

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

CHRISTOPHER JONES

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Transcript of the Reasons for Sentence delivered by The Honourable Justice W. Darichuk, sitting in Yellowknife, in the Northwest Territories, on the 16th day of March, A.D. 2011.

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APPEARANCES:

Ms. J. Walsh and

Mr. D. Praught:

Counsel for the Crown

Mr. T. Boyd:

Counsel for the Accused

(Charge under s. 343(b) of the Criminal Code of Canada)

1 THE COURT: Good afternoon, everyone.

2 MR. PRAUGHT: Good afternoon, Your Honour.

3 MR. BOYD: Good afternoon, Your Honour.

4 MS. WALSH: Good afternoon, sir.

5 THE COURT: Just prior to his arraignment,  
6 on the scheduled date for the commencement of his  
7 trial before a jury, with the consent of counsel  
8 for the Crown, the accused, Christopher Jones,  
9 re-elected for trial without a jury and entered a  
10 plea of guilty to the offence of robbery,  
11 contrary to Section 343(b) of the Criminal Code  
12 of Canada.

13 Given the forceful and comprehensive  
14 submission of learned counsel, for the reasons  
15 which follow, I am of the opinion that their  
16 joint submission concerning the appropriate  
17 sentence to be imposed should be favourably  
18 endorsed.

19 The factual foundation for their joint  
20 recommendation for a term of imprisonment of two  
21 years to two and a half years is set forth in the  
22 Agreed Statement of Facts filed as Exhibit S1.  
23 Briefly summarized, the accused entered an  
24 apartment "uninvited and located Mr. Delorme  
25 sleeping on a couch in the living room."  
26 Demanding his money, the accused assaulted the  
27 complainant and took his laptop computer, cell

1 phone, and wallet.

2 Paragraph 14 of Exhibit S1 reads:

3 "Investigation further revealed  
4 that in May 2009, Mr. Delorme had  
5 received three ounces of crack  
6 cocaine from a third party to  
7 sell in the Yellowknife area.  
8 Mr. Delorme believes that the  
9 accused was attempting to collect  
10 money for these drugs."

11 As a direct result of the assault, the  
12 complainant suffered minor scrapes and bruising  
13 to his face, neck, and shoulder area.

14 The fundamental principle of proportionality  
15 is that a sentence must be proportionate to the  
16 gravity of the offence and the degree of  
17 responsibility of the offender. In the  
18 imposition of sentence, the Court must be mindful  
19 of its purpose and, as well, other principles  
20 including those set forth in Section 718(2) of  
21 the Criminal Code of Canada. Other principles  
22 include a direction that a sentence should be  
23 increased or decreased to account for any  
24 relevant, aggravating, or mitigating  
25 circumstances relating to the offence or to the  
26 offender. Aside from rehabilitation, the  
27 principles of particular significance in this

1 case are general deterrence and denunciation.

2 It is not without significance that counsel  
3 have submitted a joint submission as to sentence.  
4 As noted in the case of R. v. G.W.C. [2001]  
5 5 W.W.R. 230 and 150 C.C.C. (3d) 513, a joint  
6 submission should be given particular weight if  
7 it falls within the acceptable range of  
8 sentencing.

9 A joint submission ought not to be rejected  
10 unless it is contrary to the public interest,  
11 unfit, unreasonable, or would bring the  
12 administration of justice into disrepute.

13 At paragraph 17, Mr. Justice Berger states:

14 "The obligation of a trial judge  
15 to give serious consideration to  
16 a joint sentencing submission  
17 stems from an attempt to maintain  
18 a proper balance between respect  
19 for the plea bargain and the  
20 sentencing court's role in the  
21 administration of justice. The  
22 certainty that is required to  
23 induce accused persons to waive  
24 their rights to a trial can only  
25 be achieved in an atmosphere  
26 where the courts do not likely  
27 interfere with a negotiated

1           disposition that falls within or  
2           is very close to the appropriate  
3           range for a given offence. 'The  
4           bargaining process is undermined  
5           if the resulting compromise  
6           recommendation is too readily  
7           rejected by the sentencing  
8           judge.'

