

R. v. Takazo, 2017 NWTSC 81

S-1-CR2017000050

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

JAMIE TAKAZO

Transcript of the Reasons for Sentence by The Honourable
Justice A. M. Mahar, at Yellowknife in the Northwest
Territories, on August 1st, A.D., 2017.

APPEARANCES:

Mr. B. MacPherson: Counsel for the Crown
Ms. K. Oja: Counsel for the Accused

Charge under s. 117.01(1) and s. 87 Criminal Code

Official Court Reporters

1 THE COURT: Good afternoon, please have
2 a seat.

3 Jamie Takazo is here for sentencing on two
4 charges - first, being possession of a firearm
5 while under an order of prohibition; and,
6 second, pointing a firearm at Corporal Daina
7 Basso, contrary to Section 87 of the Criminal
8 Code.

9 There is an Agreed Statement of Facts that
10 was filed. I propose to simply summarize the
11 Agreed Facts for the purpose of this judgment.

12 On July 17th, 2008, Jamie Takazo was
13 placed on a lifetime firearms prohibition
14 after being convicted of forcible confinement,
15 break and enter, use of a firearm in the
16 commission of an offence and possession of
17 weapon dangerous to the public peace.

18 I have read the transcript of the reasons
19 of Justice Schuler in that sentencing. Mr.
20 Takazo was highly intoxicated and in the
21 middle of a very messy breakup. He took a
22 firearm and entered three different residences
23 with it. First, the residence of his ex and
24 her new boyfriend; followed by the residence
25 of her mother, in which residence an actual
26 round was fired into the ceiling; and then the
27 residence of another individual. He also

1 confronted the RCMP and many times threatening
2 to end his own life. The firearm was actually
3 pointed at two individuals during the course
4 of those events and the events took more than
5 30 hours to resolve.

6 On November 28th, 2016, he entered into an
7 undertaking after being charged with some
8 other offences which were later stayed. One
9 of the conditions of that undertaking was to
10 abstain from the consumption of alcohol.

11 On January the 15th, 2017, Mr. Takazo was
12 in Déline, he had been drinking and was
13 heavily intoxicated. He was in distress and
14 mentioned to a family member that he was
15 contemplating suicide.

16 The RCMP were notified. Constable Jason
17 Ellefson and Corporal Daina Basso arrived on
18 the scene in a police truck. Mr. Takazo could
19 be seen through the open door of a shed. He
20 screamed an obscenity at the police officers,
21 and then retrieved a firearm. Both members
22 saw the firearm and the door to the shed was
23 then closed. They cleared the area, went back
24 to the detachment to arm themselves
25 appropriately and put on body armor.

26 Mr. Takazo left the shed armed with a
27 firearm. Police officers split up in an

1 effort to find him.

2 He was found waving the rifle around
3 wildly yelling that he needed help and no one
4 would help him. The police officers lost
5 touch with one another. There was a
6 malfunction in one of the police radios. Mr.
7 Takazo stopped walking, and he put the rifle
8 to his own throat. Corporal Basso was
9 pleading with him to put the rifle down. He
10 then rose to his feet and pointed the barrel
11 of the rifle directly at the police truck and
12 yelled "I'll do it." Corporal Basso slouched
13 down behind the truck and yelled at a couple
14 of civilians to take cover; they did not do
15 so. She then trained the shotgun on Mr.
16 Takazo.

17 Mr. Takazo continued to yell, wave the
18 firearm about and continued to put the firearm
19 under his chin. Officers trained their
20 weapons on him. He moved slowly towards the
21 police truck, yelling at the officers to take
22 him out and to kill him. He then raised his
23 hands in the air and at this moment one of the
24 civilians tackled him.

25 He was taken into custody. He was
26 somewhat cooperative but he was also very
27 agitated, spoke nonsense, yelling in a voice

1 that didn't sound like his own. Those are the
2 events.

3 Mr. Takazo is 43 years old. He comes from
4 a large family with 11 siblings. He has a
5 Grade 8 education and has very limited reading
6 and writing skills. He was working full time
7 as a swamper for the community of Déline when
8 he was arrested. He was quite proud of this
9 and it was the first time in a long time that
10 he had long-term employment. He was on the
11 waiting list for a home. He had been to see
12 the mental health worker, or the nursing
13 station, approximately three days before this
14 incident and it was indicated at that time
15 that he was in some distress.

