

CANADA / JUDGMENT

R. v. Danjou

2020 BCSC 1820

COURT

Supreme Court of British Columbia

DECIDED

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2020 BCSC 1820 R. v. Danjou IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Danjou, 2020 BCSC 1820 Date: 20200914 Docket: 88594-2 Registry: Kelowna Regina v. Tejwant Danjou Before: The Honourable Madam Justice Beames Oral Reasons for Sentence Counsel for the Crown: S. McCallum M. Lefebure Counsel for the Accused: D. Turko, Q.C. Place and Date of Trial/Hearing: Kelowna, B.C. September 14, 2020 Place and Date of Judgment: Kelowna, B.C. September 14, 2020

- [1] THE COURT: On August 13, 2020 I convicted Mr. Danjou of the second degree murder of Rama Gauravarapu. Mr. Danjou is before me today for sentencing.
- [2] Pursuant to s. 235(1) of the Criminal Code, the mandatory sentence for second degree murder is life imprisonment.
- [3] Section 745(c) provides that the offender will not be eligible for parole until the offender has served at least 10 years, or such greater number of years, not more than 25 years, as has been substituted pursuant to s. 745.4.
- [4] Section 745.4 provides that a judge may substitute for 10 years a number of years greater than 10, to a maximum of 25, having regard to the character of the offender, the nature of the offence, and the circumstances surrounding its commission.
- [5] The purposes and principles of sentencing set out in ss. 718 through 718.2 remain relevant, including the consideration of proportionality: R. v. Meers, 2018 BCSC 465 at para. 9.
- [6] Although sentencing is individualized and fact-specific, and no two cases are identical, other sentences in similar cases should be considered when assessing the fit sentence to be imposed in the circumstances: R. v. Cerra, 2004 BCCA 594 at para. 17.
- [7] In R. v. Shropshire, [1995] 4 S.C.R. 227, Iacobucci J. for the court said this: XXVII. In my opinion, a more appropriate standard, which would better reflect the intentions of Parliament, can be stated in this manner: as a general rule, the period of parole ineligibility shall be for 10 years, but this can be ousted by a determination of the trial judge that, according to the criteria enumerated in s. [745.4], the offender should wait a longer period before having his suitability to be released into the general public assessed. To this end, an

extension of the period of parole ineligibility would not be "unusual", although it may well be that, in the median number of cases a period of 10 years might still be awarded.

- [8] In *R. v. Bennight*, 2012 BCCA 461, as cited in *R. v. Reeves*, 2015 BCSC 1293 and other cases provided to me, Madam Justice MacKenzie set out the principles which apply to a decision whether to impose an extended period of parole eligibility including, and most relevant to this case:
- the principles of denunciation and deterrence and the assessment of future dangerousness; and
 - parole ineligibility of greater than 10 years is justified where there is some particularly aggravating factor.
- [9] In *Cerra*, Mr. Justice Donald said:
- [17] It has often been said that sentencing is an individualized process and comparisons with other cases are difficult. But difficult as they may be, comparisons must be made when reviewing sentences for fitness. Patterns may emerge from an examination of sentencing decisions. I have discerned a pattern from decisions of this Court suggesting, in broad terms, the following: parole eligibility greater than 10 years is justified when there is some particularly aggravating feature; for a penalty of greater than 15 years, egregious circumstances of a higher order of moral culpability are present. So in this case, the savage and prolonged beating raises the penalty above 10 years eligibility. That much is conceded by Mr. Cerra's counsel who urged us to go no higher than 15 years in adjusting the penalty. The key issue is whether there was something more in this case lifting it into a still higher level of blameworthiness.
- [26] I have quoted at length from these authorities to avoid repeating the work of other judges while laying out the data from which trends can be observed. I think it can be said that there are two broad groupings, from 12 to 15 years and from 15 to 20 years, the latter relating to cases at the highest order of moral culpability or dangerousness. I have reviewed the sentence in this case within that framework and concluded that the trial judge's decision was reasonable.
- [10] As Madam Justice Devlin said in *Meers*, my function is to sentence and not to make a parole determination. "Upon the expiry of the period of parole ineligibility it still remains for the parole authorities to determine the offender's suitability for release" (at para. 12).
- [11] The Crown's position on sentencing is that the period of parole ineligibility for Mr. Danjou should be set at 13 to 14 years. The defence position is that the period of parole ineligibility should be the statutory minimum of 10 years.
- [12] I turn now to the factors set out in s. 754.4 and the principles of sentencing. Character of the Offender