9           As the Court of Appeal observes in R. v.  
10          Sears (1978), 39 C.C.C. (2d) 199:

11           "What should the offender receive  
12           for this offence committed in the  
13           circumstances under which it was  
14           committed?"

15           The offence of robbery is one of the most  
16           serious offences in the Criminal Code of Canada.  
17           The gravity of this offence is such that by  
18           Section 344 of this Code, a person who commits  
19           this offence is liable to imprisonment for life.

20           Although this robbery does not appear to be  
21           a planned and premeditated home invasion robbery  
22           with an offensive weapon, it was nonetheless a  
23           home invasion robbery committed by a 35-year-old  
24           person with an extensive criminal record. By  
25           virtue of Section 348 of the Code, his uninvited  
26           entry to the apartment is deemed to be an  
27           aggravating circumstance. On the other hand, his

1 plea of guilty to this offence is of course a  
2 mitigating circumstance. In passing, I note he  
3 has no prior conviction for robbery, his last  
4 conviction was in January 2008, and the longest  
5 period of imprisonment that he has served was six  
6 months.

7 Dealing with the sanctity of an individual  
8 in his or her home, the Alberta Court of Appeal  
9 stated in R. v. Matwiy, [1996] A.J. No. 134, the  
10 following:

11 "While offences of violence are  
12 abhorrent whenever they occur,  
13 offences which strike at the  
14 right of members of the public to  
15 the security of their own homes  
16 and to freedom from intrusion  
17 therein, must be treated with the  
18 utmost seriousness."

19 Although a 30-month term of imprisonment  
20 would appear to fall within the lower end of the  
21 accepted range of sentence, given the totality of  
22 the circumstances, such a sentence would not be  
23 unfit, unreasonable, contrary to the public  
24 interest and/or bring the administration of  
25 justice into disrepute.

26 Bearing in mind that the fifteen-month  
27 pre-trial custody of the accused equates with a

1 term of imprisonment of a twenty-two-and-one-half-  
2 month sentence, the accused is sentenced to a  
3 term of imprisonment of seven and one half  
4 months.

5 A mandatory Section 109 firearms prohibition  
6 order for life is ordered as well as a DNA order.

7 On the basis of the submission of the  
8 learned defence counsel, an order is granted  
9 exempting the accused from payment of the victim  
10 surcharge.

11 The learned Crown attorney has submitted  
12 that I exercise my common law jurisdiction to  
13 bind the accused over to keep the peace and be of  
14 good behaviour for a period of one year  
15 subsequent to his release from imprisonment. It  
16 is so ordered.

17 The penal amount of recognizance will be  
18 \$1,000. A further condition of the recognizance  
19 is that he have no contact with Justin Delorme,  
20 Andrew Hulan and/or Brennan Topilikon.

21 The imposition of a fair, fit and  
22 appropriate sentence is the most difficult of all  
23 judicial tasks. In closing, I would like to  
24 reiterate my earlier observation concerning the  
25 submissions by learned counsel. They were most  
26 helpful. Thank you.

27 Unless something else remains for

1 resolution, this court will stand adjourned.

2 MR. PRAUGHT: Your Honour, just to be clear  
3 for the record, the Crown stays Count 2.

4 THE COURT: So noted.

5 THE COURT CLERK: Your Honour, is that a  
6 thousand dollars cash or no cash deposit?

7 THE COURT: No cash deposit.

8 MR. BOYD: Nothing from defence. Thank  
9 you, Your Honour.

10 THE COURT: Court stands adjourned. Good  
11 afternoon.

12 MS. WALSH: Thank you, sir.

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16 Certified Pursuant to Rule 723  
17 of the Rules of Court

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20 Jane Romanowich, CSR(A), RPR  
21 Court Reporter

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