16 He has a diagnosed mental illness somewhat
17 undefined and was on antipsychotic medication
18 although not taking it at the time. There was
19 an indication in the judgment of Justice
20 Schuler that there had been a brain injury or
21 a severe trauma to the head that was suffered
22 sometime before that incident back in 2008,
23 and the family members had noticed that his
24 behaviour became more erratic at that point in
25 time. The diagnosis that we have now is one
26 that comes through Dr. Perkins and Dr. Ripley,
27 indicating that he has an undefined psychotic

1 disorder involving auditory hallucinations,
2 and that this may well be connected to alcohol
3 psychosis. Mr. Takazo also has a very bad
4 habit of binge drinking, and when he does
5 binge drink he drinks to extreme excess.
6 Most, if not all of his family members,
7 commented on this during the interviews for
8 the pre-sentence report.

9 He was sent to residential school for
10 approximately six months, but was taken out
11 because he complained about abusive behaviour
12 and his parents removed him. Both of his
13 parents are survivors of the residential
14 school program. His mother spent five years
15 in residential school and his father six. His
16 father had a serious alcohol problem, would
17 drink on a weekly basis and become violent
18 when did he so. The family ended up splitting
19 up for a period of time as a result of this
20 and Children's Aid was involved.

21 Mr. Takazo has also been witness to a
22 number of very traumatic events. He witnessed
23 a plane crash in which several people died.
24 He also he witnessed a murder-suicide. There
25 are clear indications of trauma in his past.

26 All of these are significant Gladue
27 factors and I take them into account.

1 He does not have a significant
2 relationship in his life right now. He
3 occupies himself primarily as a good uncle to
4 his nieces and nephews, he takes care of them
5 when he can, and he appears to be a valued
6 member of his family.

7 It would be fortunate if I could say that
8 this event was out of character, although that
9 analysis doesn't really hold a lot of weight
10 when we are dealing with somebody who suffers
11 from mental illness issues, as well as
12 addictions issues.

13 There are some significant factors that I
14 take into account in differentiating this
15 event from the earlier event that he was
16 sentenced on. The firearm in this case was
17 found to be unloaded when he was apprehended.
18 Nobody was held hostage.

19 The Court often deals with so-called
20 attempts at "suicide by cop". I have a few
21 comments about that in relation to the damage
22 Mr. Takazo did. It is difficult to ascribe
23 malice to people that are in desperate
24 unhealthy situations. Anybody who would
25 attempt to do something like this is almost by
26 definition in a situation like that. The fact
27 that it requires a huge disregard for the

1 other human beings involved in the process is,
2 I suppose, a function of the level of distress
3 and, frankly, derangement that is going on at
4 that point in time.

5 There is a very telling section in the
6 pre-sentence report in which Corporal Basso is
7 quoted.

8 I want you to listen very carefully to
9 this, Mr. Takazo. Corporal Basso did not
10 provide a Victim Impact Statement because of
11 time constraints but she did indicate that she
12 had wanted to. I am quoting her now as she
13 was quoted in the pre-sentence report.

14 "I have been policing for nearly 12 years
15 now. I come from a family of police officers.
16 I have had some close calls, but this is the
17 only time that I ever had the conscious
18 thought that I was imminently going to die
19 during a call. I say that with no drama, just
20 as a statement of fact", Corporal Basso told
21 the writer.

22 She disclosed that at the point when Jamie
23 aimed his rifle directly at her head, she
24 clearly recalled thinking 'I am going to die,
25 should I call my parents and tell them that I
26 love them?'

