

Klengenberg v. H.M.T.Q., 2001 NWTCA 5

Date: 2001 07
Docket: CA 00596

IN THE COURT OF APPEAL OF THE NORTHWEST TERRITORIES

THE COURT:

THE HONOURABLE CHIEF JUSTICE CATHERINE A. FRASER
THE HONOURABLE JUSTICE J.E. RICHARD
THE HONOURABLE MADAM JUSTICE E.A. McFADYEN

BETWEEN:

BUDDY MELVIN KLENGENBERG

Appellant

- and

HER MAJESTY THE QUEEN

Respondent

APPEAL FROM CONVICTION AND SENTENCE OF
THE HONOURABLE MADAM JUSTICE M.M. HETHERINGTON

UNANIMOUS DECISION
DELIVERED ORALLY FROM THE BENCH

A. Wright,
Counsel for the Appellant

A. Regel,
Counsel for the Respondent

[1] We do not find it necessary to call upon the Crown. We have reached a decision. It is unanimous, and it will be given by My Lady McFadyen.

McFadyen, J.A. (for the Court):

[2] The Appellant appeals the designation that he is a dangerous offender. The Appellant essentially puts forward three grounds of appeal. The first is that in deciding on the pattern of aggressive behaviour, the trial judge took into account offences which were not objectively serious and which did not fall into the pattern of aggression.

[3] Counsel for the Appellant points to 10 offences which he said should not have been considered by the trial judge. While we do not necessarily agree with the Appellant's characterization of these 10 offences, assuming, for the sake of argument, that none of these offences should have been included, the balance is more than sufficient to establish the pattern consistent with aggressive behaviour which demonstrated a substantial indifference respecting the reasonably foreseeable consequences of his behaviour to others.

[4] In the second ground of appeal, the Appellant contends that the trial judge erred in exercising her discretion. Having reviewed the reasons, we are all of the view that the trial judge committed no error when she exercised her discretion in making the designation of dangerous offender.

[5] In the third ground, the Appellant suggested that an error was made in the imposition of an indeterminate rather than a determinate sentence. Again, having regard to all the facts as found by the trial judge, the most significant of which included the finding of a lack of motivation for treatment or change, we are all of the view that the sentence imposed is reasonable.

[6] The sentence is subject to review by the Parole Board, and the Appellant now has an opportunity to demonstrate to them his willingness to change.

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MEMORANDUM OF JUDGMENT

