

CANADA / JUDGMENT

R. v. Green

2001 BCSC 456

COURT

Supreme Court of British Columbia

DECIDED

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Date: 20010328
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Docket: X055095
Registry: Vancouver
IN THE SUPREME COURT OF BRITISH COLUMBIA
HER MAJESTY THE QUEEN
AGAINST
ORRIC RICARDO GREEN

REASONS FOR JUDGMENT

OF THE

HONOURABLE MR. JUSTICE THACKRAY

Counsel for the Crown:

R. Keefer

G.-L. Nelson

Counsel for the Accused:

J.W. Conroy, Q.C.

Date and Place of Hearing:

February 15, 2001

Vancouver, B.C.

- [1] Mr. Green pled guilty to manslaughter. A sentence incorporating the required principles demands a balancing of many factors. It must incorporate protection of society, denunciation, rehabilitation, specific deterrence and general deterrence. Many judgments comment upon the diversity of sentences for manslaughter. There is what is called "the range" but that only narrows the term "life imprisonment" to something between a conditional sentence and incarceration for a period up to a significant number of years.
- [2] The nature of the offence and the circumstances of the offender must be considered. In the case at bar this has been facilitated by a comprehensive background brief prepared by defence counsel and by an Agreed Statement of Facts. They set forth Mr. Green's background and the events of the killing. Mr. Green is 32 years of age, having been born and raised in Atlanta, Georgia. He was in the U.S. Navy for six years. While stationed on Whidbey Island he met Ms. Cara Rosik, the deceased. After he retired from the navy in 1991 he became better acquainted with Ms. Rosik.
- [3] In 1994 Mr. Green obtained employment in Canada as a hairdresser. He also started using cocaine. He attempted suicide. In 1997 he commenced living with Ms. Sylvia Duffy. They had a child on January 17, 1999. At about that time the relationship between Ms. Duffy and Mr. Green soured and Mr. Green's consumption of cocaine increased. Ms. Duffy did not know of his use of cocaine but was aware of a pattern of paranoid and obsessive behaviour. Unknown to her, Mr. Green had plans to leave Canada on June 1, 1999, and had purchased an airline ticket for that purpose.
- [4] Ms. Rosik was a cocaine addict and occasionally smoked it with Mr. Green. They had no sexual relationship. On Friday, May 8, 1999, Mr. Green acquired crack cocaine and consumed a considerable quantity. On May 9 at 4 a.m. Mr. Green arrived at the home of Mr. David Nightingale in Burnaby. Mr. Nightingale was 80 years of age and a friend of Ms. Rosik. She was protective of him.
- [5] Later that morning Ms. Rosik spoke on the telephone with Mr. Green and accused him of taking advantage of Mr. Nightingale, of stealing from her and of abandoning his family. Dr. S. Lohrasbe, a psychiatrist with significant forensic experience, was retained by the Crown. Mr. Green told Dr. Lohrasbe that he was upset after the phone call. This is corroborated by a friend of Mr. Green who accompanied him on the cocaine binge.
- [6] Ms. Rosik told Mr. Green to leave Mr. Nightingale's residence. Mr. Green did so but went elsewhere and ingested more crack cocaine. By mid-afternoon, while still bingeing on cocaine, Mr. Green went to Ms. Rosik's apartment. Dr. Lohrasbe is of the opinion that Mr. Green's likely reason for going there was not in anger but in a genuine attempt to patch things up.

