

Jail Sentences Are Rare But Not Unheard Of In Environmental Matters

By [Donna S. K. Shier](#), Partner and Certified Environmental Law Specialist, with the assistance of Anand Srivastava, Student-at-Law.
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The owner and operator of an asbestos removal company has been sentenced to 45 days in jail for persistent non-compliance with the Environmental Protection Act (“EPA”).¹ This is the first jail sentence for an environmental offence in Ontario since 2013.²

According to the Ministry of the Environment and Climate Change (“MOECC”), Christopher Norman Joyce owned and operated Joyce Energy Savings Company. The company removed asbestos from buildings and stored the bagged waste in trailers. After financial problems, the company abandoned the trailers.

The MOECC issued an Order to Mr. Joyce in 2013 requiring him to hire a Qualified Person to remove the asbestos waste and to dispose of it as required by law. Mr. Joyce did not comply with the Order and, in 2014, pled guilty to the offence under the EPA of failing to comply with an MOECC Order.

As a part of sentencing in 2014, the Court issued an EPA section 190 Order requiring Mr. Joyce to legally dispose of the asbestos waste within 30 days. Mr. Joyce, again, did not comply.

Mr. Joyce was subsequently charged and convicted of failing to comply with the EPA section 190 Order. The Court adjourned sentencing to give Mr. Joyce a final opportunity to remove the asbestos waste. The Crown told Mr. Joyce that it would seek a custodial sentence if the waste was not removed by the date of sentencing. At the time of sentencing the asbestos waste still had not been removed. Given Mr. Joyce’s repeated lack of compliance, the Court held that a custodial sentence was appropriate. Mr. Joyce was sentenced to 45 days in jail.

While rare, jail time continues to be a sentencing option for environmental prosecutions in Ontario. Persistent failure to comply with MOECC and/or Court Orders will expose offenders to incarceration.

[Donna Shier](#), is a partner at Willms & Shier Environmental Lawyers LLP in Toronto and is certified as a Specialist in Environmental Law by The Law Society of Upper Canada. She can be reached at 416-862-4822 or by e-mail at dshier@willmsshier.com.

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¹ *R v Joyce* (2015), unreported.

² *R v Green Diesel Canada*, 2013 CarswellOnt 19009 (ONCJ)