R. v. Green, 2013 NWTSC 20 S-1-CR-2011-000086

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

TYLER SAMUEL GREEN

Transcript of the Reasons for Sentence delivered by The Honourable Justice L. Charbonneau, in Yellowknife, in the Northwest Territories, on the 20th day of March, 2013.

APPEARANCES:

Mr. A. Godfrey: Counsel on behalf of the Crown

Ms. B. Rattan: Counsel on behalf of the Accused

Charges under s. 268 C.C. x 2

1 R. v. Samuel Green

2 March 20th, 2013

3 Reasons for Sentence

4

5

6 THE COURT: Today it is my difficult

7 responsibility to sentence Tyler Green on two

8 charges that he has pleaded guilty to earlier

9 this week. The offences date back to October

10 2010, almost two-and-a-half years ago. The

11 incident that led to these charges appears to

12 have been quite brief, yet it had devastating

13 consequences for all involved. These few moments

14 of unexplained and unexplainable blind rage have

15 changed the lives of the victims and their family

16 forever.

17 On the evening of this incident there had

18 been a drinking party at a house in Tuktoyaktuk.

19 Mr. Green was there, as were the two victims,

20 Doug Kristjanson and Mary Cockney. All the Court

21 knows about what happened, based on the Agreed

22 Statement of Facts, is that Mr. Green became

23 angry at Mr. Kristjanson; Mr. Green became

24 verbally abusive to him; Ms. Cockney attempted to

25 defend her husband; Mr. Green punched her in the

26 face; Mr. Kristjanson, in turn, attempted to

27 intervene to defend his wife, and this triggered

1 an extremely violent response from Mr. Green. He
2 punched Mr. Kristjanson repeatedly; and after Mr.
3 Kristjanson fell to the floor, Mr. Green
4 repeatedly kicked him in the head. Ms. Cockney
5 tried to stop him but was not able to do so.
6 Eventually, Mr. Green stopped on his own. He was
7 intoxicated that evening.
8 By the time the police arrived at the scene
9 they found Ms. Cockney crying and Mr. Kristjanson
10 unconscious on the floor. Those in the house at
11 the time were almost all intoxicated, and
12 initially the police officers did not receive any
13 assistance in determining what had happened.
14 Eventually, through further investigation, they
15 determined that Mr. Green was responsible and
16 they arrested him later that night. They found
17 him sleeping in another residence. DNA analysis
18 later confirmed that some blood found on his
19 shoes was in fact Mr. Kristjanson's blood.
20 Mr. Kristjanson was taken to the nursing
21 station and later medevaced to Yellowknife, and
22 later to Edmonton. He suffered very, very
23 serious injuries as a result of this attack. His
24 injuries are referred to in the victim impact
25 statements. They are also referred to in the
26 Agreed Statement of Facts. To the extent that
27 they can be summarized in a few words, he

1 sustained a fractured jaw, a fracture to his
2 skull and spinal fractures to several of his
3 vertebrae. He had to be intubated to ensure that
4 he would continue breathing. He was in intensive
5 care for several days. He had to have a plate
6 put in his jaw, which has since been removed. He
7 lost several teeth that had to be pulled because
8 they were broken. For a period of time he had to
9 use a cane to walk. He experienced significant
10 memory loss.
11 It is clear that this terrible attack has
12 transformed his life and that of his family.
13 That is very clear from the victim impact
14 statements that were filed, and I will talk about
15 those in more detail in a moment.
16 At this point, almost two-and-a-half years
17 later, Mr. Kristjanson has still not fully
18 recovered from this attack and it is questionable
19 whether or not he will ever fully recover. He
20 and his wife moved to Inuvik to be closer to the
21 hospital because of the medical attention that he
22 requires as part of his recovery.
23 Before this happened, he was a fully
24 functional, productive individual. He worked
25 regularly. He earned an income to support
26 himself and his family. He was apparently a very
27 creative person who loved to build and create

1 things with his hands. The fact that he was
2 working is confirmed by some of the documents
3 filed as exhibits in the sentencing hearing. He
4 can no longer do that. He is on disability and
5 social assistance, and it is unknown whether he
6 will ever be able to work again in the way that
7 he used to. He has not fully recovered his
8 mental faculties, so certain things he used to be
9 very good at, such as cooking, are things that he
10 can, in part, do again but for which he requires
11 a lot of help.
12 In many ways, life as he knew it has been
13 taken away from him, and, consequently, the life
14 of his wife and some of his relatives has also
15 been taken away from them.
16 And no one even remembers or knows why. Mr.
17 Green himself does not know why he did this.
18 The Criminal Code allows victims of crime to
19 prepare victim impact statements to explain how a
20 crime has affected them. This is not because
21 sentencing is about effecting revenge; it is
22 simply to ensure that everyone does understand
23 how a crime has impacted a victim, if a victim is
24 willing and able to put words to it. It is
25 important. Sometimes in court we hear the words
26 spoken or read about what one person did to
27 another. We hear about someone kicking someone

1 in the head and causing serious injuries to them
2 and we think, naturally, "that is awful". We
3 think we know how awful it is, but we never get
4 as good a sense of the true impact of a crime
5 until we hear about it from the person who
6 suffered it.
7 In this case the victims have chosen to
8 share their experience with the Court. Several
9 victim impact statements were prepared and were
10 filed. The Court thanks the victims for having
11 done so. Ms. Cockney wanted to read her victim
12 impact statement in court herself. She read the
13 most recent one over the phone earlier this week.
14 I am sure it was very difficult for her to do
15 that. It was a very emotional thing for her, as
16 was apparent to all of us who heard her read it,
17 but she did so, and she did so with courage and
18 with grace and in a very compelling way.
19 The victim impact statement of Kendyce
20 Cockney, Mr. Kristjanson's step-daughter, which
21 was read by the Crown prosecutor, is also very
22 compelling. It talks about how her life has been
23 affected by this; about how awful it was for her
24 to be with her stepfather when he was in hospital
25 with tubes in his mouth, not knowing if he would
26 survive. According to her victim impact
27 statement, she was there at the scene with him

1 before the police even arrived and, as I have
2 said, she spent some time with him at the
3 hospital. She also saw her own mother physically
4 hurt and psychologically devastated. I am sure
5 there are no words to describe what this must
6 have done to this young woman.
7 Mr. Kristjanson himself has filed a few
8 victim impact statements as well. He talks in
9 simple words about how this assault has affected
10 him.
11 The victim impact statements that I read
12 just before giving my reasons now, which were
13 filed only today, are more dated than the ones
14 that were filed earlier this week and they show
15 the progression of things for these people. They
16 add some other sad information about some of the
17 impacts that these events had on the family. For
18 example, this offence happened shortly before
19 Ms. Cockney's youngest daughter's wedding, and so
20 Ms. Cockney and her husband were unable to go to
21 that wedding.
22 The earlier victim impact statement filed by
23 Mr. Kristjanson talks about the constant pain he
24 is in, the fact that he cannot remember things,
25 the fact that he does not recognize people on the
26 street, and the fact that he cannot do many of
27 the things that he enjoyed doing before.

