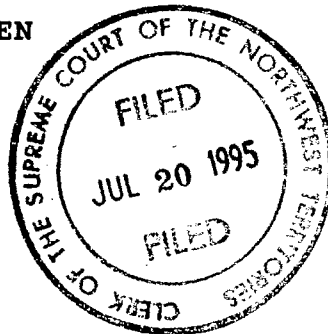


CR 02780

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- and -

ROHAN CHRISTOPHER CAMPBELL

Transcript of the Reasons for Sentence of the Honourable Mr. Justice J. Z. Vertes, sitting at Yellowknife, in the Northwest Territories, on Wednesday, July 12, A.D. 1995.

APPEARANCES:

MR. A. REGAL	On behalf of the Crown
MR. M. TRIGGS	On behalf of the Defence

1 THE COURT: The accused Rohan Christopher Campbell
2 has entered guilty pleas to two charges:

3 Count 1: On or about the 2nd day of November,
4 1994 at or near the city of Yellowknife in the
5 Northwest Territories did steal from the Katimavik Gas
6 Bar money while armed with an imitation of an
7 offensive weapon to wit: a handgun contrary to
8 Section 343(d) of the Criminal Code.

9 Count 2: On or about the 2nd day of November,
10 1994, at or near the City of Yellowknife in the
11 Northwest Territories with intent to commit an
12 indictable offence did have his face masked contrary
13 to Section 351(2) of the Criminal Code.

14 Both offences obviously arose out of the same
15 incident and for that reason I will deal with them as
16 one offence.

17 Counsel are to be commended for their submissions
18 and for reducing the factual circumstances into the
19 form of an agreed statement of facts. I will
20 therefore only summarize the pertinent ones.

21 On the date in question, at 7:25 p.m., the
22 accused, wearing a balaclava over his face and
23 pointing an imitation handgun, robbed a gas station of
24 \$414.12. The accused was quickly tracked down and
25 apprehended. He initially denied involvement and he
26 also got one of his friends to try to fabricate an
27 alibi for him. This quickly dissolved and on the day

1 after the robbery he was arrested and charged. He
2 then admitted his involvement and immediately
3 expressed his desire to plead guilty to the charge.
4 Of the money taken, the sum of \$310 was recovered.

5 The robbery was not what one could call totally
6 spontaneous. The accused had the balaclava and
7 imitation gun previously. There was also the effort
8 to fabricate an alibi. All of this shows some
9 thought. But it was certainly not well-planned since
10 it was easily solved. Indeed it appeared that one of
11 the employees at the gas bar may have recognized him
12 and had an idea who it was. No one was injured in the
13 robbery.

14 Crown counsel submits that the least onerous
15 sentence I can impose in this case is one of two years
16 less one day. Robbery, whether with a real weapon or
17 only with a toy, is punishable under the Criminal Code
18 by a potential maximum penalty of life imprisonment.
19 But this accused is a young first offender and usually
20 jail is to be considered as a last resort.

21 In support of his submissions, Crown counsel
22 refers me to the Alberta Court of Appeal case of R v
23 Johnas (1982) 2 C.C.C.(3d) 490. In that case, a
24 highly significant one in my view and certainly
25 influential on this court, a five-judge panel of that
26 court attempted to lay down certain principles to
27 guide the sentencing of cases of robbery where the

1 offender is relatively young.

2 While recognizing the principle that a young
3 offender should ordinarily be treated with leniency,
4 with an emphasis on the offender's rehabilitation,
5 that court also recognized that some offences require
6 that the aim of rehabilitation be subordinated to the
7 principle of deterrence. The seriousness of violence
8 used or threatened, certainly by means of a weapon,
9 have put robberies in the category of cases where the
10 emphasis must be on deterrence to the individual and
11 to others. That court set three years as a starting
12 point for consideration of an appropriate sentence in
13 cases of unsophisticated robberies of commercial
14 establishments by young offenders with very little
15 take.

