

1992

C. Y. 6644

IN THE COUNTY COURT OF DISTRICT NUMBER THREE

HER MAJESTY THE QUEEN

Informant

- versus -

CURTIS JOSEPH BOURQUE

Defendant

BEFORE: The Honourable Judge Charles E. Haliburton,
 J.C.C.

CHARGE: Section 267 (1)(b) of the Criminal Code

SENTENCE: January 28th, 1993

COUNSEL: Robert M. J. Prince, Esq., Crown Attorney
 Andrew S. Nickerson, Esq., Defence Attorney

S E N T E N C I N G

HALIBURTON, J.C.C.

This is the sentencing of Curtis Joseph Bourque who has pled guilty to the offence:

'that he at or near Yarmouth, on or about the 18th of July, 1992 did in committing an assault on Thomas Tripp cause bodily harm to him, contrary to Section 267 (1)(b) of the Criminal Code.

The bare facts are that Mr. Bourque who is 35 years of age is married to a woman who previously lived with Mr. Tripp in the United States and who shares with him the parenting of a boy who is now nine years of age. Mr. Tripp brought the boy to visit his mother on the ferry on the day in question; arrived in Yarmouth. After delivering the boy safely to his car, Mr. Bourque went back to confront Mr. Tripp at the Ferry Terminal with respect to harrassment that Mrs. Bourque was suffering at the hands of Mr. Tripp.

I am told by Counsel for Mr. Bourque and I guess he confirms it in his own comments, that this harrassing behaviour has extended over a period of some years, perhaps as much as twice a week and three or four times a night on the days or evenings when it does occur, apparently at all hours of the night. The nature of it is that Tripp telephones, apparently when drinking, to demand a financial contribution from her with respect to old bills, or to otherwise interfere with her present happiness.

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Counsel for Mr. Bourque says that he did not intend to get into a fight with Tripp. Obviously there's no evidence as to that. The circumstances, frankly, gave me the impression that his assault on Tripp could well have been deliberate and premeditated since he saw the boy and his wife safely out of the way before it was initiated. Obviously, there is no question he initiated the dispute which took place between the two men. That dispute involved Bourque in striking Tripp and in throwing him against some railing as a result of which Tripp suffered a fracture of the bone which is the orbital floor apparently in his face, a bloody nose and a black eye.

One shocking aspect, one disturbing aspect of the incident is that it occurred at the Ferry Terminal where the 'Bluenose' and the other ferry dock. The Ferry Terminal was crowded with tourists and others. Nova Scotia depends, to a large extent, on its tourism industry for the welfare of a great many people in our communities. Obviously, tourists coming to the area, seeing somebody getting beaten up, could well be deterred from recommending Nova Scotia as a good destination for tourists, which Tripp was on that occasion.

Counsel for Mr. Bourque has indicated that he has a welding trade. He has been employed. He had his own business which he apparently lost because of the economic conditions

which are presently prevailing. He has been disabled because of some problem with his back; and there is some possibility he may wish to go to the United States to pursue employment in his trade. It is pointed out that a criminal conviction will constitute a barrier to his going to the United States looking for work.

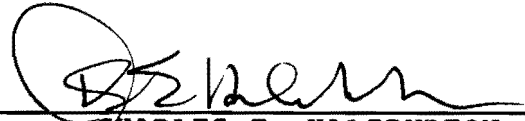
Crown Counsel has referred to the Perlin case; the principles of sentencing; the need in a crime of violence (and this obviously falls in that category), to reinforce the need for general deterrence. Persons in the community must be deterred from settling their grudges or settling their disputes in this way. I don't for a moment question that Bourque had a legitimate concern or a legitimate desire to prevent the kind of abusive behaviour that his wife was continuing to suffer at the hands of this other guy from her past life, but I'm conscious of the fact that there are a great many families in the community that are in exactly that situation. There are previous relationships which may have ended because of abusive conduct. In those relationships there are new husbands or new partners who want to protect their wife or partner from that kind of behaviour. But if that were to be permitted as complete justification or a complete answer then the streets of Yarmouth and the streets of every other Town in the Province probably would be littered

be better mid week?

MR. PRINCE: I think customarily it is Friday from 9:00 p.m until Monday at 6:00 a.m.

THE COURT: Sentence will begin Friday night at 9:00 p.m.

DATED at Yarmouth, in the County of Yarmouth and Province of Nova Scotia, this 28th day of January, A.D., 1993.



CHARLES E. HALIBURTON
JUDGE OF THE COUNTY COURT OF
DISTRICT NUMBER THREE

TO: Mrs. Diane E. Hamilton
Clerk of the County Court
P.O. Box 188
YARMOUTH, Nova Scotia
B5A 4B2