- [13] Mr. Danjou is 71 years of age and was 69 years old at the time of the offence. He has three adult daughters, one of whom has written a letter in support of him on sentencing, apparently on behalf of herself and her siblings. Mr. Danjou was previously married and had at least one other significant partner prior to entering into a common-law relationship with Rama Gauravarapu. At the time of the offence, Mr. Danjou was self-employed as a property manager, and he was a licenced managing broker with the Real Estate Council of British Columbia. He has had a steady, as far as I can determine, work history since his arrival in Canada from India.
- [14] Mr. Danjou has no criminal record, but there was a history of physical assault and verbal abuse by him on Ms. Gauravarapu in the months leading up to the murder. Dr. Tomita, the defence psychiatrist who saw Mr. Danjou approximately one year after the offence, wrote a report, and testified at trial, concluded that Mr. Danjou has delusional disorder jealous type, mild to moderate alcohol abuse disorder, and narcissistic personality traits. Despite his diagnoses, Dr. Tomita concluded and testified that at the time of the offence, Mr. Danjou had choices about how to act and react to the anger that he had at Ms. Gauravarapu, and that Mr. Danjou had the capacity to make volitional choices that led him towards, rather than away from, attacking her. Although I did not find that Mr. Danjou attacked Ms. Gauravarapu for reasons relating to jealousy, I accept that his personality traits, alcohol use, and jealous beliefs of infidelity were instrumental in the deterioration of the relationship prior to the committing of the offence.
- [15] Mr. Danjou has been in custody since the offence date. He appears to have been a model prisoner and he spoke positively about his prison experience to Dr. Tomita and in his statement to me today. His counsel says, and I do not doubt, that his life in custody has been much harder since the emergence of the COVID pandemic and that it may well be harder upon his transfer from Okanagan Correctional Centre to the institution or institutions to which he will be transferred after today's hearing.
- [16] Mr. Danjou's daughter, in her letter of support, describes Mr. Danjou as a kind and honourable man; a devoted father; and a hard-working, successful, and well-liked businessman and member of society. The character reference letters which were prepared and submitted to Court in September of 2018 for the bail hearing and marked as exhibits on sentence today confirm the regard with which Mr. Danjou was held at least before this offence was committed. Nature and Circumstances of the Offence
- [17] I will not repeat all of what I said in my reasons convicting Mr. Danjou of second degree murder. In summary form, Mr. Danjou and his victim, Ms. Gauravarapu, were in a spousal relationship of approximately two years' duration. The relationship had been deteriorating in the months leading up to the murder. Mr. Danjou had previously been violent towards Ms. Gauravarapu and she had made efforts to terminate the relationship, including demanding that Mr. Danjou leave her on home May 25, 2018, which resulted in a period of separation. She sent Mr. Danjou texts on at least four occasions prior to the murder telling him she wanted to end the relationship. Mr. Danjou's response was always to attempt to maintain the

relationship, to reconcile, including by professing that he could not live without her.

