

IN THE COURT OF APPEAL OF MANITOBA

Coram: Chief Justice Richard J. Chartier
Madam Justice Freda M. Steel
Madam Justice Karen I. Simonsen

BETWEEN:

<i>HER MAJESTY THE QUEEN</i>)	<i>M. G. Enright</i>
)	<i>for the Appellant</i>
)	
)	<i>R. N. Malaviya</i>
<i>- and -</i>)	<i>for the Respondent</i>
)	
<i>CRAIG DORLAND ROBERT HALL</i>)	<i>Appeal heard and</i>
)	<i>Decision pronounced:</i>
<i>(Accused) Appellant</i>)	<i>June 14, 2022</i>

On appeal from 2021 MBQB 147

CHARTIER CJM (for the Court):

[1] The accused appeals against his nine-year sentence for four counts of robbery with a weapon. There is no automatic right to appeal against sentence only. Leave to appeal must first be obtained (see section 675(1)(b) of the *Criminal Code*). For leave to be granted, the accused must demonstrate that the grounds of appeal present an arguable case that the sentence was arrived at through material legal error or was demonstrably unfit (see *R v Catcheway*, 2017 MBCA 87 at para 3).

[2] The accused submits that the sentence imposed is demonstrably unfit as it is harsh and excessive. He notes that the judge stated that a four-

year sentence for one of the four counts was appropriate. He does not take issue with that. Where he says the judge erred is when she increased the sentence from four to nine years solely to avoid giving a “free ride or volume discount” (at para 60) on the other three counts.

[3] A fair reading of the judge’s reasons shows that the concurrent sentence was not increased merely to avoid any “volume discount” concerns but also to address “the entirety of the criminal behaviour in a manner that is proportional to the circumstances of the offence and the offender” (at para 60, quoting from *R v Harper (J)*, 2016 MBCA 64 at para 66). Bearing in mind (1) the accused’s significant related criminal record, (2) that these offences were committed a little over three months after a seven-year sentence involving other robberies had expired, and (3) the highly deferential standard of review applicable on sentence appeals, we are not convinced that there is an arguable case that the nine-year sentence imposed is demonstrably unfit.

[4] Therefore, leave to appeal sentence is denied.

Chartier CJM

Steel JA

Simonsen JA