27 An attempt to force a police officer to

1 use their weapon is basically an attempt to
2 terrify another human being into taking a
3 life. Corporal Basso is seeking counselling
4 for trauma at this point in time. Police
5 officers have to deal with all manner of ugly
6 situations. But they should never have to be
7 confronted with something like this. I can
8 well imagine that most police officers make it
9 through their entire careers never having had
10 a firearm pointed at them. It is not
11 something that should be seen as part of the
12 regular course of their duties. It is an
13 extraordinarily horrifying event. We have to
14 remember that police officers do not want to
15 hurt people anymore than anybody else does.
16 So what we are left with, on a successful
17 attempt at this, is that somebody has actually
18 had to kill someone and been forced into that
19 position. It is awful. I know you were
20 heavily intoxicated, Mr. Takazo. I know you
21 were in severe distress at that time. But I
22 want you to understand clearly the kind of
23 hurt you caused. It is not simply that
24 somebody could have walked into the line of
25 fire, or that you could have been killed. You
26 came very close to being killed. I think it
27 is safe to assume that if your relative or

1 friend, whoever Mr. Lewison is, hadn't tackled
2 you, that this situation would have ended
3 quite differently. As it was, the police
4 officers used severe restraint in not shooting
5 sooner. It was a very dangerous situation.
6 You have acknowledged that in your letter to
7 the Court, and I appreciate that you
8 understand that.

9 While I do take into account the Gladue
10 factors, the primary consideration that I am
11 applying in considering an appropriate
12 sentence is the mental health issues. It is
13 difficult for a Court to apply a lot of the
14 usual parameters in coming to a reasonable
15 sentence when we are dealing with somebody who
16 has mental health issues. You recognize in
17 your conversation with the writer of the
18 pre-sentence report, in your letter to the
19 Court, and your conversations with your
20 counsellor Mr. Stuart, that alcohol is a
21 significant problem for you. This is the
22 third time that you have been in trouble now
23 for being drunk and using a firearm. It has
24 to stop.

25 There is very little point in considering
26 specific and general deterrence when we are
27 dealing with mental health issues and

1 distressed individuals. They are something
2 the Court takes into account, and I hear the
3 Crown on those issues, but the primary issue
4 in terms of an appropriate jail term is
5 denunciation. The community simply has to
6 recognize how serious this is and the need to,
7 in no uncertain terms, apply consequences.

8 I have to also be mindful of your
9 circumstances, and I am to a significant
10 degree.

11 It may seem simplistic because what I am
12 going to do is simply apply the difference
13 between the two positions of counsel. I don't
14 do this in any kind of mechanistic fashion. I
15 actually struggled with the sentence in this
16 case. A year is simply too short to reflect
17 the seriousness of what happened. Two years
18 less a day, I believe, doesn't take into
19 account sufficiently the difference between
20 this event and the earlier event. It's not an
21 unreasonable suggestion, neither suggestion is
22 particularly unreasonable. I think that the
23 necessary term of imprisonment is 18 months,
24 and that's what I am going to give you.

25 You will be placed on probation for a
26 period of three years.

27 Mr. MacPherson, I am going to indicate a

1 number of conditions on the probation order.
2 If you have any concerns or any issues that
3 you want to raise, and as well you, Ms. Oja,
4 please let me know. I'm trying to draft this
5 in a way that works for Mr. Takazo.

6 I am going to make a recommendation on the
7 warrant of committal, first off, that Mr.
8 Takazo be considered for early release if an
9 in-house treatment program is found for his
10 alcohol addiction.

11 I am also going to make a recommendation
12 that he be considered for work release if work
13 is found. Work is a very constructive thing
14 for Mr. Takazo, and when he is sober he
15 appears to be almost no trouble to anyone.

16 You can't drink anymore. You know that,
17 right? Whatever mental health concerns you
18 have, they don't appear to be a criminal issue
19 until you drink. So I am going to address
20 both issues.

21 The first is that you are to abstain
22 absolutely from the possession or consuming of
23 alcohol. That condition -- well, apart from
24 the statutory conditions of keep the peace and
25 be of good behaviour and report to a probation
26 officer within three days of your release and
27 after that as directed, you are to abstain

1 absolutely from the possession or consumption
2 of alcohol or other intoxicants. I add that
3 "other intoxicants" mindful of potential
4 changes to the law that are coming up. There
5 have been some troubling studies linking
6 marijuana consumption and psychosis. I am not
7 suggesting that in another case, counsel, I
8 wouldn't be open to a different argument but I
9 think in Mr. Takazo's case we will simply make
10 it all intoxicants.