16 That court also recognized that the wide-spread
17 prevalence of a crime is also a factor when
18 considering the need to emphasize deterrence. In this
19 case I was provided with a letter from the owner of
20 the gas station in question who wrote that his
21 business has been robbed five times in the past three
22 years. It is truly sad to hear such a statistic in a
23 community like this. He wrote how his staff have been
24 traumatized by these events. He also wrote about the
25 growing incidence of these types of crimes in the past
26 few years and how, in his view, the courts are far too
27 lenient with offenders.

1 Public perception of the adequacy of sentences is
2 an important part of the integrity of the criminal
3 justice system. But the public must also understand
4 that the bottom line in the sentencing for any offence
5 is that the sentence must reflect a balance between
6 the circumstances of the particular offence and the
7 circumstances of the particular offender.

8 In the Johnas case, that court recognized that
9 bottom line as well. That court said, and I quote:

10 "Apart from the nature of the offence
11 the court must look at the individual.
12 Is he or she a youthful offender or
13 mature? Is there a criminal record?
14 Is the individual remorseful, or defiant?
15 What is the likelihood of reoffending?
16 Is the family supportive? Has he or she
17 been a good citizen heretofore?

18 "Cooperation is to be encouraged too, as
19 a matter of clearing police records.
20 And so, all factors of mitigation and
21 aggravation relating both to the nature
22 of the offence and the individual are
23 to be weighed in arriving at an
24 appropriate sentence in any given case."

25 I go on to quote:

26 "We are of the view that the starting
27 point in Alberta for the type of robbery
28 under consideration should be three years."

29 And as I indicated before as an aside, this court
30 is obviously highly influential, the Alberta court
31 that is, on this court. I go on to quote:

32 "The emphasis we feel..."

33 That is the Alberta Court of Appeal feels...

34 "must be on the protection of the public

1 and deterrence to others, but from
2 there, all the factors relating to the
3 offence and to the individual will be
4 taken into account by the sentencing
5 judge in aggravation or mitigation."

6 The accused in this case is 18 years old. He has
7 never been in trouble with the law before. He is a
8 high school student, an immigrant from Jamaica, here
9 on a student visa. His mother lives here as a landed
10 immigrant. He has a very supportive family. I was
11 provided with numerous letters of reference from his
12 teachers and others. They all speak very highly of
13 him and say he has a lot of potential. They are
14 shocked by this crime. This offence appears to be
15 totally out of character for him.

16 I just heard from the accused himself who
17 expresses his regret, his apologies for his actions
18 and his hope that he can carry on with his education.
19 I believe that he is sincere in those sentiments.

20 When asked to explain why he did this he said,
21 through his counsel, that it was to get money because
22 as a student immigrant he cannot work. All his
23 friends had jobs and he felt bad about not having
24 money like they did. I find this explanation truly
25 remarkable considering what I heard about the support
26 his family has given him. Perhaps, as an aside, it is
27 merely another sign about how the pursuit of
materialism pervades our modern society.

Defence counsel asks me to suspend sentence, to

1 impose no jail term. He submits that there is no
2 prospect of this offender re-offending so jail is not
3 necessary for his deterrence. That may be true but I
4 cannot ignore the fact that others must be made aware
5 that this type of conduct, even if it is only done
6 with a toy, and even if it only yields a small amount
7 of money, and even if it is done by basically a "good
8 boy", will still attract a serious sentence. And make
9 no mistake, the sentence I plan to impose is a serious
10 one. This young man will have to serve time in an
11 adult jail, not a youth jail, and I have no doubt that
12 any length of time will be difficult for him. But, as
13 much as I may mitigate the sentence from the guideline
14 starting point set down by the higher courts, I have
15 no alternative but to impose some jail time.

16 I realize that this sentence may jeopardize his
17 immigration status but unfortunately I have no power
18 over that. I must impose the same sentence on him as
19 I would on any other person in similar circumstances
20 committing this type of crime.

21 Considering all of the aggravating and mitigating
22 circumstances that I have already discussed, and
23 especially taking into account what I believe to be
24 the significant expressions of regret and
25 responsibility on the part of the accused, especially
26 his immediate willingness to plead guilty after being
27 apprehended, I will impose what I consider to be the

1 lightest sentence possible in these circumstances.

