

R. v. Capot-Blanc, 2007 NWTSC 98

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

CLAYTON CAPOT-BLANC

Transcript of the Reasons for Sentence by The Honourable
Justice R. Nation, at Inuvik in the Northwest Territories,
on Monday, October 29 A.D., 2007.

APPEARANCES:

Mr. B. Lepage: Counsel for the Crown
Mr. J. Brydon: Counsel for the Accused

Charge under s. 267(b) of the Criminal Code of Canada

1 THE COURT: Well, I reviewed the statement
2 of facts and I am satisfied that those facts
3 support the charge of assault causing bodily
4 harm. This is a sentencing for that offence and
5 there was an Agreed Statement of Facts that is
6 marked as Exhibit 1.

7 In a very brief summary, the victim was
8 sleeping when assaulted by the offender who cut
9 out clumps of her hair. The victim resisted and
10 the offender beat her, kicking her all over her
11 body. She was hospitalized from September 17th
12 to 21st suffering significant facial injuries,
13 bruising, a puffy and swollen face, and other
14 injuries that are detailed in the statement,
15 Exhibit 1, which also includes photographs.

16 The accused is 27 years old with a Grade 8
17 education. He is an aboriginal, so the impact of
18 the R. v. Gladue decision has to be taken into
19 consideration. I am advised that he lost his
20 mother in the year 2000 and feels that his life
21 has spiralled since that time. He has a lengthy
22 criminal record, apparently two children, one of
23 whom has been adopted to another family. The
24 assault is attributed to alcohol. His counsel
25 indicates he recognizes he has a problem in that
26 regard.

27 The primary considerations here are

1 deterrence, both general and specific. The
2 general deterrence is so that members of society
3 realize that this behaviour is not accepted in
4 our society and that the sentence reflects that
5 attitude. It is also specific that the offender
6 is deterred from carrying on with this behaviour.

7 The other primary consideration is the
8 denunciation of the crime. The assault was
9 brutal. It was by a nonfamily member and the
10 Victim Impact Statement speaks to not only the
11 physical effect at the time but that the effects
12 of an assault like this often go much beyond the
13 actual rehabilitation from the physical injuries,
14 and I am going to read some of the comments of
15 the victim. She says:

16 Even now I don't want to do things
17 like I did before. If I have
18 errands to do I do them and then I
19 go right back home. Before I used
20 to take my time and now I don't want
21 to be anywhere too long. This has
22 affected my memory. It's hard to
23 remember and focus on things in my
24 life before the incident happened.
25 I still have to take pills for
26 headaches. I never used to have to
27 take pills for a long period of

1 time. I missed work after the
2 incident and because of what
3 happened I didn't feel like going
4 back to work or anywhere in public.

5 In terms of the Gladue principles that I have to
6 consider, the offender recognizes the need for
7 rehabilitation which largely would be in relation
8 to his use of alcohol, although relationship and
9 life skills help seems to be indicated. There is
10 no particular program or community guidance here
11 that is being suggested to me, likely in the face
12 of the fact that a gaol term is the appropriate
13 remedy.

14 The aggravating factors: the largest one,
15 is the record of the offender which is attached
16 to Exhibit 1. It is not enviable. There are a
17 number of offences, 11 offences of violence. The
18 offender has served progressively more serious
19 gaol periods since 2001. There are also a number
20 of alcohol-related offences, two impaired driving
21 charges and driving while disqualified charges.

22 The second aggravating factor is that the
23 assault was not provoked and it is an aggravating
24 factor that there would appear to have been a
25 lack of remorse at the time, although I note that
26 the offender did apologize to the victim here in
27 court today.

1 The mitigating factor is the guilty plea.
2 There was a guilty plea entered today just before
3 trial. The trial was set to be at this period.
4 There was a preliminary inquiry but the victim
5 was spared having to testify at a trial.

6 Crown has indicated that the range of the
7 sentence indicated would be in the range of two
8 to three years. I agree with that range.
9 Defence suggests two years. I have to take into
10 consideration the fact that there is a straddle
11 offence here. The last sentence was given in
12 November 2006; that was for six charges under
13 264.12 of the Criminal Code. The sentence at
14 that time was two years less as day and probation
15 for three years. That sentence is still being
16 served and this offence occurred after the events
17 in that offence but before the sentencing and,
18 therefore, the total overall effect does have to
19 be considered.

20 When I look at the range I have to say that
21 looking at the background, the injuries, the
22 aggravating factors, it would likely be towards
23 the upper end of the range but the totality,
24 looking at the offender's whole situation and
25 current sentence together, does affect that. I
26 think it is appropriate that it be dealt with as
27 a consecutive sentence.

1 So, Mr. Capot-Blanc, I would ask that you
2 stand up please. I find that a fit and fair
3 sentence is 28 months in a federal penitentiary.
4 It would be consecutive to the sentence that you
5 are serving right now. There will be a ten-year
6 firearm ban. There will be a DNA order and there
7 will be no victim fine surcharge because I am not
8 satisfied, because you are incarcerated, that you
9 will have the money to pay that. So that will be
10 the sentence.

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Certified to be a true and
accurate transcript pursuant
to Rules 723 and 724 of the
Supreme Court Rules,

Janet Harder, CSR(A)
Court Reporter