1 I have read and considered all the victim
2 impact statements in this matter. They are part
3 of the record of proceedings. Mr. Green had the
4 opportunity to hear at least some of them read.
5 They are difficult to paraphrase or summarize,
6 but they show that the lives of Mary Cockney,
7 Doug Kristjanson, and Kendyce Cockney have been
8 turned upside down by these events. In
9 particular, Ms. Cockney and Mr. Kristjanson have
10 struggled to get their lives back for the last
11 two-and-a-half years. Sadly, Ms. Cockney speaks
12 of "the husband she knew", and "the husband she
13 knows now". Her daughter speaks of her disbelief
14 and her inability to understand why someone would
15 hurt her stepfather, someone she says is a "kind
16 man who is always willing to help others". "The
17 best stepfather in the world," she writes.
18 There is nothing that the court can do that
19 can repair the terrible harm that was caused that
20 day. As I said already, sentencing is not about
21 revenge, but the impact that this crime had on
22 the victims demonstrates, in a graphic way, how
23 serious these offences were, particularly, of
24 course, the attack on Mr. Kristjanson. It is
25 truly heartbreaking to think of the waste and the
26 loss for all involved. It is important to take
27 stock of that loss, and it is especially

1 important for Mr. Green to understand that loss.
2 In any sentencing the court has to take into
3 account the circumstances of the person who
4 committed the offence, and I have done so.
5 Mr. Green was born in November 1983 and he
6 is almost 30 years old now. He was just about to
7 turn 27 when this happened. He is of Inuvialuit
8 descent and grew up in Tuktoyaktuk.
9 A presentence report has been prepared and
10 goes over his family history in some detail.
11 This is very helpful information in any
12 sentencing, particularly so in the sentencing of
13 an Aboriginal offender, given that the sentencing
14 courts have special duties and responsibilities
15 when sentencing Aboriginal offenders. I will get
16 back to this in more detail when I talk about the
17 governing sentencing principles that I must apply
18 in this case.
19 The presentence report talks about Mr.
20 Green's family circumstances. It indicates that
21 Mr. Green felt loved by his parents when he was
22 growing up. He spent some time engaged in
23 traditional activities during his youth. There
24 are several comments in the presentence report
25 suggesting that he enjoyed these activities and
26 has fond memories of them. I do not know of
27 course, but it is possible that becoming

1 eventually reconnected with those types of
2 activities is part of what could help Mr. Green
3 get off the path that he has been on for many
4 years.
5 The presentence report does mention that
6 both his parents were heavy drinkers and that he
7 witnessed family violence in the home when he was
8 young. There is no mention of Mr. Green himself
9 having been the victim of any kind of physical,
10 sexual, or mental abuse.
11 In this regard, it is sad to say he is more
12 fortunate than many offenders who come before the
13 court and whose circumstances we hear about. It
14 is not uncommon to hear that offenders who grew
15 up in an environment where alcohol was abused and
16 violence occurred, not just between the parents
17 but also directed at the children. It is not
18 uncommon to hear that children grew up in
19 circumstances where there was overcrowding in the
20 home, little supervision or guidance. And
21 without minimizing the impact that alcohol abuse
22 and violence in the home would have had on Mr.
23 Green, because there is no doubt it would have an
24 impact on a child, there appears to have been
25 some positive aspects to his upbringing as well.
26 Several people commented in the presentence
27 report that Mr. Green is a good person when

1 sober, but has drinking and anger issues. That
2 theme comes up on a number of occasions and comes
3 from different sources, including Kendyce
4 Cockney. Kendyce Cockney says that she
5 considered Mr. Green a good friend before this
6 happened. And there are other family members,
7 including some of Mr. Green's siblings, that talk
8 about the fact he is a good person when he is
9 sober.
10 Mr. Green himself acknowledges that he has a
11 problem with anger and a problem with alcohol.
12 That is abundantly clear from the events that
13 happened in October 2010, and from his criminal
14 record.
15 Mr. Green started getting into trouble at a
16 young age. His mother describes him as being
17 "taken away". He got into trouble, apparently
18 mixing up with the wrong crowd. Of course it is
19 not uncommon for young people to come into
20 conflict with the law when they are young, but it
21 appears that Mr. Green got into big trouble early
22 and has not, to date, been able to break that
23 cycle. Since that early contact with the justice
24 system when he was about 13 years old, he has
25 essentially been in and out of jail, and recently
26 more often in jail than out of jail.
27 His criminal record is appalling. It starts

1 with convictions in Youth Court and, notably, he
2 received custody the very first time he was in
3 Youth Court. Usually, with young persons, this
4 does not happen unless the offence is quite
5 serious or there are compelling reasons to resort
6 to incarceration. This is certainly the case
7 now, but it was also true when the applicable
8 statute was the Young Offenders Act, which is the
9 Act that would have been in force when Mr. Green
10 was first before the courts.
11 His record has a lot of convictions for
12 "break and enter and commit", and I do not know
13 what indictable offence was committed in
14 conjunction with those break and enters. I note
15 that the dispositions in the Youth Court involve
16 significant sentences; for example, in 1999,
17 there is a sentence of 12 months secure custody
18 imposed on a break and enter and commit. One of
19 the convictions entered on the same day was for
20 handling a firearm or restricted weapon.
21 Whatever he was sentenced for in July 1999, it
22 would not have been a minor matter that resulted
23 in that type of a sentence. And then there are
24 more convictions in the Youth Court.
25 Things did not improve after Mr. Green
26 became an adult. In May 2002, there is another
27 one of these break and enter and commit where I

