

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

GRANT WALTER GIROUX

Transcript of the Reasons for Sentence delivered by The Honourable Judge R.D. Gorin, sitting in Yellowknife, in the Northwest Territories, on the 23rd day of June, A.D. 2009.

APPEARANCES:

Mr. M. Himmelman: Counsel for the Crown

Mr. S. Shabala: Counsel for the Accused

(Charge under s. 348(1)(b) of the Criminal Code of Canada)

1 THE COURT: Well, certainly I take into
2 account, as I always must, the facts of the
3 offence. Mr. Himmelman is quite correct, it is
4 an aggravating factor where an individual is
5 convicted of breaking and entering a dwelling
6 house and knew or was reckless as to whether the
7 dwelling house was occupied and used violence or
8 threats of violence to a person or property.
9 Clearly, that occurred in this particular
10 situation.

11 The violence may not have been especially
12 aggravating, but, nonetheless, there was
13 violence. He went into that dwelling house, in
14 this case a hotel room. I find that he knew that
15 someone was there. Immediately asked where the
16 drugs were, asked where the money was, and once
17 the wallet was provided to him, left. To make
18 matters worse, he came back. He came back and
19 tried to negotiate with his victim, told his
20 victim that he would return his passport to him
21 if his victim gave him the pin number for the
22 bank card he had taken. So the facts are indeed
23 aggravating.

24 There is no guilty plea. The absence of a
25 guilty plea, as counsel are very well aware, is
26 not an aggravating factor, but at the same time
27 it is indeed the absence of a highly mitigating

1 factor. Had there been a guilty plea in relation
2 to this charge, I would have been inclined to
3 reduce the sentence which I am about to impose by
4 at least a factor of one-third.

5 There is as well the fact that the victim
6 was vulnerable, had poor eyesight. He is now, he
7 advises, in a chronic condition of pain. He was
8 in a condition like that before this incident,
9 but the incident in question appears to have
10 aggravated this condition. He also has
11 nightmares as a result.

12 I agree with the Crown that a substantial
13 term of imprisonment is required and that that
14 imprisonment should be, before taking into
15 account the pre-trial detention, in the
16 penitentiary range. There is also the criminal
17 record which I have to consider, and the criminal
18 record shows that there have been prior
19 convictions or findings of guilt for crimes of
20 violence and also prior convictions in relation
21 to breaking and entering and committing
22 indictable offences. At least three such
23 convictions. There is also a conviction for
24 being unlawfully in a dwelling house. I note as
25 well that in November of 2005, Mr. Giroux
26 received 12 months' imprisonment after being
27 convicted of assault with a weapon, and

1 approximately one week later was convicted of
2 three counts of breaking and entering and
3 committing an indictable offence for which he
4 received four months less one day on one of the
5 break and enter convictions and eight months on
6 the other. Total being consecutive. The total
7 cumulative sentence being about two years less a
8 day.

9 There will be a firearms prohibition order.
10 In my view, it is mandatory. This was a crime of
11 violence, and it is a crime of violence for which
12 the maximum period of imprisonment exceeds ten
13 years. So there will be the required firearms
14 prohibition pursuant to Section 109 of the
15 Criminal Code. Mr. Giroux will be prohibited
16 from having in his possession any firearm,
17 prohibited device, ammunition, prohibited
18 ammunition, and explosive substance for the
19 entire period of ten years. The Crown has not
20 filed a notice of intention to seek greater
21 punishment, so it will not be for the lifetime
22 period that would otherwise be applicable. He
23 does have a prior conviction which also led to a
24 mandatory prohibition pursuant to Section 109 of
25 the Criminal Code.

26 There will also be a DNA authorization.
27 This is a primary designated offence. And there

1 will be no victims of crime surcharge given the
2 hardship.

3 Were it not for the pre-trial detention, I
4 would be imposing a jail term of three and a half
5 years. That is 42 months. But I do take into
6 account the pre-trial detention. I give him
7 10 months' credit for it. There will be 32
8 months. Thirty-two months of jail for the
9 conviction of breaking and entering and
10 committing robbery. That is taking into account,
11 as I have said, the pre-trial detention.

12 My understanding, Mr. Shabala, is that
13 although I have imposed federal time, that the
14 local - that is, the territorial - department of
15 corrections has an agreement with the federal
16 department whereby individuals who are sentenced
17 to less than three years may be allowed to serve
18 their sentences in the North. I will endorse the
19 Warrant of Committal to that effect. I will
20 recommend that he be allowed to serve the jail
21 term that I have imposed here at the North Slave
22 Correctional Centre in Yellowknife, but that is
23 the best that I can do. Obviously, where he
24 serves his sentence is up to the federal
25 department of corrections.

26 Anything else in relation to this matter?

27 MR. HIMMELMAN: Not from the Crown, Your

1 Honour. Thank you.

2 THE COURT: Mr. Shabala?

3 MR. SHABALA: Nothing further, Your Honour.

4 THE COURT: Thank you, Counsel.

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8 Certified Pursuant to Rule 723
9 of the Rules of Court

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12 Jane Romanowich, CSR(A), RPR
13 Court Reporter

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