- [7] At Ms. Rosik's residence more crack cocaine was obtained and they both used it. Earlier, Ms. Rosik had telephoned Ms. Duffy and told her about Mr. Green's drug use and suggested that Mr. Green had been stealing from Ms. Duffy. Ms. Duffy was upset and resolved to end the relationship.
- [8] While at Ms. Rosik's apartment, Mr. Green telephoned Ms. Duffy who told him about her conversation with Ms. Rosik. She told Mr. Green that she intended to end their relationship. According to Ms. Duffy, Mr. Green replied that he did not "know" what she was saying and he threatened to kill himself. Ms. Duffy made a reply indicating that such a move was up to him and she hung up the telephone.
- [9] According to Mr. Green, he and the deceased continued to ingest cocaine. Ms. Rosik was lying on the bed and Mr. Green was sitting on its edge. Mr. Green denies any argument or hostility between them. He suggests that Ms. Rosik suddenly attacked him and that she had something in her hand.
- [10] The Agreed Statement of Facts details the assault. It is graphic and, in my opinion, does not require to be repeated in these reasons. It resulted in Mr. Green falling backwards and smashing against a mirror. It came down on top of him. His next recollection is of waking up on the floor with Ms. Rosik beside him. He recalls seeing a lot of blood.
- [11] After the killing Mr. Green walked to Ms. Duffy's house and told her that he had killed, or thought he had killed, Ms. Rosik. Ms. Rosik's daughter, Teryl Brown, and her niece, Tammi Johnson, found the deceased the following morning. Mr. Green was arrested on May 10, 1999.
- [12] The autopsy report details 37 stab wounds to Ms. Rosik's head, neck, face and chest. The autopsy uncovered two metal fragments embedded in Ms. Rosik's skull. These came from a knife that was later found in Mr. Green's possession.
- [13] Ms. Rosik was eviscerated in a single, straight edged incision, from the breastplate to the pelvic bone. Parts of the deceased's abdomen spilled on to the floor. A four inch piece of mirrored glass was recovered from inside her abdomen. The pathologist is of the opinion that this was the instrument used in the evisceration. She is further of the opinion that the evisceration was post-mortem.

PSYCHIATRIC REPORTS

1. Dr. Robert G. Ley

- [14] Dr. Ley, at the request of defence counsel, conducted a psychiatric evaluation of Mr. Green and prepared a report dated November 8, 2000. Mr. Green informed Dr. Ley that his last clear memory is of a mirror breaking on his head. He claimed no conscious memory of attacking and violently stabbing Ms. Rosik.

[15] Dr. Ley said that credibility is a key consideration and that to finalize his assessment it would be necessary to conduct another interview with Mr. Green and to interview collateral references. He gave a provisional opinion in which he said that if Mr. Green's reporting of cocaine consumption was substantially accurate, "then it is quite likely that Mr. Green was intoxicated on cocaine at the time of the alleged offense." However, Dr. Ley further stated that "it does not seem that Mr. Green was experiencing a cocaine-related psychosis or delusional disorder."

[16] Dr. Ley said that "there is clinical reason to doubt Mr. Green's capacity to form the specific intent to murder the victim."

2. Dr. J.A. Noone

[17] Dr. Noone interviewed Mr. Green on October 18, 1999, and on November 6, 2000, reported to Mr. Conroy. Mr. Green's narrative to Dr. Noone was much the same as to Dr. Ley. He related his recollection of Ms. Rosik lunging at him at which time he claimed she was holding a knife. He recalled falling against a mirror that broke, after which he has no recollection of events.

[18] Dr. Noone is of the opinion that ordinarily Mr. Green would tend to avoid conflict and would "tend to overcontrol any hostile impulses." However, this control "would be subject to disinhibition by high alcohol or drug effects and further destabilized by perceived loss, or threat of loss, of a central love relationship."

[19] Dr. Noone said that his "impressions" include a finding that there is nothing in Mr. Green's account of the killing to suggest that he was in a psychotic state at the time.

[20] I find the conclusions of both Dr. Noone and Dr. Ley to be tentative. In saying this I am not being critical. I expect that the lack of firmness in their opinions reflects the limited opportunity that each had to assess Mr. Green.

3. Dr. S. Lohrasbe

[21] Dr. Lohrasbe undertook the most extensive of the medical investigations and produced the most detailed and reliable report and opinion. Dr. Lohrasbe conducted two lengthy interviews with Mr. Green. His report is dated January 18, 2001. Counsel agreed that it is the report of Dr. Lohrasbe that should carry the most weight.

[22] Dr. Lohrasbe concluded that Mr. Green is not a psychopath. He noted that while Mr. Green was eager to please, he did not have "the relentless manipulateness characteristic of psychopathy." Dr. Lohrasbe said that "it is quite obvious that Mr. Green feels emotions quite deeply" and that he was extremely emotional when talking about Ms. Rosik.