1 do not know what the indictable offence was, but
2 the sentence imposed was 23 months in jail, a
3 sentence at the very high end of the territorial
4 range.
5 Things continued on the same path in
6 subsequent years. Mr. Green was convicted of
7 dangerous driving, escaping lawful custody,
8 fleeing from police officers, continually being
9 sentenced to more jail terms. And then in 2007,
10 he was sentenced for aggravated assault, assault
11 with weapon, and dangerous operation of a motor
12 vehicle. The transcript of that sentencing
13 decision has been filed in these proceedings.
14 The sentence was imposed following a conviction
15 after trial. The facts are different from the
16 ones in this case, but there are similarities:
17 Mr. Green was at a drinking party; he became
18 upset at someone for no discernible reason; the
19 attack was completely unprovoked. In that case,
20 he used a knife to attack the victim and stabbed
21 him. Thankfully, and by pure chance, no serious
22 injuries were inflicted. But that was not the
23 end of it. After the victim fled, Mr. Green
24 chased him with a snowmobile essentially trying
25 to run him over. For those offences, Mr. Green
26 received a global sentence of 30 months in jail.
27 He was convicted of a further assault with weapon

1 in August 2007. I do not have any information
2 about that particular matter. I do not know if
3 it was for an offence that was committed while he
4 was in custody, or whether it was for something
5 that had happened before and only got dealt with
6 after. In any event, he was eventually released
7 on statutory release but was recommitted to
8 custody after breaching his conditions. I do not
9 know when he was finally released, but
10 considering that he was recommitted in July 2009
11 and what happened in this case took place in
12 October 2010, he would have been out of custody
13 it would seem for a year at most before these
14 offences were committed.
15 The criminal record is obviously an
16 aggravating factor in this case. People should
17 not be sentenced over and over again for the
18 convictions that appear on their criminal record.
19 That would not be fair. But what the record
20 shows is how dangerous Mr. Green has been for
21 fellow members of his community for the last
22 several years. He has caused a lot of harm to
23 others in his relatively young life, and,
24 unfortunately, the events of October 2010 suggest
25 that he is not getting any less dangerous when he
26 is intoxicated.
27 Mr. Green spoke directly to the Court

1 earlier this week. He said he was sorry for what
2 he did, and I believe him. I believe him even if
3 it appears that he did not show that remorse
4 earlier on in these proceedings.
5 There is a reference in the presentence
6 report about comments made by RCMP officers
7 suggesting that Mr. Green showed no remorse at
8 the time of his arrest, and even afterwards
9 appeared to have a careless attitude about this
10 matter when it came up for a jury trial in
11 Tuktoyaktuk in April 2012. It may well be that
12 it has taken him a long time to realize the
13 magnitude of what he has done. I do hope that
14 sitting through this sentencing hearing, hearing
15 the victim impact statements, has gone some way
16 to making him realize even more the seriousness
17 of what he has done and its consequences. But
18 whatever his attitude was back then at the time
19 of his arrest and in the following months, he has
20 now pleaded guilty and I accept that he is sorry
21 for what he has done. That is one step. The
22 next step, of course, and the more meaningful one
23 in the long term, is for him to be committed to
24 dealing with his issues, live a sober lifestyle,
25 and try to make the rest of his life more
26 productive than the last several years have been.
27 I say this because Mr. Green was probably

1 also very sorry about what he did to the person
2 he stabbed and chased with a snow machine in a
3 fit of rage in December 2005, which led to his
4 2007 convictions. The problem is that him being
5 sorry after the fact does not help his victims,
6 it does not protect the community, and it does
7 not address the root causes of his behaviour. If
8 he does not find a way to address the rage that
9 is within him, it is quite possible that he will
10 eventually kill someone. Even if he does not
11 kill someone, I suspect that if Mr. Green commits
12 any further crimes of serious violence in the
13 future, he is going to find himself facing an
14 application by the Crown to have him declared a
15 dangerous offender and locked up permanently.
16 The Court sincerely hopes that this is not
17 where things will go. The Court sincerely hopes
18 that there will not in fact be a next victim.
19 But the reality is that the Court does not have
20 the power to do anything today that will
21 determine for sure one way or another whether
22 there will be a next time. The Court today can
23 impose a sentence for what has happened. What
24 happens or does not happen in the future is up to
25 Mr. Green.
26 My task today is to impose a sentence on Mr.
27 Green for what he has done. To impose a fit

1 sentence, I have to take into account the
2 principles of sentencing that are set out in the
3 Criminal Code. The Criminal Code sets out what
4 the objectives of sentencing are and what
5 principles govern a court in deciding what a fit
6 sentence is. I will not go over the provisions
7 of the Code that deal with this issue, but I have
8 considered them. I just want to refer briefly to
9 a few principles that are most applicable to this
10 case.
11 First, I have to bear in mind that the
12 fundamental purpose of sentencing is set out in
13 the Criminal Code and is said to be:
14
15 ...to contribute, along with crime
16 prevention initiatives, to respect
17 for the law and the maintenance of a
18 just, peaceful and safe society by
19 imposing just sanctions that have
20 one or more of the following
21 objectives:
22 (a) to denounce unlawfully conduct,
23
24 in other words, express society's disapproval of
25 the conduct.
26
27 (b) to deter the offender and other

1 persons from committing offences;

2

3 which essentially means try to discourage people

4 from committing crimes.

5

6 (c) to separate offenders from

7 society, where necessary;

8 (d) to assist in rehabilitating

9 offenders;

10 (e) to provide reparations for harm

11 done to victims or to the community;

12 and

13 (f) to promote a sense of

14 responsibility in offenders, and

15 acknowledgement of the harm done to

16 victims and to the community.

17

18 That is the fundamental purpose and objectives of

19 sentencing.

20 The most fundamental principle of sentencing

21 is proportionality. A sentence must be

22 proportionate to the gravity of the offence and

23 to the degree of responsibility of the offender,

24 and that is what all the other principles seek to

25 achieve.

26 There are a lot of other principles that are

27 quoted in the Criminal Code. The two that I want

1 to refer to primarily are the fact that sentences
2 imposed on similar offenders for similar offences
3 should be similar; the sentences should be
4 similar. It is often called the "principle of
5 parity".
6 Another very important principle that
7 applies here is that "all available sanctions
8 other than imprisonment that are reasonable in
9 the circumstances should be considered for all
10 offenders, with particular attention to the
11 circumstances of Aboriginal offenders."
12 Given Mr. Green's criminal record, the
13 paramount consideration today, in my opinion, has
14 to be the protection of the public.
15 Rehabilitation is always important and is
16 ultimately the best way to protect the public.
17 But at this point Mr. Green, simply put, appears
18 to be a "time bomb". He is a very dangerous
19 person when he is intoxicated. He knows this.
20 He knows he has a problem with alcohol and a
21 problem with anger. He was intoxicated when he
22 committed the offence that he was sentenced for
23 in 2007, and I suspect he was probably
24 intoxicated when he committed some of the other
25 offences on his record. He knows that he is
26 dangerous when he drinks. The Court knows that
27 it is hard to deal with addiction, but the bottom