- [18] Shortly before the murder, Mr. Danjou recorded a meeting he had with a counsellor, a marriage counsellor as I understand it, during which he expressed joy, effectively, at Ms. Gauravarapu's agreement to take him back.
- [19] On July 21, 2018, Mr. Danjou and Ms. Gauravarapu travelled from Surrey to West Kelowna, planning to spend the weekend. On July 22, 2018, they went for lunch and wine tasting at the Mission Hill Winery. At approximately 4:23 that afternoon, while they were seated on a patio at the winery, Mr. Danjou grabbed Ms. Gauravarapu's cellphone out of her hands. Within a minute or two, she packed up her things and walked away. Shortly after that interaction, a witness saw Mr. Danjou confront Ms. Gauravarapu in an angry manner and grab the sunglasses off her face in a slapping sort of motion. She walked away, and Mr. Danjou then watched her from a distance, according to the witness, staring intently and saying foul things. The witness observed a second confrontation, in which Mr. Danjou intercepted Ms. Gauravarapu as she walked through the winery grounds, took off his own sunglasses, and stomped on them. Ms. Gauravarapu's response was to pick up the glasses and to walk away. She went to the wine shop and spent most of the next 40 minutes or so in the wine shop, sometimes looking out the windows, while Mr. Danjou eventually left the winery in a cab. Less than 10 minutes later, Ms. Gauravarapu left in a separate cab.
- [20] The parties met at the hotel and Ms. Gauravarapu demanded that Mr. Danjou get his own room and take his things out of her room. She also told him that he was on his own in terms of getting back to Surrey as she would not give him a ride. He told her that he was getting angry with her.
- [21] After getting his own room, Mr. Danjou took a cab trip to buy cigarettes and to make inquiries at the bus depot about bus transportation to Surrey. He had further text communications with Ms. Gauravarapu, again asking for a ride to Surrey, which she refused, and then sending several more texts, to which she did not reply.
- [22] Within approximately half an hour of returning to the hotel, Mr. Danjou entered Ms. Gauravarapu's room and commenced a prolonged and ultimately fatal attack on her. She died of multiple blunt force trauma to the head. There were 52 separate areas of injury to Ms. Gauravarapu, most to her head, face and neck, but also to her hands (consistent with defensive wounds) and her abdomen (she was found to have a lacerated liver). Some of the injuries inflicted were consistent with having been struck with a wine bottle, and a broken wine bottle with hair stuck to it was found at the scene. Some of the injuries were stab and cut type injuries, at least some of which could have been inflicted with a broken wine bottle. One of the incised wounds was an eight-centimetre cut to her throat, missing the jugular vein by five millimetres.
- [23] The noise made by the prolonged assault was sufficient to awaken a napping guest from the room below, resulting in a noise complaint being made to the front desk staff at the hotel.

- [24] When one of the staff attended the room, Ms. Gauravarapu, whose face was badly swollen and who was on the floor leaning against a wall, asked with difficulty for help and Mr. Danjou said she did not need any help. After the staff person retreated, I find, Mr. Danjou further assaulted Ms. Gauravarapu then left her, still alive, and fled the hotel on foot. He eventually hid in a cardboard dumpster where he was found by a police service dog. Ms. Gauravarapu was attended initially by police, and then firefighters and ambulance attendants, one of which ambulance attendants called her death approximately one hour and 20 minutes after the attack on her began. Aggravating and Mitigating Circumstances
- [25] There can be no escaping the conclusion that the attack on Ms. Gauravarapu was prolonged and brutal. She suffered many injuries, inflicted in several ways including blunt force, cutting, and stabbing. At least some of the injuries were inflicted while she was on or near the ground, as I found in my reasons for convicting Mr. Danjou of second degree murder. Ms. Gauravarapu was in her own hotel room, at the time the attack commenced, a place that should have been a place of security for her. That she was the spouse of Mr. Danjou is a statutorily aggravating factor. It is also an aggravating factor that Mr. Danjou made no effort to obtain assistance for her, even after his attack on her was interrupted by the hotel staff and he, in fact, told the staff person that she needed no help. He fled without providing or securing any assistance for Ms. Gauravarapu while she was still alive.
- [26] In terms of mitigating factors, Mr. Danjou has no criminal record. I also note that Mr. Danjou made many admissions, including that he had killed Ms. Gauravarapu, such that the only issue at trial was whether Crown had proven beyond a reasonable doubt the mens rea required for second degree murder. Having heard him speak today, I accept that he is remorseful.
- [27] In addition to the mitigating factors I have just outlined, I am mindful of his age and of his mental health issues, which are factors to take into account upon sentencing. Victim Impact Statements
- [28] I have received two victim impact statements. Ms. Gauravarapu's daughter, Poornima, has been left with a large hole in her life as a result of having her mother taken from her. I do not doubt that she was traumatized by the event and that she suffers greatly.
- [29] Ms. Cote, the young hotel front desk clerk who spoke to Mr. Danjou at the door of Ms. Gauravarapu's room and saw Ms. Gauravarapu in significant medical distress, bleeding and beaten, and heard her ask for help, was and remains to this day traumatized by the events she witnessed. She still suffers, I accept, significant impacts on her life as a result of what she saw and heard.
- [30] Mr. Danjou's offences also had significant consequences, I accept, on his own family and friends as set out by his daughter in Exhibit 3 on the sentencing.

