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CR 03288

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

MICHAEL GABRIEL JONES

Transcript of the Oral Reasons for Sentence by The Honourable Justice J.E. Richard, at Yellowknife in the Northwest Territories, on Tuesday, 3rd June A.D., 1997.

APPEARANCES:

Mr. A. Regel: Counsel for the Crown

Mr. J. Brydon: Counsel for the Accused

Charge under s. 348(1)(b) Criminal Code of Canada

1 THE COURT: I will now proceed with the
2 sentencing of Michael Jones for the crimes committed by
3 him in August of 1996.

4 Mr. Jones was originally charged with four
5 separate crimes of breaking into his estranged spouse's
6 residence here in Yellowknife and committing damage
7 within that residence.

8 These four break and enters arose from the
9 acrimonious breakup of the couple's relationship in May
10 of 1996. Mr. Jones left the matrimonial home in
11 mid-May 1996 at the request of his spouse, who is the
12 victim of these break and enters.

13 Because of a complaint made by the victim to the
14 police in mid-May, Mr. Jones was arrested by the police
15 and later released on May 29th.

16 One of the conditions of his release was that he
17 not have any contact with the victim and that he stay
18 away from her house.

19 On or about May 31st, Mr. Jones broke into the
20 victim's home in her absence and trashed her house
21 causing thousands of dollars in damage.

22 On June 2nd, he was questioned by the police about
23 that break and enter, and he denied any knowledge of
24 it.

25 On June 4th, Mr. Jones again broke into the
26 victim's house and caused further damage. This time he
27 was caught by the police at the scene and arrested and

1 charged.

2 On June 7th, Mr. Jones was released on bail by a
3 territorial court Judge.

4 In late July, Mr. Jones appeared for his
5 preliminary inquiry on those charges and was committed
6 to stand trial in this Court.

7 On or about August 19th, this offender, again, for
8 a third time, broke into the victim's residence and did
9 more deliberate damage to the premises. This was at a
10 time after all of the earlier damage had been repaired
11 and the house was being prepared for sale by the
12 victim's real estate agent.

13 The damage that was done at the time of the third
14 B & E included the pouring of green paint on the floor
15 and walls of the bathroom and also the inside of a
16 piano. Cords to electrical appliances were cut as they
17 had been on one of the earlier B & Es. Numerous holes
18 had been made in the walls. There were gouge marks in
19 the woodwork. There was once again thousands of
20 dollars in damage.

21 The police attended at the premises on the
22 afternoon of August 22nd and took photos of the
23 damage.

24 Subsequently, Mr. Jones broke into the home for a
25 fourth time on or about August 23rd. On this occasion,
26 further damage was done.

27 Gray paint was poured on the floor in the bathroom

1 and on the stove in the kitchen. Some of the flooring
2 material was ripped and there was at least one
3 additional hole in the kitchen wall. There were
4 writings made on the wall and one of those writings
5 contained the name of the victim.

6 Mr. Jones was arrested subsequent to the August
7 break-ins and charged with these further offences.

8 In February of this year, Mr. Jones pleaded guilty
9 to the first two break and enters. He pleaded not
10 guilty to the third and fourth break and enters and a
11 jury trial was held one month ago. The jury convicted
12 him of both the third B & E and the fourth B & E.

13 Mr. Jones has already been sentenced to
14 consecutive terms of 12 months and 15 months for the
15 first two break and enters.

16 Each of Mr. Jones' crimes constitutes an offence
17 contrary to Section 348(1)(b) of the Criminal Code of
18 Canada, and each of those crimes carries a maximum
19 penalty of life imprisonment in a penitentiary.

20 In addition, in this case the victim has requested
21 that the offender be ordered to pay compensation for
22 the damage to her home.

23 As I stated at the earlier sentencing of
24 Mr. Jones, these particular break and enters are not
25 the usual break and enters that we see in the courts of
26 the Northwest Territories. And that is because these
27 B & Es arise out of the acrimony and the emotional

1 circumstances that were attendant upon a marriage
2 breakdown.

3 Mr. Jones' conduct, or behaviour, in committing
4 these offences appears to be have been calculated to
5 cause fear in his estranged spouse or to deliberately
6 traumatize her or to purposely reek havoc in her
7 personal life both emotionally and financially. It is
8 this characterization which differentiates these crimes
9 from a conventional Section 348(1)(b) crime.

10 It is an aggravating feature of the third and
11 fourth crimes that he was at the time awaiting trial
12 for identical crimes and was at the time under a
13 specific Court order to stay away from those very
14 premises.

15 I accept and acknowledge that these repeated
16 crimes committed by Mr. Jones, including the two for
17 which he is being sentenced today, have had a
18 significant traumatizing impact on the victim Janet
19 Stewart.

20 I observed the victim as a witness in this
21 courtroom and, more importantly, I heard the evidence
22 of these four crimes.