1 line is that Mr. Green has not addressed that
2 issue and he has not addressed his anger issues.
3 Because of that, he continues to be a threat to
4 the safety of the public.
5 Denunciation and deterrence are factors
6 here, of course, because society has to express
7 its disapproval of this type of conduct that has
8 such terrible impacts on the victims of the
9 crimes. Specific deterrence is a factor because
10 Mr. Green obviously continues to behave in ways
11 that are unacceptable. Whether a jail term can
12 achieve these purposes is not necessarily clear,
13 but the Court does not have a lot of tools
14 available to it on sentencing.
15 I want to spend some time now on the
16 important sentencing principles that are engaged
17 because Mr. Green is an Aboriginal offender.
18 That factor requires me to approach his
19 sentencing in a special way, one that takes into
20 account that factor. I will spend a bit of time
21 now explaining what that means.
22 I am required to approach this sentencing in
23 a manner that takes Mr. Green's Aboriginal
24 descent into account. I have already referred to
25 the principle that says that "all available
26 sanctions other than imprisonment that are
27 reasonable in the circumstances must be

1 considered for all offenders, with particular
2 attention to the circumstances of Aboriginal
3 offenders." That provision was interpreted by
4 the Supreme Court of Canada many years ago in R.
5 v. Gladue, [1999] 1 S.C.R. 688, and it was more
6 recently interpreted in the case of R. v.
7 Ipeelee, 2012 SCC 13. I do not plan on quoting
8 at length from these decisions, but I just want
9 to refer to the main principles that they have
10 enunciated because those principles are binding
11 on sentencing courts.
12 This sentencing principle codified in
13 section 718.2(e) of the Criminal Code is a
14 remedial provision. It was intended to address
15 the problem of overrepresentation of Aboriginal
16 people in Canadian jails. The court acknowledged
17 that this problem could not be addressed through
18 the sentencing process alone, but found that
19 sentencing was one of the areas where
20 consideration for the unique circumstances of
21 Aboriginal offenders had its place. The court
22 found that when sentencing an Aboriginal
23 offender, courts are required to take into
24 account the unique, systemic or background
25 factors that may have played a part in bringing
26 the particular offender before the court. And,
27 the Supreme Court also found that sentencing

1 courts were required to consider the type of
2 sentencing procedure and sanctions that may be
3 appropriate in the circumstances because of the
4 offender's particular Aboriginal heritage.
5 Judges are required to take judicial notice of
6 broad, systemic and background factors that
7 affect Aboriginal offenders generally, but also
8 case-specific information that is provided by
9 counsel or through the presentence report.
10 The Supreme Court made it clear in the
11 Ipeelee decision that courts must take judicial
12 notice of factors such as the history of
13 colonialism, displacement, residential schools,
14 and how these factors continue to translate into
15 things like lower educational attainment, lower
16 income, higher unemployment rates, higher rates
17 of substance abuse and suicide, higher levels of
18 incarceration for Aboriginal people. The Supreme
19 Court also made it clear that those matters do
20 not on their own justify a different sentence for
21 an Aboriginal offender compared to what would be
22 imposed on a non-Aboriginal offender, but they
23 are things that provide context for understanding
24 the case-specific information that is presented
25 by counsel in any given case about the offender
26 who is being sentenced.
27 I have taken judicial notice of those

1 factors. They are referred to frequently in the
2 courts in this jurisdiction where, of course,
3 Aboriginal people form the majority of the
4 population in many of the communities, even
5 though they do not form the majority of the
6 population in the City of Yellowknife. This case
7 arose in Tuktoyaktuk where the majority of the
8 population is Aboriginal. It just so happens in
9 this case that the victim of the aggravated
10 assault charge is non-Aboriginal, but his wife,
11 the victim of the assault charge and very much a
12 victim also of the consequences of the assault on
13 her husband, as well as her daughter, are
14 Aboriginal.
15 The courts in this jurisdiction are familiar
16 with the impact that residential schools had on
17 many people. They are familiar with it, sadly,
18 because we hear about it frequently in the course
19 of our work.
20 The courts also often hear about the very
21 difficult circumstances faced by people in their
22 youth; about families where there is alcohol
23 abuse, physical and sexual abuse; about low
24 education levels; about the struggles to succeed
25 and break free from the terrible cycle that so
26 many people are trapped in; about the challenges
27 of living in very isolated communities with

1 limited employment opportunities; limited
2 resources to deal with addictions and other
3 issues, for those who are ready and willing to
4 address those issues.
5 The case-specific information that is
6 available to the Court in this case, through the
7 submissions of counsel and through the
8 presentence report, are very much in line,
9 unfortunately, with information that is provided
10 frequently in sentencing cases.
11 As I have said, in some ways the
12 circumstances described in Mr. Green's
13 presentence report are better than what the Court
14 often reads and hears about, but it is clear that
15 he also faced difficulties in the home
16 particularly with respect to alcohol abuse and
17 domestic violence. Those are things that do
18 children a lot of harm.
19 In addition, both his parents did attend
20 residential school, and the report is clear that
21 this had an impact on the way that they parented
22 their children. According to his counsel, Mr.
23 Green, growing up, knew that his parents loved
24 him because they said they did, but they did not
25 show it. This is consistent with his mother's
26 comments in the report about her experience of
27 being at a residence school for many years, where

1 no love was shown, and the people running the
2 school were, in her words, "mean". She is
3 reported saying she raised her children the same
4 way she was raised in that environment, so
5 clearly the impact that the residential school
6 had on her translated into a very real impact on
7 her children, including Mr. Green.
8 There are other aspects of the report that
9 reveal circumstances that, sadly, are also common
10 in our northern communities. Mr. Green remembers
11 quite a few friends committing suicide. That
12 alone would be traumatic and it is not the
13 standard experience for young people growing up
14 in this country. It is not surprising that such
15 experiences would leave some painful traces.
16 All these things having something to do with
17 the unhealthy relationship Mr. Green developed
18 with alcohol and drugs and with his anger issues,
19 is something that I have no difficulty at all to
20 infer.
21 Going back to the Ipeelee case, the Supreme
22 Court of Canada reminded sentencing judges that
23 they are required to focus their analysis on the
24 unique circumstances of Aboriginal offenders that
25 can reasonably and justifiably impact on the
26 sentence imposed, in other words, the systemic
27 factors that play a part in bringing the offender

