

Date: January 16, 2002
Docket: C.R. No. 146774

IN THE SUPREME COURT OF NOVA SCOTIA
[Cite as: Nova Scotia (Attorney General) v.C. G., 2002 NSSC 8]

BETWEEN:

ATTORNEY GENERAL

- and -

C. G.

S E N T E N C E
Notice of Ban of Publication

HEARD: before the Honourable Chief Justice Joseph Kennedy, Supreme Court of Nova Scotia, Halifax, Nova Scotia January 5, 6, & 7, 1999. Sentence Hearing January 10, 2002.

SENTENCE
DECISION: January 10, 2002

RELEASED: January 16, 2002

COUNSEL: Robert McCarroll for the Crown
Lance Scaravelli for the accused

Editorial Notice

Identifying information has been removed from this electronic version of the judgment.

PUBLICATION BAN NOTICE

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SUBJECT TO A BAN ON PUBLICATION

PURSUANT TO S. 486 (3)

Kennedy, C.J.:

- [1] I am dealing with one count, the charge that C. G., between the 1st day of March, 1997, and the 3rd day of April 1997, did for the purposes of gain, exercise control or direction or influence over the movements of D. A. C. to engage in or carry on prostitution, generally contrary to s. 212(1)(h) of the *Criminal Code of Canada*. I do remember the testimony of that witness, Ms. C. and I have reviewed that testimony prior to sentence today.
- [2] I want to say a couple of things initially about the offence itself. The nature of prostitution, prostitution is no more complicated than the age old reality of the weak being exploited by the strong. It's to the extent that we are dealing with prostitution almost always, not exclusively, but more commonly than not, the weak being the woman. Society has expressed its abhorrence of the practice, we have, all of us who are involved in the criminal justice process, heard the harrowing difficult stories of testimony of the exploited in relation to these situations and I have expressed before and I will express again, that it is not just pimps we should be dealing with, it is johns. We should get those good family men in here, who allow the prostitution business to function. We should be more commonly sentencing those fellas, fellows from the suburbs. Those are the people who should be made to account for their actions, that allow this kind of pretty awful situation to exist.
- [3] I have expressed before, and I will express again, and Mr. C. is not perhaps the perfect example of that, because I take a look at his extensive criminal record and I do not see anything that is specific to prostitution, although he has a lot of other things of concern, so that it is not obvious to me, at least, from looking at the prior record of Mr. G. or, from this specific situation that he has been a long term pimp, but I will say this about pimps, I suppose that they must have some self respect, or they would not be able to function. But I do not know where it comes from. For the life of me, I cannot understand how a pimp can have any self respect. I can understand why they do it, I can understand the reality of that function and the benefit that they receive from it, but surely to God there comes a time when that male has to look in the mirror and assess his life and his circumstances and measure how much self respect he has, and when that pimp does that then I would like to hear the explanation for whatever rationalization, whatever self respect they are able to develop because I, for the life of me, cannot image what it would be. There are a few kinds of exploiters in this life that I can have as little respect for as I do for pimps. They are the worst kind of parasites. Having said that,

let us talk about the specific. I remember the testimony of Ms. C., I remember her to be a candid and pretty good witness. I remember that she did not just blame C. G. for her circumstances. As a matter of fact she wasn't particularly hard on Mr. G., given the reality that we are dealing with. There were times that she either openly, or by implication blamed herself for having gotten herself in the situation with crack cocaine, that allowed her to and permitted the circumstances that we had before us. I remember the age of the lady in question, we were not, and lets make it clear, we are not dealing here with some fifteen year old and the red hot coat hanger syndrome. We are not talking about the exploitation of some thirteen year old from Yarmouth and the threats of violence that are so commonly a part of this business, this sad business. We are though, and the other common denominator is very much part of this matter, and that is, the addiction aspect and the fact where you have prostitution you have addiction like hand and glove and that it is that addiction that allows commonly for the exploitation of the individual and that is a part of this. And I recognize further that of the constituent elements, the offence that it was not the kind of exercise of control that is sometimes commonly more than sometimes, commonly seen in relation to these situations but, what it was, was the direction and the influence over the movements of the individual and I so found, and certainly on the facts situation I have no qualms whatsoever in relation to that decision. So we try to put it all in prospective.

- [4] There has been talk today of a conditional sentence and I recognize that there have been some conditional sentences given in relation to prostitution pimping type offences, pimping offences generally. There have been some conditional sentences given.
- [5] Two reasons why a conditional sentence is not appropriate in this specific; (1) I do not think a sentence of less than two years properly reflects the proper reaction from the justice system in relation to this type of offence, and (2) I do not trust C. G..
- [6] I released C. G. before I sentenced and I reflect back and I think about why I did that, because it was not the usual thing to do, more commonly I would have incarcerated him immediately pending sentence, or either sentenced him that day, or incarcerated him. When I look back I know that one of the reasons was that I liked his mother. I remember liking his mother thinking, what a good person she seemed to be and she was prepared to do the best she could for Mr. G.. She put up her house and I will not go through the history of the heartache that that resulted in. The fact that, although I did not take

her house, ultimately I know that I caused that good woman a lot of pain in the interim. And when I say I caused, I want to be clear, C. G. caused. That is one of the reasons I do not trust him. He would have allowed me to take his mother's house. I did not do it, but he would have allowed that to happen. That is something that I don't forget, it bothers me about Mr. G..

[7] I also am fully aware of the priors, specifically in relation to any hope of control in a non prison situation, make reference to the failure to attend court and the statutory release violations that are before this Court. But I go back again to the fact that I have already trusted this gentleman once, that was a mistake. Overriding all of that, is the fact that I do not think two years less a day is a proper and responsible sentence, given the priors and given the nature of the offence before the Court. On the other hand, three and one-half years is more than is necessary. I say that, going back to the specific and the specific being the situation with this specific woman and this specific man and these specific circumstances. It does not require three and one half years incarceration.

[8] On the one count before this Court there will be a period of thirty months incarceration and I have considered the time spent in remand in coming to that figure and give it times two I have given him roughly two months credit for the time spent in remand when I came to that conclusion. Thirty months incarceration in the federal institution.

Chief Justice Kennedy

Halifax, Nova Scotia