

R. v. Raddi, 2001 NWTSC 50

S-1-CR-2001000002

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- vs. -

ERNEST RADDI

Transcript of the Oral Reasons for Sentence by The Honourable Justice J.Z. Vertes, at Tuktoyaktuk in the Northwest Territories, on July 4th A.D., 2001.

APPEARANCES:

Mr. B. Lepage: Counsel for the Crown
Mr. A. Fox: Counsel for the Accused

Plea under s. 236 *Criminal Code of Canada*

1 THE COURT: The offender, Ernest Raddi, has
2 entered a plea of guilty to a charge of
3 manslaughter.

4 The offence occurred on June 15, 2000 in the
5 Hamlet of Tuktoyaktuk. The offender, 36 years old,
6 was living in a common-law relationship with Rosa
7 Chicksi, 43 years old. On that date, at
8 approximately 11:30 a.m., Ernest Raddi stabbed Rosa
9 Chicksi with a knife to her chest which perforated
10 her heart. The police arrived on the scene within 30
11 minutes and discovered Rosa Chicksi dead with the
12 offender kneeling beside her. He immediately said,
13 "I stabbed her". The evidence indicates that the
14 offender attempted to revive Rosa Chicksi by giving
15 her CPR. All observations of the offender pointed to
16 the conclusion that he was extremely intoxicated.
17 Forensic examination revealed that the deceased was
18 also intoxicated at the time of death. There are no
19 clues as to the motivation behind this act.

20 Manslaughter is a crime that covers a wide
21 range of possibilities. It encompasses conduct that
22 could be labelled as going from one extreme of
23 near-accident to the other extreme of near-murder.
24 The penalties for manslaughter can therefore range
25 from a non-custodial sentence to life imprisonment.
26 In this case, from the facts presented to me, I
27 would place this crime on the scale closer to the

1 near-murder end. The only factor that makes this
2 crime manslaughter, it seems to me, instead of
3 murder, is the evidence of extreme intoxication
4 which of course acts to negate the requisite
5 specific intention to kill to support a murder
6 charge.

7 In this case, Crown and defence have joined in
8 a submission that an appropriate sentence would be
9 in the range of eight to ten years. I thank them
10 since a joint submission, one that obviously
11 reflects a consideration of all the relevant
12 factors, is a great assistance to any sentencing
13 Judge. Such a submission, in my opinion, should not
14 be rejected in the absence of good cause.

15 Sentencing is a highly individualized
16 process. In each case, one must find the appropriate
17 balance between the circumstances of the offence and
18 those of the offender.

19 The offence unfortunately is not unique. As the
20 case law submitted by counsel on this hearing shows,
21 cases of spousal homicide are all too frequent in
22 this jurisdiction. Most of them occur in
23 circumstances of alcohol abuse and a violent
24 relationship. All of them result in lengthy jail
25 terms since the Courts must give priority to the
26 principles of denunciation and deterrence.

27 The offender, of course, is unique but his

1 circumstances are indeed unfortunate. He has a
2 lengthy and related record of crimes of violence.
3 Between 1989 and 1999, he has been convicted of nine
4 offences. He has been imprisoned; he has been on
5 probation. In 1995, he was convicted of assault
6 with a weapon. This was an assault with a knife on
7 his common-law spouse at the time. In 1996, he was
8 convicted of an assault causing bodily harm on that
9 same spouse. In June of 1999, he was convicted of
10 assault causing bodily harm of Rosa Chicksi and
11 sentenced to 15 months imprisonment. He stabbed her
12 with a knife. He was released from that offence just
13 two months before he killed Rosa Chicksi. So he was
14 still on parole from the 1999 conviction. All of
15 this is extremely aggravating. As Crown counsel put
16 it, the offender's degree of moral blameworthiness
17 is very high. He has committed similar crimes
18 before; he has been punished for them; he has gone
19 through many counselling and treatment programs;
20 and, all to no avail.

21 But that is not all that is pertinent about the
22 accused.

23 I had the benefit of a comprehensive
24 pre-sentence report. It details the offender's
25 background circumstances. It is a poignant example
26 of alcohol abuse and family violence as systemic and
27 background factors that have contributed to this

1 offender's behaviour. There have been many tragedies
2 within this offender's family. But yet people
3 describe him as a good worker and an excellent
4 hunter. He was raised in traditional ways. But also,
5 as is common, many people say that while he is good
6 when he is sober, he is violent and mean when he is
7 drunk and no one wants anything to do with him. He
8 has a 16-year-old son that he is trying to maintain
9 contact with now.

10 The *Criminal Code* requires that I pay
11 particular attention to the offender's circumstances
12 since he is an aboriginal offender. That attention
13 becomes particularly important when restorative
14 measures are being considered as viable options. In
15 this case, however, the question is not whether
16 incarceration is an appropriate disposition but,
17 rather, how long Mr. Raddi need be incarcerated to
18 give full effect to all of the principles of
19 sentencing. This offender's criminal activities have
20 detrimentally affected his community. The victims of
21 of this crime - the deceased's family and the
22 deceased - were all members of this community. The
23 pre-sentence report indicates how this type of crime
24 alienates the community from the offender. In the
25 result, this is a case in which the offender's
26 aboriginal background, while relevant, does not
27 justify a sentence other than a substantial period

1 of incarceration.