1 before the court and the type of sanctions that
2 may be appropriate because of the offender's
3 Aboriginal heritage, are things that bear on the
4 ultimate question of what will be a fit sentence.
5 The court explained that systemic factors may
6 have a bearing on the level of blameworthiness of
7 the offender, which in turn impacts on the
8 proportionality principle, but the court also
9 made it clear that the true meaning of having a
10 different approach in sentencing Aboriginal
11 offenders did not amount to creating what they
12 called a "race-based discount on sentencing".
13 At paragraph 75 of the Ipeelee decision, the
14 court said this:
15
16 Section 718.2(e) does not create a
17 race-based discount on sentencing.
18 The provision does not ask courts to
19 remedy the overrepresentation of
20 Aboriginal people in prisons by
21 artificially reducing incarceration
22 rates. Rather, sentencing judges
23 are required to pay particular
24 attention to the circumstances of
25 Aboriginal offenders in order to
26 endeavour to achieve a truly fit and
27 proper sentence in any particular

1 case. This has been, and continues
2 to be, the fundamental duty of a
3 sentencing judge.
4
5 The final comment I will make about the
6 Ipeelee decision is that it reiterated that this
7 different approach was mandated in all cases
8 involving the sentencing of Aboriginal offenders,
9 including serious offences. There were some
10 excerpts of the Gladue decision that had been
11 used to support the proposition that perhaps when
12 dealing with serious offences there was no
13 requirement to take into account the Aboriginal
14 status of the offender or, perhaps more
15 appropriately, that it did not make a difference.
16 In Ipeelee, the court clarified that this was not
17 the case. In each case, a sentencing court has
18 the ultimate discretion to impose a sentence that
19 is fit, taking into account the circumstances of
20 the offence, the specific circumstances of the
21 offender including the systemic and background
22 factors and factors specific to the offender by
23 virtue of his or her Aboriginal heritage. The
24 availability of sanctions other than imprisonment
25 and the effectiveness of such sanctions to
26 achieve the goals of sentencing must also be
27 considered.

1 In this case no one is suggesting that
2 something other than a jail term is required in
3 order to uphold the principle of proportionality.
4 I think it is clear that there are no sanctions
5 other than imprisonment that could address the
6 fundamental principle of proportionality in the
7 circumstances of this case.
8 I have gone to some lengths here to make it
9 clear that I am mindful of the duty that rests on
10 me to take Mr. Green's Aboriginal heritage into
11 account when examining what a fit sentence is for
12 the serious crimes he committed in October 2010.
13 I have taken into account the specific
14 circumstances brought to my attention through the
15 presentence report and through his counsel, and I
16 have taken judicial notice of the situation and
17 circumstances faced by Aboriginal people in this
18 jurisdiction and elsewhere in the broader sense
19 as well.
20 The task of any sentencing judge is to apply
21 the sentencing principles to the specific
22 circumstances of any given case.
23 The crime of aggravated assault is a serious
24 offence. It is punishable by a maximum of 14
25 years' imprisonment. Obviously any assault where
26 the life of the victim is endangered would always
27 be inherently serious, but, as with all offences,

1 there are a variety of ways in which this offence
2 can be committed, so there is a range of
3 seriousness within what constitutes an aggravated
4 assault. It is possible to assault someone and
5 endanger their life, but that in the end there
6 would be no long term consequences for the
7 victim. Fortunately, there are often situations
8 where, even after serious assaults, people make a
9 full recovery. Unfortunately, this is not one of
10 those cases. There have been long-term
11 consequences, and very serious ones.
12 As I have already mentioned, the criminal
13 record is an aggravating factor. It is
14 aggravating because it demonstrates the risk that
15 Mr. Green currently poses for the members of the
16 community. It reflects a pattern of conduct that
17 is very disturbing, the seriousness of which
18 appears to continue to be escalating.
19 The only mitigating factor here is the
20 guilty plea. Offenders deserve credit when they
21 plead guilty. It saves the time and resources
22 required to run a trial. Importantly, it spares
23 victims from the trauma of having to relive
24 events by having to talk about them.
25 The facts alleged here are that those who
26 were present at this house party were all
27 intoxicated. The standard of proof on a criminal

1 trial is a high one, so giving up his right to
2 having the Crown prove the charge beyond a
3 reasonable doubt is something that Mr. Green
4 deserves credit for, and it is also an indication
5 that he is remorseful and is now willing to take
6 responsibility for his actions.
7 At the same time, this was not a guilty plea
8 at an early stage of the matter. The witnesses
9 did have to testify at the preliminary hearing.
10 They were subpoenaed for the jury trial in
11 Tuktoyaktuk in April 2012. After that resulted
12 in a mistrial because it was not possible to
13 select a jury, they were later subpoenaed again
14 for the January 2013 scheduled trial. For all
15 this time they were left thinking that they would
16 have to testimony. There was stress and anxiety
17 that I am sure came with it. It was a few weeks
18 before the scheduled trial that they learned that
19 they would not have to testify. So while
20 mitigating, the guilty plea is not mitigating to
21 the same extent that it would be had it been
22 entered early on. But still, it is mitigating
23 and I have taken it into account.
24 I have also taken into account, as I have
25 mentioned a few times already, the circumstances
26 of Mr. Green as an Aboriginal offender and the
27 extent to which this has bearing on what is a fit

1 sentence for the crimes he committed. I have
2 reread the Ipeelee decision and I have reminded
3 myself of the directions provided in that case.
4 Here the question is not whether a jail term is
5 required; the question is whether the
6 circumstances that Mr. Green has faced are such
7 that his moral blameworthiness for his offences
8 is less than it would be had he not faced those
9 circumstances.
10 Another thing I must consider in this case
11 is how much credit should be given to Mr. Green
12 for the substantial period of time he has spent
13 in pre-trial custody - two years and five months
14 - and, again, I do need to spend some time
15 dealing with that issue thoroughly.
16 How much credit is to be given for the time
17 a person has spent in pre-trial custody is a
18 matter for the court's discretion, but that
19 discretion has certain limits. Section 719 of
20 the Criminal Code provides a framework for
21 dealing with that issue. The aspects of the
22 provision that are relevant for the purposes of
23 this case are that in determining the sentence to
24 be imposed, the court may take into account the
25 time that the accused has spent in pre-trial
26 custody. The credit for that time is to be
27 limited to one day credit for each day spent in