11 You are to present yourself, upon the
12 request of the RCMP, at your door for the
13 purpose of verifying your sobriety. In other
14 words, they can check to see if you have been
15 drinking. You are dangerous enough when you
16 drink that there has to be a little bit more
17 than the usual terms of 'you do not drink'.
18 They have the ability to check on you, so you
19 have to go to the door.

20 There is going to be another lifetime
21 prohibition with respect to firearms section
22 109 order.

23 The forfeiture order that you requested,
24 Crown, is granted.

25 There will be a DNA order.

26 You are to continue with counselling,
27 assuming you are going to be seeing Mr. Stuart

1 once you go back to jail in any event, but you
2 are to continue with counselling after that is
3 over, on your probation order, as directed by
4 your probation officer.

5 You are to inform the probation officer of
6 any medication regime that you are on. You
7 are to continue seeing your psychiatrist as
8 recommended. If you cease to take any
9 prescribed medication for any reason, you are
10 to immediately inform your probation officer,
11 and you are to report after that, daily on
12 weekdays, until you have resumed your
13 medication regime or until you have been given
14 written permission by your probation officer
15 to stop reporting that frequently.

16 I want to give your probation officer some
17 oversight of your treatment. I am not going
18 to order you to take medication, but I am
19 going to order you to be in regular contact
20 with your probation officer about it.

21 Mr. MacPherson, is there anything you can
22 suggest beyond what I have ordered? I don't
23 see much point in 30 different conditions on a
24 probation order.

25 MR. MacPHERSON: Nothing further, thank you.

26 THE COURT: Ms. Oja, anything?

27 MS. OJA: No, not with respect to the

1 probation, Your Honour. There was an issue
2 that was brought to my attention between the
3 last date and today with respect to the rifle.
4 And I have just taken a look at the forfeiture
5 section and I am not sure that Your Honour has
6 the ability do anything other than order that
7 it be forfeited. But Mr. Takazo's advised
8 that it was something belonging to his father,
9 who is deceased. It doesn't sound as though
10 anyone other than the deceased person is the
11 lawful owner and so the proposal for Mr.
12 Takazo was that it could be handed over to his
13 brother who has a valid license. I said that
14 I would raise it with Your Honour, but I do
15 know that the section only permits return to a
16 lawful owner, and so...

17 THE COURT: Mr. MacPherson, what do you
18 say?

19 MR. MacPHERSON: The Crown takes the view
20 that there isn't evidence establishing that
21 the firearm belongs to somebody in particular,
22 and so unfortunately the Crown asks for the
23 forfeiture order that was applied for.

24 THE COURT: I think, as well, sad as it
25 is to lose a family heirloom like that, under
26 the circumstances, Mr. Takazo, it is one of
27 the consequences of what happened. I am not

1 going to be particularly creative in response
2 to that. Thank you for raising it, though.

3 MS. OJA: Thank you.

4 THE COURT: Anything else, counsel?

5 MR. MacPHERSON: Nothing further. Thank you.

6 THE COURT: Mr. Takazo, you know what
7 you have to do, right? Good luck.

8 (ADJOURNMENT)

9 THE COURT: Please be seated. I saw the
10 clerk coming; I was thinking yes, the time
11 served.

12 MS. OJA: Yes (inaudible) --

13 THE COURT: -- do we have an exact --

14 Ms. OJA: -- (inaudible).

15 THE COURT: Do we have an exact number
16 of how much time he has already spent in
17 custody?

18 MS. OJA: He was taken into custody
19 January 15th so that puts us at exactly six
20 and a half months as of today of real time,
21 and I don't know if Your Honour prefers it in
22 days -- I haven't done it in days.

23 THE COURT: I think that since the
24 sentence was 18 months, we will make it six
25 and a half months, making it nine and --

26 MS. OJA: -- three-quarters.

27 THE COURT: Three-quarters. I am not

1 exactly sure how you quarter a month into
2 seven and a half days but I think that will
3 probably work for Corrections in any event.
4 So the actual sentence is 18 months -- well,
5 the sentence is 18 months minus nine and
6 three-quarter months, leaves us eight and a
7 quarter months. Or, for clarity sake, eight
8 months eight days.

9 MS. OJA: Thank you very much, Your
10 Honour.

11 THE COURT: Thank you. I apologize,
12 counsel.

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

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26 _____
Lois Hewitt,
Court Reporter

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