply right on the next day?

Mr. Rick Sauv : No. It was a few weeks later.

Mr. Joe Comartin: All right. I'm going to jump to the next question, because we're really tight on time.

From that point when you applied until you actually appeared for that week-long trial in front of a jury, how much time passed?

Mr. Rick Sauv : It was several months.

Mr. Joe Comartin: In total?

Mr. Rick Sauv : Yes.

Mr. Joe Comartin: In that period of time, this other witness for the government, for Corrections, was doing similar work in terms of getting ready for that hearing.

Mr. Rick Sauv : Yes. They do a total file review.

Mr. Joe Comartin: I think you've indicated this, but just to be sure, was that trial in front of the jury in the same community where the murder of which you were convicted was committed?

Mr. Rick Sauv : Yes. It was the same jurisdiction.

Mr. Joe Comartin: Okay. You said that went on for about five days.

Mr. Rick Sauv : Yes. It took about a week.

Mr. Joe Comartin: Okay. In terms of the recommendation from the jury, did they recommend release immediately or were you extended in terms of the first time you could be released?

Mr. Rick Sauv : They recommended that I be released immediately, but that wasn't the case. I still had to go through the parole board process.

Mr. Joe Comartin: How long did that take?

Mr. Rick Sauv : It took about a year before I got full parole, because you have to go through steps. I first made application to go in front of the parole board and was granted unescorted temporary absences. After that, I had to make another application for day parole. After that, I had to make another application for full parole, so at any point during that period the parole board could have said no, and I would have stayed in custody.

Mr. Joe Comartin: Just to do a quick summary, from the date you applied until the day you were out on full release in the community, how much time passed?

Mr. Rick Sauv : It was close to two years.

Mr. Joe Comartin: When was this?

Mr. Rick Sauv : When I made my application, I believe it was either at the end of 1993 or early 1994, and towards the end of 1995 I was granted full parole. I believe it was November 1995.

Mr. Joe Comartin: In the work you do with LifeLine and going into the prisons, have you been involved with other prisoners who have applied for early release?

Mr. Rick Sauv : Yes, I have.

Mr. Joe Comartin: Is the process any different now from what it was at that point? I'm asking this in terms of the length of time that it takes to go through the process.

Mr. Rick Sauv : It takes longer now because, as I say, a judge determines whether or not the application has merit. If the judge determines that it has no merit, the person can't apply.

Mr. Joe Comartin: In your case, did any of the family members of the murdered individual appear at the trial or put in a written statement?

Mr. Rick Sauv : No, they didn't. They were in court every day, but they did not.

Mr. Joe Comartin: While you were in prison, you obtained two university degrees.

Mr. Rick Sauv : I did. I was a high-school dropout, so I finished high school. I did my BA in psychology through Queen's University, I completed my honours year in criminology, and I did most of my master's degree while I was still inside.

• (1550)

Mr. Joe Comartin: Let me just play devil's advocate for a minute to suggest that—I'm making this comment for my friends on the other side of the room—you're one of the exceptional cases. Do you see yourself that way, or do you see other individuals you've come across that way? I'm looking for an analysis of where you fit into the overall parameters of the people who apply and are successful in getting out on early release.

Mr. Rick Sauv : I would say that I'm somewhat exceptional, but that's what this legislation was for. It was for those who do exceptionally well in a prison environment.

I work with men serving life sentences. Most of the men who are serving life sentences now and who are eligible to apply for the judicial review don't; most of them maintain throughout their sentence that they look forward to applying, but once they get to that point, many of them just say no. They say that they don't want to put their victims through that again, that they don't want to put their family through that again, and that they don't want to go through that again.

But it allowed them the hope and the opportunity to seize opportunities inside the prison to try to do well, so that someday they could successfully reintegrate, and that's one of the other aspects of this legislation. It provides hope inside the prison as well as getting out of the prison.

The Chair: Thank you.

Are there any questions on the government side? No.

Monsieur Lemay, Madame Lavall e, any questions? No.

Mr. Comartin, do you want to carry on? No.

Okay.