1 pre-trial custody. But despite this general
2 rule, if the circumstances justify it, credit may
3 be given on an enhanced basis of up to
4 one-and-a-half days credit for each day spent in
5 pre-trial custody, but that enhanced credit
6 cannot be given if the reason for detention was
7 stated on the record as being primarily because
8 of previous convictions of the accused. To
9 properly apply these principles, the sentencing
10 court has to be advised precisely of the
11 procedural history of the matter as far as bail
12 is concerned, to determine whether the court has
13 discretion to give credit for the pre-trial
14 custody on an enhanced basis and, if the court
15 does have that discretion, to determine whether
16 the circumstances in fact justify enhanced credit
17 being granted.
18 The consequences of this analysis are
19 particularly significant in a case such as this
20 one where the period of pre-trial custody was
21 lengthy, so this is an issue that must be
22 carefully considered.
23 I have gone through all the documents on the
24 court file in great detail, and this is my
25 understanding of the procedural history of Mr.
26 Green's remand:
27 He was arrested and charged on this matter

1 shortly after it happened. He had several
2 appearances before the Territorial Court. On
3 October 15th, 2010, a warrant of committal in
4 Form 8 issued. That warrant states that the
5 accused is remanded on consent, reserving his
6 right to a show cause hearing.
7 Then, by operation of section 525 of the
8 Criminal Code, the issue of Mr. Green's detention
9 came to be reviewed in this court on a number of
10 occasions. The first time was in January 2011,
11 and at that time he waived his right to a bail
12 review.
13 The next time it came up for review when the
14 matter was spoken to in court it appears that,
15 because there was the upcoming preliminary
16 hearing in May, the review was postponed to June,
17 to take place after the preliminary hearing.
18 After Mr. Green was committed to stand trial in
19 May, he appeared in this court and on the 13th of
20 June, 2011, he sought release. He was ordered
21 detained on the primary and secondary grounds,
22 according to the clerk's notes on the file. It
23 does not appear that a new Form 8 warrant of
24 committal was issued at that time, and there is
25 also no transcript of those proceedings. There
26 is nothing to indicate that the accused was
27 detained primarily because of his criminal

1 record.

2 There were several subsequent bail reviews.
3 In October 2011, and in January 2012, both times
4 his continued detention was ordered on the
5 primary and secondary grounds. There are
6 transcripts of those decisions. No mention was
7 made that detention was being ordered primarily
8 because of his record.

9 Mr. Green's jury trial had been scheduled to
10 proceed in Tuktoyaktuk in April 2012, but because
11 the court was not able to select a jury a
12 mistrial was declared.

13 Mr. Green sought a review of his bail again
14 in May 2012. At that time he sought release on
15 the basis that circumstances had changed since
16 the previous hearing largely because the trial
17 had not proceeded and the new date for trial at
18 that point was not known. His continued
19 detention was nonetheless ordered again on the
20 primary and secondary grounds. There is no
21 transcript of that hearing, but there is nothing
22 on the court record that indicates that detention
23 was ordered primarily because of his record.

24 So based on my review of the court file, it
25 appears that the only Form 8 warrant of committal
26 that ever issued was the one that issued in 2010,
27 and that warrant does not include any endorsement

1 or the reasons for detention, which is not
2 surprising given that at that point detention was
3 on consent.
4 Throughout the rest of the procedural
5 history of this matter, there is no record of any
6 of the subsequent decisions to detain Mr. Green
7 having been based primarily on his criminal
8 record. The net result is that I have discretion
9 to give him credit for the time he spent in
10 pre-trial basis on an enhanced basis.
11 The next question is whether I should.
12 There has been some uncertainty, and a fair bit
13 of litigation, about what types of circumstances
14 justify granting enhanced credit. The question
15 is what the words "if the circumstances justify
16 it" in subsection 719(3.1) actually mean. In
17 some cases it was argued that this enhanced
18 credit was only available if there were
19 exceptional circumstances. It was argued that
20 things that apply to all remand prisoners, such
21 as the unavailability of remission, limited
22 access to programs, et cetera, are not among the
23 things that Parliament intended be considered to
24 grant enhanced credit for remand time. But there
25 is now a strong trend in jurisprudence, including
26 the jurisprudence from this jurisdiction, that
27 the proper interpretation of this provision is

1 that the circumstances that can justify enhanced
2 credit do not have to be exceptional or occur
3 only in rare situations. They do, however, have
4 to be applicable to the specific accused who is
5 before the court. They do have to be individual
6 circumstances faced by the accused before the
7 court. There are a number of cases that now
8 stand for this proposition:
9 R. v. Stonefish, 2012 MBCA 116; R. v. Vittrewkwa,
10 2011 YKTC 64; R. v. Desjarlais, 2012 NWTSC 2; R.
11 v. Mannilaq, 2012 NWTSC 48; R. v. Carvery (L.A.),
12 2012 NSCA 107; and just a few weeks ago a similar
13 conclusion reached by the Ontario Court of Appeal
14 in R. v. Summers, 2013 ONCA 147.
15 There is nothing automatic about enhanced
16 credit. The onus is on the person being
17 sentenced to show on a balance of probabilities
18 that the circumstances do justify enhanced credit
19 being granted. This may be done by calling viva
20 voce evidence about the conditions of detention
21 being particularly harsh, or about the fact that
22 the prisoner's conduct while on remand was such
23 that had he or she been a serving prisoner, they
24 would have received remission.
25 In this jurisdiction it has also been found
26 acceptable for the information to be provided by
27 counsel, as an officer of the court, so long as

1 this information comes from reliable sources,
2 such as people who are involved with the offender
3 in the correctional centre. That was the
4 conclusion of both levels of court in this
5 jurisdiction in R. v. Desjarlais, 2012 NWTSC 2,
6 and R. v. Mannilaq, 2012 NWTSC 48
7 In this case counsel has not presented this
8 type of specific information likely because that
9 information was included in the presentence
10 report. The problem I find, though, is that the
11 information included in the presentence report
12 seems to be somewhat contradictory. As noted by
13 Mr. Green's counsel, the author of the report
14 states, at page 3, that Mr. Green has been a good
15 inmate, that there have been few concerns and few
16 incidents during his two-and-a-half years of
17 remand. But, on the same page, the author of the
18 report, at the bottom of the page and also at the
19 top of page 4, reviews Mr. Green's file and
20 refers to a number of incidents during his time
21 in remand. These have included incidents where
22 there has been issues with his interactions with
23 staff or other prisoners which have resulted in
24 him being "locked down "or having certain
25 privileges suspended. Other incidents involve
26 the use of drugs, being intoxicated, making
27 homebrew, which is particularly of concern given

1 the negative impact that alcohol seems to have on
2 him. I recognize that there can be more serious
3 incidents in a jail setting, but I still find it
4 a little bit difficult to reconcile this part of
5 the report with the case manager's reported
6 comments and assessment about Mr. Green's conduct
7 while on remand.
8 The report also shows that Mr. Green was
9 offered to participate in the Healing Drum
10 program, and refused. His counsel clarified that
11 although Mr. Green had initially refused the
12 program, he later did agree to take it. This is
13 an eight-week program that he completed and
14 apparently has certificates for. So he has had
15 access to programs while on remand.
16 As I have mentioned already, the onus to
17 show that there should be enhanced credit for
18 remand time rests on the accused. In this case I
19 am not satisfied that he has discharged that
20 onus. Although I will exercise my discretion to
21 grant him credit for the time he spent in
22 pre-trial custody, I am not inclined to grant
23 that credit on an enhanced basis because I am not
24 satisfied that he has demonstrated that the
25 circumstances justify it.
26 All that being said, the bottom line
27 question is what is a fit sentence in this case?

