

Const. James Forcillo finally runs out of breaks: DiManno

Courts just about always show benevolence for cops, out of respect for the job.



Toronto police Const. James Forcillo surrendered to Toronto police last week. (ANDREW FRANCIS WALLACE / TORONTO STAR FILE PHOTO)

By [ROSIE DIMANNO](#) Star Columnist
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“James Forcillo absolutely does not deserve to go to jail. He is not a criminal. He is a police officer who had an extremely dangerous and tragic encounter. He is a father and a husband. He is my husband, and my best friend. Please, there is so much pain in this situation already, do not break more hearts of those who are impacted directly

by this judgment. Please remember, it is not only James that is being sentenced, it is his wife, and his children as well.”

Irina Forcillo, as she then was, wrote those words on April 12, 2016.

Her husband, as he then was, was awaiting sentencing upon conviction of attempted murder in the shooting death of teenager Sammy Yatim.

Irina Ratushnyak, as she now is, was 15 months away from divorcing her husband, though presumably neither had an inkling of where their marriage was headed. Let us give them the benefit of that doubt.

A lot can happen in a year: The couple, portrayed as mutually devoted and dedicated to preserving their young family — Mrs. Forcillo (*passim*) entered a three-page plea for mercy — parted, divorced and took up with new partners, while continuing to share a home.

But she was, from the outset, wrong in her presentation of the facts, at least as the public probably understood them.

Forcillo, the Toronto police constable, was arguably a criminal at that point and his bail would have been revoked automatically upon conviction. But no conviction was formally entered because Forcillo’s top-drawer legal team immediately filed an abuse-of-process application, a bit of clever manoeuvring which technically meant the trial wasn’t completed.

On July 27, six months after the jury returned its verdicts, Justice Edward Then sentenced Forcillo to six years in prison.

He spent precisely one night in custody before another judge granted bail, pending his appeal of the jury’s verdict and the judge’s sentence.

On the date of sentencing, Forcillo — acquitted on the more serious charge of second-degree murder — was suspended without pay. He’d been suspended with pay since being charged.

Jail rarely does a person good. Few come out better than they went in. There are compelling reasons to set the bar relatively low for bail — for an *accused* awaiting trial and presumed innocent, and where there's no danger posed to the public or a flight risk.

Forcillo was no longer presumed innocent. But bail was extended this past September, days before the first part of the appeal was to be heard. Documents filed by his lawyers stated Forcillo was abiding by his stern house-arrest conditions — his wife and in-laws providing surety. Those conditions included residing at the family home, notifying the Special Investigations Unit of any change in address and remaining in residence at all times except for special circumstances, such as a medical emergency.

Forcillo, as we now learn, allegedly did not abide by the conditions.

His matrimonial situation had changed dramatically. His troth with Irina had dissolved. He'd reconnected with a college friend he'd met in Los Angeles many years ago; indeed, Sara Balderrama had recently relocated to Toronto. She and Forcillo became engaged shortly after his July divorce.

Forcillo was purportedly the person who answered the door of his fiancée's Bathurst St. apartment when a couple of SIU officers came knocking a week ago. "Good morning, James, you are not supposed to be here," one of the investigators said, according to court documents filed on behalf of the attorney general, as the Star's [Betsy Powell reported](#).

The details are yet to be clarified. But Forcillo is a colossally stupid man.

It further underscores the poor judgment he exercised by firing nine shots in two separate volleys at Yatim, the teen brandishing a small flick knife aboard a by-then-empty streetcar in July, 2013. That second volley, with Yatim down but still scrambling for his knife, is what apparently convinced jurors to find Forcillo [guilty on the attempted murder charge](#) but innocent of murder, in an admittedly confusing compromise outcome. While delivering the sentence, Then described Forcillo's actions in those moments as "unreasonable, unnecessary

and excessive,” adding that the shooting — specifically the second volley — constituted an “egregious breach of trust,” further noting that Forcillo expressed no remorse during the trial.

Yet Forcillo has enjoyed every break possible during a legal odyssey that might still continue for years. Because courts just about always show benevolence for cops, out of respect for the job.

Until last week, when Forcillo ran out of breaks.

On Wednesday, Forcillo surrendered to Toronto police, charged with allegedly breaching his bail conditions — failure to comply with his recognizance, led out of court in handcuffs after being remanded for bail. In a brief appearance Friday, he was remanded again, in custody, until Nov. 30 on the breach charge. The Crown is seeking to revoke his bail pending appeal at the Ontario Court of Appeal some time in the next two weeks, though no hearing date has been set. The bail revocation documents state that Forcillo’s sureties “are no longer suitable, having failed to effectively supervise him in the community.” As of 5 p.m. Friday, the Court of Appeal had taken no steps to pull bail from their end.

As of Monday, he has already spent five times the length of period in custody than he did upon sentencing. Doubtless the legal wheels are churning.

A Toronto cop convicted of attempted murder has been arrested for allegedly breaching bail. Const. James Forcillo is accused of breaching house arrest conditions. (The Canadian Press)

In an affidavit Forcillo had filed with court on Nov. 6, he explained that his case “took a significant toll on my marriage,” but he was still living with his ex-wife as required. He sought variation of bail, permitting him to reside with Balderrama instead. “I understand that Irina and her parents are willing to remain as sureties in the current amount, and to continue to supervise me while I am on bail. I would still see them regularly as Irina and I would share parenting duties.”

In separate affidavits, all three of those parties indicated they would indeed remain as sureties.

Irina Ratushnyak stated that she was supportive of the variation “to add” Ms. Balderrama as a surety “and to allow him to reside with her.” She also backed a further variation to “create an exception to allow the Applicant to take personal training sessions.”

In her own affidavit, Balderrama, as a proposed surety, outlined how she had already been co-ordinating care of the children “with no issues,” the couple intends to “get married shortly,” that she’s applied to get accredited as a registered massage therapist in Ontario, allowing her to obtain employment here within the next year; that she has about \$15,000 in savings which she’d prepared to put up as a surety, and “I have no criminal record in the United States.”

Interestingly, in a supplemental affidavit filed a few weeks later, Nov. 13, Balderrama expressed shock and confusion over the Crown’s retrieval of “a criminal record . . . for a charge of driving under the influence.”

She was charged by the California Highway Patrol in 2010. She believed that paying a fine and attending drinking and driving sessions had resolved the matter, though she understood her licence had been suspended “for a period of time” and, following reinstatement, she was required to install an interlock device on her vehicle for six months.

“I understood that the charge would remain on my driving record for seven years. I do not recall attending court to enter a plea of guilty or being sentenced by a judge; but . . . I may have.”

Who doesn’t remember going to court and being sentenced?

Forcillo’s fiancée, apparently.

“Had I known that my charge of driving under the influence had left me with a criminal record, I certainly would have been forthcoming with the Court about this. I would never knowingly lie about this.”

She lied unwittingly, allegedly. He breached his bail conditions, allegedly.

We're beginning to see how very much they have in common.