2 Please stand up Mr. Campbell. Mr. Campbell on
3 counts one and two of the indictment I impose a
4 sentence of eight months imprisonment to be served
5 concurrently. In addition, on count one, you will be
6 placed on probation for a period of two years. The
7 terms of that probation will be that you are to report
8 to a probation officer. That you are to continue to
9 report as and when required. That you are to perform
10 500 hours of community service work at the direction
11 of the probation officer. And that within 60 days of
12 your release from jail you are to make restitution to
13 the Katimavik Gas Bar in the sum of \$104.12. Do you
14 understand those terms?

15 THE ACCUSED: Yes, Your Honour.

16 THE COURT: Now, your lawyer will go over them,
17 and I am sure your lawyer will explain that if you do
18 not abide by any of those terms, if you breach any of
19 those conditions, you can can be punished for that and
20 the terms can be changed. Do you understand that?

21 THE ACCUSED: Yes.

22 THE COURT: Have a seat.

23 In additon there will be an order under Section
24 100 prohibiting the accused from having in his
25 possession any firearms, ammunition, or explosives for
26 a period of ten years commencing from today's date, I
27 should say the ten years will commence from the date

1 of his release from prison.

2 There will be an order as well directing the
3 destruction of the imitation handgun.

4 Finally there will be an order directing the
5 return of money seized by the police, in the
6 possession of the police, to its rightful owner.

7 Now Mr. Campbell, I want to say a few words
8 personally directly to you because obviously you are
9 an intelligent young man. I heard all sorts of good
10 things about you. Some people, no doubt, will
11 consider that the sentence I imposed is a very light
12 one. And certainly for victims of crime I think it is
13 very understandable. They want to see people who
14 commit crimes be punished and punished severely for
15 it. There is a general principle in our law that the
16 sentence in any one case has to send a broader message
17 than just that one case. Do you understand what I am
18 talking about?

19 THE ACCUSED: Yes, sir.

20 THE COURT: The message has to be sent to others
21 that they cannot do what you did. The message has to
22 be sent to the victims of crime that yes, the law is
23 there to vindicate their suffering. But I heard all
24 that was said about you and I believe that this crime
25 was out of character for you, and I sincerely hope
26 that is true. You are obviously a young man that
27 wants to pursue his education, and from what I heard

1 your mother is attempting to make a new life here in
2 Canada and I understand that may be your wish as well?

3 THE ACCUSED: Yes, sir.

4 THE COURT: Well I will get very personal, Mr.
5 Campbell, because I too am an immigrant to this
6 country. When I came here 38 years ago, my family and
7 I spoke no English. We had no money and we spent the
8 first year of life in a refugee centre in downtown
9 Toronto, and 38 years later I am sitting here. So
10 this is a land of great opportunity, it all depends on
11 what you make of it. I recognize that the hope of
12 coming to Canada may be put in jeopardy because of
13 this crime and this sentence. But whatever happens I
14 think you should look back on this day not as one that
15 you should brood over constantly but perhaps as a day
16 of a new starting point. Because you'll have some
17 time to think about your future, and wherever that
18 future may be, whether it is here in Canada and I
19 sincerely hope it is, but whether it is here in Canada
20 or back in your home in Jamaica, I hope you will
21 pursue your education. From all I have heard you can
22 be whatever you want to be. There's a potential, a
23 lot of people have faith in you, so don't destroy the
24 faith that others have in you and have faith in
25 yourself. I wish you good luck.

26 Is there anything else we need to deal with,
27 counsel?

1 MR. REGEL: Not that I am aware of, My Lord.

2 MR. TRIGGS: Nothing, My Lord.

3 THE COURT: Thank you for your submissions. We
4 will adjourn for five minutes.

5 (AT WHICH TIME THIS MATTER WAS CONCLUDED)

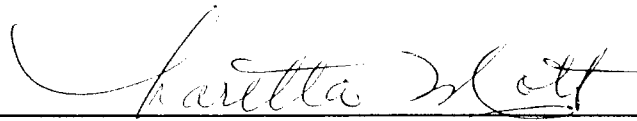
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Certified Pursuant to Practice Direction #20
dated December 28, 1987.

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Loretta Mott
Court Reporter

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