1 Crown and defence agree that a significant
2 jail term is required. They have jointly
3 suggested that the appropriate range is between
4 three-and-a-half and four-and-a-half years'
5 imprisonment. The Crown is asking the Court to
6 impose a sentence at the higher end of that
7 range; defence, relying primarily on the
8 principles articulated in Ipeelee and Gladue,
9 asks that I impose a sentence at the lower end of
10 that range.
11 I have applied the analysis required by the
12 Gladue and Ipeelee cases. I have taken into
13 account all of Mr. Green's circumstances and the
14 factors that I have taken judicial notice of that
15 may have impacted on him and on his moral
16 blameworthiness for the offences that he has
17 committed.
18 Taking that into account, along with the
19 many other factors I am required to consider, I
20 consider that the high end of the presented range
21 is actually at the very low end of what is fit in
22 this case. I say this because of the seriousness
23 of the offence itself; the recent conviction for
24 another serious crime of violence; the pattern of
25 conduct shown in the criminal record; and the
26 need to protect the members of the community of
27 Tuktoyaktuk or whatever other community Mr. Green

1 may live in from this type of behaviour. But for
2 the factors related to Mr. Green's Aboriginal
3 heritage, in my view a fit sentence for this
4 crime would be even longer, even taking into
5 account a guilty plea. As I said, in my
6 estimation Mr. Green is literally at the doorstep
7 of a dangerous offender application if he
8 persists in this type of conduct.
9 I was the sentencing judge in 2007. I then
10 expressed the wish that that case would be a
11 turning point in Mr. Green's life. Evidently it
12 was not. I can only express the same hope again,
13 that this time it will. I hope he will remember,
14 and think about, what we heard from Mary Cockney,
15 from Mr. Kristjanson, and from Kendyce Cockney
16 earlier this week. I hope that beyond anything I
17 have said today, that remembering the words of
18 those whose lives he harmed so much will provide
19 him a powerful motivation to take real steps to
20 change his ways. No one has any control over the
21 past; the only impact we can have is on the
22 future. I really hope that Mr. Green will take
23 steps to have his future be different from his
24 past.
25 Starting from the upper end of the range
26 suggested and giving Mr. Green credit for his
27 time in pre-trial custody on a one-for-one basis,

1 would mean imposing a sentence in the
2 penitentiary range but just over the two year
3 mark. By this, I mean that if I take four years
4 and six months and I subtract two years and five
5 months, the sentence would be two years and one
6 month and would be in the penitentiary range. I
7 have been not heard anything that convinces me
8 that it is essential to impose a sentence in the
9 penitentiary range for this offence, and the
10 Crown has actually suggested that I keep it under
11 two years.
12 Crown has also asked that I impose a
13 probation order. The conditions sought are
14 counselling conditions and no contact conditions
15 to protect the victims, who have indicated that
16 they do not want to have any contact with Mr.
17 Green. Of course in an ideal world there would
18 eventually be a reparation of harm, restoration,
19 and potentially some of the damage caused could
20 be repaired, but that is not something that can
21 be imposed on victims. And to the extent that
22 they have indicated they do not want contact with
23 Mr. Green, I think that wish has to be respected.
24 I am not entirely convinced that probation
25 will be helpful in this case because Mr. Green
26 has so many convictions on his record for
27 breaching court orders. But, as I have said, a

1 period of probation allows me to do something
2 that I cannot otherwise do, which is prohibit
3 contact with the victims, something that they
4 have asked for and that may give them some level
5 of comfort. So for that reason alone, I think it
6 is worthwhile doing.
7 The other thing of course is if Mr. Green
8 does wish to turn his life around, having the
9 support and the help from the probation officer,
10 having that added "push", if I can call it that,
11 to take counselling, to take treatment, may be
12 helpful to him and there is, I suppose, no harm
13 in trying.
14 The other thing the Crown has asked me to
15 consider is to make a compensation order in
16 favour of Mr. Kristjanson to compensate him, in
17 part, for the loss of income he has suffered as a
18 result of the injuries that he sustained. The
19 Crown has filed documents showing what his income
20 was in the years before these sad events and
21 information about what it has been since.
22 Compensation orders can be made pursuant to
23 section 738 of the Criminal Code to compensate
24 victims for losses suffered as a result of
25 crimes. They are not intended to be substitutes
26 for civil proceedings but they can, in
27 appropriate cases, help achieve one of the

1 objectives of sentencing, which is the reparation
2 of harm done to victims.
3 The Crown has filed a number of cases
4 dealing with this issue. Some talk about the
5 applicable principles; a number of them are cases
6 where compensation orders were made but there is
7 no explanation of the reasoning that is behind
8 the order. All these cases involved sentences
9 that were far less significant jail terms than
10 the one that will be imposed here today.
11 I have also considered the case of R. v.
12 Devgan [1999] O.J. No. 1825, a decision that I
13 found quite useful because it sets out the
14 factors to consider when deciding whether or not
15 a compensation order should be made. In that
16 case the court said that orders for compensation,
17 while they have a place in the sentencing
18 process, must be made with restraint and caution.
19 The means of the offender must be taken into
20 account, and this should not be used as a
21 "substitute for civil proceedings."
22 The evidence filed by the Crown shows that
23 Mr. Kristjanson worked before this incident. His
24 income tax returns for the years 2009 and 2010
25 show that he earned $28,000, more or less, and
26 $22,000 respectively for those years. By
27 contrast, his income for the 2011 taxation year