2 Crown and defence agree on the range of
3 sentence. They disagree, however, on two issues.

4 The first is the period of credit to be applied
5 to pre-trial custody. Normally this is credited at a
6 ratio of two-to-one. The offender has been in
7 custody since the date of the offence (approximately
8 12 and a half months). But, his sentence from the
9 1999 conviction did not expire until September of
10 2000. From then until now is approximately nine and
11 a half months. I see no reason why the offender
12 should be credited for both the pre-trial remand and
13 the remainder of a previous sentence for the same
14 period of time. Therefore I will credit him with 18
15 months, that being approximately a ratio of
16 two-to-one for the period of detention since the
17 expiry of his previous sentence.

18 The second issue is the Crown's submission that
19 this is an appropriate case to exercise the
20 discretion in Section 743.6 of the *Criminal Code* to
21 increase parole ineligibility to one-half of the
22 sentence. Crown counsel supports this by reference
23 to the factors that I noted earlier as the ones
24 creating a high level of moral blameworthiness on
25 the part of the offender. I accept the line of
26 authority that says there is no need for any
27 special, unusual, or particularly aggravating

1 factors so as to invoke Section 743.6 although, as a
2 general rule, an increase of parole ineligibility
3 should not be ordered. (See R. v. Matwiy (1996), 105
4 C.C.C. (3d) 251). But, in my opinion, such an order
5 must still be an exceptional one. It is a form of
6 increased punishment which should be imposed with
7 restraint. In my opinion, in this case, the range of
8 sentence proposed by counsel adequately addresses
9 the concerns of denunciation and deterrence without
10 the need for the additional sanction of parole
11 ineligibility. The Parole Board will be in the best
12 position, in the years to come, to assess the
13 rehabilitation of this offender and the risk that he
14 poses in the future. I therefore decline to make
15 such an order.

16 Having taken into account all of the
17 aggravating and mitigating features of this case,
18 including the offender's guilty plea and expressions
19 of remorse, I have concluded that an appropriate
20 sentence would be one of ten years' imprisonment.
21 From that, I deduct the credit for pre-trial custody
22 that I have already mentioned.

23 Stand up, Mr. Raddi.

24 Mr. Raddi, you have expressed how sorry you are
25 to Rosa Chicksi's family and to the community and
26 now it is really up to you to decide how the rest of
27 your life will be lived. You will be released at

1 some point in the future. Whether you come back to
2 this community or to another community is up to you,
3 but I think there is still time for you to decide
4 how you will live the rest of your life.

5 I sentence you to a term of imprisonment of
6 eight and a half years.

7 I further order a firearm prohibition for life.
8 Counsel, you can prepare the usual order with all of
9 the customary provisions.

10 I will also order that a sample be taken for
11 DNA analysis. And again, counsel, you can provide
12 the requisite order.

13 You may have a seat, Mr. Raddi.

14 I have considered whether or not to make a
15 recommendation that Mr. Raddi be allowed to serve
16 his sentence at the Yellowknife Correctional Centre.
17 Obviously, there are a number of factors that would
18 favour that, the proximity of his family and some of
19 the perhaps special knowledge that the correctional
20 authorities there have in terms of treatment of
21 northern aboriginal offenders that may not be
22 available in southern penitentiaries. I am reluctant
23 to make that specific recommendation however, but I
24 ask, and this request will be forwarded to the
25 correctional authorities because they will obtain a
26 transcript of these remarks and they will obtain
27 copies of all of the exhibits that have been filed,

1 so I will make a request that they give careful
2 consideration to that but particularly in light of
3 what available programs there may be throughout the
4 federal and territorial Correction systems. I
5 recognize that this man has gone through a number of
6 programs previously. I recognize that they have been
7 apparently utter failures but if he is to ever have
8 a productive and meaningful life in the future, to
9 try and make up for what he has done both to his
10 community, to Rosa Chicksi's family and to himself
11 and his own family, I think some serious
12 consideration has to be given to whatever programs
13 are available for him whether it is with respect to
14 alcohol abuse, violent behaviour, or just dealing
15 with all of the things in his past that have led him
16 to act the way that he has acted here now. So, I
17 will make no formal recommendation but I will ask
18 the Correction authorities to give some serious
19 consideration to it.

20 Needless to say, there will be no Victim of
21 Crime Fine surcharge.

22 Is there anything else, counsel?

23 MR. LEPAGE: No, thank you, Your Honour.

24 MR. FOX: No, sir.

25 THE COURT: Thank you both for your efforts
26 in this matter.

27 The exhibits can, at the expiry of the appeal

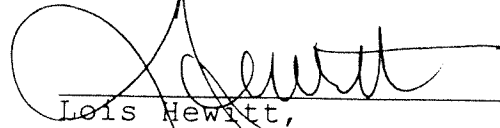
1 period, if there are any in the possession of the
2 Court, other than the exhibits that were filed on
3 the sentencing, the other exhibits can be returned
4 to the RCMP for disposal.

5 MR. LEPAGE: Thank you, Your Honour.

6 THE COURT: Thank you once again, counsel.

7 **(AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)**

8 Certified pursuant to Rule 723
9 of the Supreme Court Rules.

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13 Lois Hewitt,
14 Court Reporter