Mr. Sauv , thank you for attending.

We're going to move to clause-by-clause now on the bill. We'll just give you a moment to leave the table and then we'll go back into clause-by-clause.

We'll suspend for two minutes.

- _____ (Pause) _____
-
- (1555)

The Chair: I'll reconvene the meeting.

We move now to clause-by-clause on Bill C-36, An Act to amend the Criminal Code.

Also, we want to welcome back John Giokas and Catherine Kane, who are with the criminal policy section of the Department of Justice. Welcome back to both of you.

You have before you four government amendments. I trust you've had an opportunity to review them. It's my understanding that all of the amendments were circulated to you by e-mail.

Pursuant to standing order 75(1), consideration of clause 1 is postponed.

(On clause 2)

The Chair: I understand the government has an amendment on clause 2. Mr. Moore, would you like to present the amendment and explain it.

Mr. Rob Moore (Fundy Royal, CPC): Yes, I'll move the amendment. It's a technical amendment bringing the English and French versions into the proper form, and if there's any further explanation anyone needs, there are experts here from the department who can answer them. It's a technical amendment dealing with language.

The Chair: Perhaps we could have a comment from our criminal policy representatives.

Ms. Catherine Kane (Acting Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice): Yes, certainly.

As Mr. Moore indicated, this is simply an amendment to clarify the language. The English and French basically convey the same notion, and that is to explain that once this act comes into force, the provision that it refers to in subsection (1) is not applicable anymore. A more expansive wording was used in the French version, and the proposed motion will make the English more in line with the French version. The effect is the same, so it's basically just an expansion and clarification of the drafting, and only an amendment to change the English version of the bill.

The Chair: Right, thank you.

Mr. Comartin.

Mr. Joe Comartin: Just so I'm clear, we're not changing the wording in the French version at all?

Ms. Catherine Kane: That's correct. We're just making the English more—

Mr. Joe Comartin: In line with the French.

Ms. Catherine Kane: Yes. It's not a translation, but a better interpretation of the French.

Mr. Joe Comartin: Thank you.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 2 as amended agreed to on division)

(On clause 3)

The Chair: On clause 3, we have amendment G-2.

Mr. Moore.

- (1600)

Mr. Rob Moore: This is the same as the last amendment, Mr. Chair. It's just harmonizing the English and French versions.

The Chair: Thank you.

Is there any discussion? I'll call the question on the amendment.

(Amendment agreed to on division [See *Minutes of Proceedings*])

(Clause 3 as amended agreed to on division)

(On clause 4)

The Chair: Moving on to clause 4, we have amendment G-3.

Mr. Moore.

Mr. Rob Moore: I'll move the amendment the same as before, Mr. Chair.

The Chair: Is there any discussion?

Mr. Rob Moore: As with all the amendments we've moved, it's to harmonize the English and French.

The Chair: If there's no further discussion, I'll call the question on the amendment.

(Amendment agreed to on division [See *Minutes of Proceedings*])

(Clause 4 as amended agreed to on division)

(Clause 5 agreed to on division)

(On clause 6)

The Chair: Moving on to clause 6, we have the last government amendment, G-4.

Mr. Moore.

Mr. Rob Moore: This is to harmonize the English and French versions, Chair.

The Chair: It's the same rationale as before.

Are there any questions or is there discussion on the amendment to clause 6? Hearing none, I'll call the question on the amendment.

(Amendment agreed to on division [See *Minutes of Proceedings*])

(Clause 6 as amended agreed to on division)

(Clause 7 agreed to on division)

The Chair: Shall the alternative title carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the title carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the bill as amended carry?

Mr. Joe Comartin: Mr. Chair, we'll need a roll call vote on this one.

The Chair: At the request of Mr. Comartin, there'll be a recorded vote.

[*Translation*]

Mr. Marc Lemay: Oh, it's the whole bill.

[*English*]

(Bill C-36 as amended agreed to: yeas 7; nays 4)

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

Some hon members: On division.

The Chair: Finally, shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Thank you.

There being nothing else on the agenda, we'll adjourn.

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