1 dropped to just under $9,000 and consisted
2 primarily of disability benefits.
3 There is no question that section 738
4 specifically contemplates compensation orders
5 being granted for loss of income, and there is no
6 question that this offence resulted in the loss
7 of income for the victim. But that loss is not
8 easily quantifiable because it will have
9 continued in 2012 and could continue for some
10 years to come. As I have said, I must take into
11 account Mr. Green's ability to make restitution.
12 The other factor I have considered is that
13 the case law is clear that compensation orders
14 are a component of sentencing. I have already
15 concluded that a significant jail term must be
16 imposed for this offence so this, too, is
17 relevant in deciding whether the sentence should
18 also include a compensation order. This is a
19 difficult decision. I wish the sentence that I
20 impose today could somehow repair, at least in
21 part, the harm that has been done to these
22 victims, but I cannot ignore the fact that Mr.
23 Green has been in jail for a long time and will
24 be in jail for some time yet. He is not someone
25 who has been particularly employable in the last
26 several years. He has a long road ahead of him
27 if he is to turn his life around. Having a hefty

1 compensation order the equivalent of a civil
2 judgment against him hanging over his head could
3 potentially just turn into a reason for him not
4 to make the necessary efforts to actually upgrade
5 and try to get work, and in that sense it could
6 become counter-productive. The victims would
7 still not be able to enforce their compensation
8 order, and Mr. Green may be less inclined to
9 pursue his efforts towards rehabilitation.
10 After careful consideration, and while it is
11 clear that Mr. Kristjanson has suffered loss of
12 income as a result of this crime, I have decided
13 that this case is not one where it would be
14 appropriate for me to include a compensation
15 order as part of sentencing. This of course in
16 no way prevents the victims from pursuing civil
17 remedies. I do realize that those types of
18 proceedings are time consuming and can be costly,
19 and perhaps they will choose not to do it. But
20 if they do decide to do it, it is quite likely
21 they could claim significantly more than I would
22 ever be able to grant as part of this sentencing
23 hearing.
24 The Crown has sought certain ancillary
25 orders and I will deal with those first.
26 There will be a firearms prohibition order
27 pursuant to section 109 of the Criminal Code.

1 Such an order was made in 2007, but since the
2 Crown has not filed a notice of intention to seek
3 greater punishment, the minimum time for the
4 order is that it expire ten years from Mr.
5 Green's release. I will keep the order to that
6 duration in the hope that at some point in the
7 future he may be in a position to become
8 reconnected with activities on the land that have
9 been positive for him as he was growing up and
10 that that can be part of how he places his life
11 in a different direction.
12 There will also be a DNA order because this
13 is a primary designated offence.
14 There will not be a victims of crime
15 surcharge because, having regard to the time Mr.
16 Green has spent on remand and the sentence that I
17 am about to impose, I am satisfied that imposing
18 a surcharge would result in hardship.
19 There will also be an order for the return
20 of the exhibits that were seized. They should be
21 returned to their rightful owner, if that is
22 appropriate. If not, they should be destroyed,
23 but this is only, of course, at the expiration of
24 the appeal period.
25 Mr. Green, please stand up.
26 Mr. Green, for all these long reasons I have
27 given, I consider to be a fit sentence for these

1 offences globally a sentence of four-and-a-half
2 years. I say, again, I come to this sentence of
3 four-and-a-half years really exercising as much
4 restraint, holding back as much as possible
5 because really it could have been a lot longer
6 given your record and given the consequences of
7 your conduct that day.
8 For the two years and five months you have
9 spent on remand, I am going to give you credit
10 for two years six months and a day because I want
11 to keep the sentence in the territorial range, so
12 there will be a further jail term of two years
13 less one day. That ensures that you will not be
14 sent to Southern Canada because at this point I
15 do not know that there would be any advantage to
16 that, and this may make it easier for your family
17 members to visit you as opposed to if you were
18 further away.
19 I am also going to put you on probation. I
20 have read your record. You know what court
21 orders are and you do not have a great track
22 record for following them, but I will make a
23 probation order and it will be for three years
24 after your release. There are automatic
25 conditions that the clerk will explain to you.
26 They are pretty simple. The most important one
27 is stay out of trouble. I will put two more

1 conditions on. One is that you have no contact
2 directly or indirectly with Doug Kristjanson,
3 Mary Cockney or Kendyce Cockney. That means if
4 you come across them on the street, in a store,
5 anywhere, it is your responsibility to leave.
6 Maybe down the road there will be a time where
7 there can be healing there, but right now they do
8 not want that and that has to be respected.
9 The second condition is that you take
10 counselling or treatment as directed. You have
11 been around long enough, you know that no one can
12 make you take counselling. You probably also
13 know that counselling that you take because you
14 are ordered does not actually work.
15 I am not sure if this will be helpful to
16 you. I hope it will be. I hope that by the time
17 you are released you have had maybe access to
18 other programs while in jail and that you will
19 really be ready to stay away from alcohol and
20 drugs and to make the rest of your life different
21 than what it has been.
22 I probably said very similar things to you
23 in 2007. I hope this time it will prove true.
24 You can sit down.
25 Is there anything, counsel, that I have
26 overlooked?
27 MR. GODFREY: Not from the Crown's

1 perspective.

2 Just for clarification. The firearms order,

3 would that run from time of release, does that

4 run consecutive to the other firearms order or

5 would that run over?

6 THE COURT: It is part of the sentence so

7 I think that I can make that part of it

8 consecutive. That order will commence today and

9 expire ten years after the expiration of the

10 existing one.

11 MR. GODFREY: Thank you.

12 THE COURT: Anything from you, Ms. Rattan?

13 MS. RATTAN: Your Honour, might that

14 include a provision from the Court that there be

15 an exemption in the event that he wishes to apply

16 to go out on the land?

17 THE COURT: I think he can apply for that

18 to the competent authority. Because we are

19 talking a long way down the road, I would rather

20 leave that to the authorities at the time.

21 MS. RATTAN: That's fine.

22 THE COURT: Mr. Green, as I have said, I

23 hope you are able to take advantage of whatever

24 is available to you in jail. Maybe some day you

25 will be able to understand where that anger comes

26 from. I just want to say again, my last words to

27 you, that you have no control over what happened

1 in the past, whether it is the far past when you
2 were young or ten years ago or five years ago or
3 October 2010. It is too late, you cannot change
4 the past, but you can make decisions about the
5 future. I really, really hope that this time
6 this will be a turning point for you. I know
7 that it is not my sentence that is going to
8 achieve that or anything I say today; it really
9 is something that has to come from inside of you.
10 But I hope you remember for a long time what
11 Ms. Cockney said when she was reading that victim
12 impact statement and what I am sure you heard Mr.
13 Godfrey read and everything else that you now
14 know your actions caused. I am sure that you
15 would feel a lot better about yourself if you did
16 not do those kinds of things.
17 ....
18
19 Certified to be a true and
accurate transcript pursuant
20 to Rule 723 and 724 of the
Supreme Court Rules of Court.
21
22
____
23 Annette Wright, RPR, CSR(A)
Court Reporter
24
25
26
27