[23] Mr. Green reported a feeling of wellbeing, euphoria and power when high on cocaine. Mr. Green detailed his relationship with Ms. Rosik which included mutual drug use. It did not include a sexual relationship. He regarded her as an "aunt".

- [24] Dr. Lohrasbe sets forth, in significant detail, Mr. Green's narrative of the events surrounding the killing. Mr. Green denied any recollection of an argument or of any escalating hostility between himself and Ms. Rosik. He recalled Ms. Rosik lunging at him and he recalls falling backwards. He was sure that she had something in her hand. He recalls a mirror coming down on top of him and then waking up on the floor.
- [25] Dr. Lohrasbe said that he "pushed [Mr. Green] about his recollection of events before and during the killing." He found Mr. Green to be distressed but not defensive or evasive. He got the "strong sense" that Mr. Green is "tormented by what he did and has attempted to remember."
- [26] It is the opinion of Dr. Lohrasbe that Mr. Green was intoxicated at the time of the killing. Dr. Lohrasbe said that Mr. Green was possibly in the withdrawal or crash phase of a cocaine binge "with all the mental alterations that are associated with cocaine highs and cocaine crashes." These can result in unusual behaviour and intense mood changes.
- [27] If the finding of intoxication is accepted, Dr. Lohrasbe takes his analysis to the matter of the reported amnesia with respect to the killing. He states that there are three explanations, broadly speaking, for claimed amnesia. The first is what is called "malingering". I take this to mean that the claimed amnesia is just that, claimed but not actual. Dr. Lohrasbe concluded that while this is possible, "there is nothing to suggest that this is actually the case." He therefore concludes that the amnesia is genuine, for which there can be two sources. One is organic, the other mental or psychological. I see no need to detail his discussion of these in that in either case the diagnosis is of a genuine amnesia.
- [28] Dr. Lohrasbe then tackles the admittedly difficult issue as to whether Mr. Green was suffering from a cocaine-induced psychosis at the time of the killing. He concludes that Mr. Green is not "simply lying" when he recounts Ms. Rosik attacking him. He then considers the possibility that Ms. Rosik actually attacked Mr. Green. He concludes that while this is a possibility, there is no information in support of it.
- [29] This takes him to whether Mr. Green suffered an acute psychotic episode. He concludes that the best explanation for Mr. Green's suggestion that there was an attack is "a paranoia-based hallucination." It is therefore his conclusion that "the killing was prompted by his perception of being under attack." Dr. Lohrasbe finds that the "nature of the killing itself provides some support to the psychosis theory."
- [30] As to intent, Dr. Lohrasbe concludes that Mr. Green was "incapable of functioning with the kind of mental coherence that would be a reasonable match with the legal concept of intent, in this case the intent to harm or kill the victim."
- [31] In summary Dr. Lohrasbe states that the information "is consistent with (and none of it contradicts) the formulation that Orric Green was experiencing a cocaine-induced paranoid psychotic episode when he attacked and killed Cara Rosik."

SUBMISSIONS

- [32] Mr. Conroy submitted that while the sentence in the case at bar could range as high as four years, the proper sentence, after allowing for pre-sentence detention at three and one half years, would be two and one half years. The Crown submitted that the sentence should be ten years imprisonment. Both of these submissions are supported by case precedents that make the submissions principled.
- [33] Crown counsel emphasized that the psychotic episode was self-induced. He pointed out that s. 33.1 of the Criminal Code provides that it is no defence that an accused "by reason of self-induced intoxication, lacked the general intent or the voluntariness required to commit the offence, where the accused departed markedly from the standard of care as described ". A marked departure is defined as that conduct that departs markedly "from the standard of reasonable care generally recognized in Canadian society" in interfering with the bodily integrity of another person.
- [34] Crown counsel cited this as the first of three aggravating factors to be taken into account in the sentence. Defence counsel sees this somewhat differently. Mr. Conroy submitted that it was the offender's use of cocaine that was the marked departure, and that this section made him criminally responsible for his acts.
- [35] The second aggravating factor in the Crown's submission is that Ms. Rosik did not contribute to her own demise. I take this to mean in the sense of being involved in a fracas with Mr. Green, or threatening him with a weapon. There is the fact that Ms. Rosik did participate with Mr. Green in the use of cocaine. It was also Ms. Rosik's contact who supplied the cocaine. However, there is no suggestion that Ms. Rosik could have expected such a violent reaction to the drug from Mr. Green and the suggestion that she lunged at him with a knife has no foundation.
- [36] The third aggravating factor contended by the Crown is the high degree of violence. Mr. Keefer submitted that the nature of the offence, being one of extreme violence to an innocent and vulnerable victim, should propel the sentence into the high end of the range.
- [37] As to mitigating factors, Mr. Conroy noted that Mr. Green pled guilty and that he has no previous criminal record. Mr. Conroy said that Mr. Green is deeply remorseful and noted that he suffers nightmares over his actions. Furthermore, Mr. Green did not commit the act while in the process of committing some other crime.
- [38] Mr. Conroy canvassed the various sentencing factors. He conceded that denunciation is a necessary element. As for deterrence, he contended that general deterrence is a diminished factor in a case where the crime is committed in a state of cocaine-induced psychosis. Mr. Conroy's submission on specific deterrence is that the medical reports and the statements from Mr. Green make it obvious that specific deterrence has already been fulfilled.