23 One does not need the assistance of a psychiatrist
24 or other expert to conclude that any person, any
25 person, in the shoes of Ms. Stewart would be
26 traumatized, terrorized, by these repeated
27 surreptitious intrusions into her home even after the

1 police authorities and the justice system became
2 involved.

3 I find that her ongoing fear of Mr. Jones is
4 genuine and that that fear or terror that she now
5 experiences is likely to continue for some time
6 notwithstanding the words of Michael Jones read out in
7 court yesterday, which words I am sure will be
8 communicated to Ms. Stewart.

9 I am satisfied that Mr. Jones has no intention of
10 causing her any physical harm and that he has no wish
11 or intention to further traumatize her or cause her
12 further psychological harm but that does not diminish
13 or erase the reality, the reality of the fear or terror
14 that she feels in any event.

15 It is the Court's hope that Ms. Stewart will have
16 access to professional help to assist her in dealing
17 with this condition from which she suffers at present.

18 There is nothing that can be said in mitigation of
19 these additional crimes in my respectful view.

20 These crimes were very serious. They constituted
21 a deliberate and calculated flouting of the law and an
22 appalling disregard for society's rules and for the
23 basic rights and freedoms of another person.

24 Mr. Jones' conduct displays immaturity and
25 emotional instability.

26 In imposing sentence today, I am most mindful of
27 my responsibility to ensure that the public be

1 protected from Michael Jones' criminal behaviour, which
2 behaviour, it appears, is easily triggered by emotional
3 instability.

4 I am also mindful of the other principles and
5 objectives of the sentencing process that have now been
6 codified by Parliament in the Criminal Code of Canada.
7 Among these is the need to denounce wrongful or
8 unlawful conduct, like that exemplified in this case,
9 with a view to obtaining respect for the law and the
10 maintenance of a peaceful and safe community.

11 In determining the specific terms of imprisonment
12 I am about to impose, I have considered the direction
13 that Parliament has made to the effect that even where
14 consecutive sentences are appropriate, the combined
15 sentence should not be unduly harsh or unduly lengthy.

16 In weighing and attempting to balance all of these
17 principles, and considering the gravity and the
18 circumstances of the matters that are before the Court,
19 I find that further consecutive terms of incarceration
20 are required in the interests of justice. I take no
21 pleasure in adding to Mr. Jones' penitentiary term but
22 the law and my conscience compels me to do so.

23 It is my hope that Michael Jones also will be able
24 to access professional counseling during his
25 incarceration. It is my clear impression, as a
26 layperson, that he suffers from a serious emotional
27 illness.

1 I recommend to the prison authorities that he be
2 given every reasonable opportunity to take courses and
3 to receive counseling to deal with his emotional
4 problems including anger management. I also recommend
5 to those prison authorities that at whatever time or
6 times Michael Jones is released from prison,
7 temporarily or otherwise, that Ms. Janet Stewart be
8 advised of that fact and of Mr. Jones' whereabouts.

9 Would you please stand now, Mr. Jones.

10 Michael Jones, for the crime that you have
11 committed on or between August 18th and August 22nd,
12 1996, that is, breaking and entering the dwelling house
13 at 19 Johnson Crescent and committing an indictable
14 offence therein, it is the sentence of this Court that
15 you serve a term of imprisonment of 15 months
16 consecutive to any other term of imprisonment presently
17 being served.

18 And, secondly, for the crime that you committed
19 between August 22nd and August 23rd, 1996, being the
20 break and enter of the residence at 19 Johnson Crescent
21 and committing an indictable offence therein, it is the
22 sentence of this Court that you be imprisoned for a
23 term of 15 months consecutive to any other term
24 presently being served and consecutive to the other
25 count.

26 There will be no Victim Fine surcharge in the
27 circumstances.

1 In addition, I hereby order you to pay to Janet
2 Stewart the sum of \$14,475.88 by way of compensation
3 for physical damage to property as a result of the
4 commission of these two offences in August 1996.

5 You may sit down now, sir.

6 THE ACCUSED: Thank you.

7 THE COURT: Counsel, is there anything else
8 with this case?

9 MR. BRYDON: No, My Lord.

10 MR. REGEL: I just would be asking for the
11 usual order that the exhibits, other than documentary
12 type of exhibits or photographs, be turned over to the
13 RCMP for return to their lawful owners on expiration of
14 the appeal periods, My Lord.

15 THE COURT: Any difficulty with that?

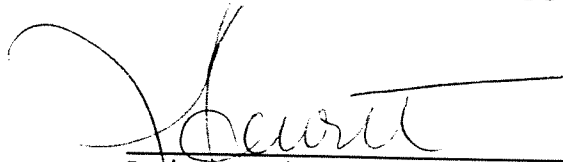
16 MR. BRYDON: No, My Lord.

17 THE COURT: Fine, then the usual order will go
18 with respect to the disposition of exhibits at the
19 expiration of the appeal period.

20 Thank you, and we will close court.

21 (AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)

22
23 Certified pursuant to Practice
24 Direction #20 dated December 28, 1987.

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27 _____
 Lois Hewitt,
 Court Reporter