Conclusion

- [31] In Shropshire, the Supreme Court of Canada concluded that now s. 745(c) contemplates a "broad range of seriousness reflecting the varying degrees of moral culpability" in cases of second degree murder.
- [32] In *R. v. Panghali*, 2011 BCSC 421; *R. v. Boland*, 2019 ONSC 4498; and *R. v. Martel*, 2019 BCSC 2233, amongst others, it has been said that the range for domestic/spousal second degree murder should commonly attract parole ineligibility in the range of 12 to 15 years. Most of the many spousal second degree murder cases provided to me by counsel, all of which I have read, fall within that range. I will attach a list and/or chart of the case authorities to the transcript of my reasons when one is produced.
- [33] This was a brutal, tragic, and senseless killing. By all accounts, Rama Gauravarapu was a much loved and respected mother, family member, friend, and colleague. She was a productive member of her community and society. Her death results in a great loss for many people.
- [34] That the killing was in the context of a spousal relationship is, as I said earlier, a statutorily aggravating feature. That there had been prior abuse inflicted on Ms. Gauravarapu by Mr. Danjou is, again as I said earlier, a further aggravating factor that looms large in my decision.
- [35] Were it not for Mr. Danjou's age, his admission that he killed Ms. Gauravarapu, and his apparent remorse, I would have considered it fit to set a period of parole ineligibility at the higher end of the range.
- [36] Mr. Danjou, taking into account all of the submissions I have heard, the evidence I heard at trial and that was submitted in the sentencing hearing, and the authorities that I have been provided with, I sentence you to life imprisonment. You will be ineligible to apply for parole for a period of 12 years.
- [37] I also make the following ancillary orders as sought by Crown, which are not opposed by defence:
1. pursuant to s. 109 of the Criminal Code, there will be an order prohibiting you from possessing any of the enumerated weapons in s. 109 for a period of 10 years following your release from imprisonment;
 2. pursuant to s. 487.051 of the Criminal Code, I make an order authorizing the taking of your bodily substances for forensic DNA analysis, which is to occur as soon as reasonably practicable within the custodial setting; and
 3. pursuant to s. 743.21, I prohibit you from communicating with Poornima Gauravarapu, Uttma Gill, and Faith Cote.

- [38] Again, I would like to express my appreciation to counsel for the assistance provided to me in advance of the hearing commencing at 10 this morning, with respect to sentencing submissions. Is there anything arising?
- [39] MS. TURKO: No, My Lady.
- [40] MS. McCALLUM: No, My Lady.
- [41] THE COURT: All right, thank you very much. "A.J. Beames J." Appendix A Crown Authorities R. v. Boland, 2019 ONSC 4498 R. v. M. (C.A.), [1996] 1 S.C.R. 500 R. v. Cerra, 2004 BCCA 594 R. v. Daigle, 2017 BCCA 86 R. v. Dinn (1993), 104 Nfld. & P.E.I.R. 263, [1993] N.J. No. 8 (C.A.) R. v. Ghiorghita, 2017 BCSC 1636 R. v. Martel, 2019 BCSC 2233 R. v. McLeod (2003), 177 O.A.C. 385, [2003] O.J. No. 3923 R. v. Mou, 2012 BCSC 1984 R. v. Neumann, 2005 BCSC 1820 R. v. Neumann, 2010 BCCA 446 R. v. O.V., 2016 BCCA 454 R. v. Panghali, 2011 BCSC 421 R. v. Purdy, 2012 BCCA 272 R. v. Praljak, 2013 ONSC 298 R. v. Praljak, 2019 ONCA 394 R. v. R.J.G., 2007 BCCA 631 R. v. Rushton, 2000 YTCA 5, 143 B.C.A.C. 295 R. v. Seyed-Fatemi, 2006 BCCA 310 R. v. Shah (1994), 48 B.C.A.C. 241, [1994] B.C.J. No. 2261 R. v. Shropshire, [1995] 4 S.C.R. 227 R. v. Swope, 2015 BCCA 167 Defence Authorities R. v. Barry, 2013 BCSC 937 R. v. Descroches, 2015 BCSC 1287 R. v. Ghiorghita, 2017 BCSC 1636 R. v. Meers, 2018 BCSC 465 R. v. Reeves, 2015 BCSC 1293 R. v. Wu, 2017 BCSC 2271

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