[39] Mr. Green, in Mr. Conroy's submission, is no threat to the public and separation from the public is not an issue. As to rehabilitation, this is already underway as evidenced by Mr. Green's successful completion of every course that has been available in pre-trial detention. Mr. Conroy summarized his submission as follows:

It is submitted that the sentencing principles of specific deterrence, separation and even rehabilitation are not of great significance in this case at this time in the circumstances. Further, it is unlikely that a sentence at the higher end of the range will serve to deter others from such an offence in similar circumstances. It is submitted that a sentence towards the lower end of the range, given the overall circumstances, will be sufficient to denounce his conduct and to deter others.

[40] The Crown cited many authorities in support of its suggested sentence. *R. v. Hicks*, [1995] B.C.J. No. 545 (B.C.C.A.) involved two convictions for manslaughter, both of which occurred in a seamless event. One of the victims was stabbed seventeen times in what Mr. Justice Lambert described as a "very vicious and violent assault." Dr. Lohrasbe testified that the offender was in a cocaine-induced psychotic state at the time. The concurrent sentences of ten years' imprisonment, net of pre-trial detention, were upheld.

[41] *R. v. Bunker*, [1994] A.J. No. 222 (Alta. C.A.) is another case of manslaughter committed in a cocaine-induced psychosis. The net incarceration was set at slightly in excess of ten years. The offender had a lengthy criminal record and displayed an absence of remorse.

[42] The Crown also cited *R. v. Colluney*, [1993] B.C.J. No. 1437 (B.C.C.A.); *R. v. Nowacki*, [1998] B.C.J. No. 481 (B.C.C.A.); *R. v. Devries*, [1999] B.C.J. No. 2384 (B.C.C.A.); and *R. v. Berrigan*, [1998] B.C.J. No. 3012 (B.C.S.C.), each of which resulted in a sentence of ten years.

[43] Cases "at the high end of the range" were also cited by Crown counsel. *R. v. Friedrich*, [1994] B.C.J. No. 2774 (B.C.C.A.) resulted in a sentence of fifteen years. The death was described as being "as a result of acts of wanton and mindless brutality." The offender had no criminal record. The trial judge noted that the co-accused was found guilty of second degree murder and that the line between that offence and manslaughter "was a very narrow one."

[44] In *R. v. Maxwell*, [1999] B.C.J. No. 2670 (B.C.C.A.) there was a "vicious and cowardly attack committed upon a defenceless man." The offender had a lengthy criminal record. The killing was committed in the course of a burglary. The sentence was fourteen years.

[45] In *R. v. McCulloch* (6 July 2000), Prince George Registry C054915 (B.C.S.C.) Chief Justice Brenner reviewed the aggravating and mitigating circumstances of the crime. There were many aggravating circumstances including a no-contact order, the offender being on probation and a "constellation" of other matters. The mitigating circumstance was a guilty plea.

- [46] The Court considered the circumstances of the offender and said that these placed him at a moderately high risk of re-offending. He had a lengthy history of substance abuse and criminal convictions. As to the nature of the crime, the Court said that it took the case "away from the low end" of the sentencing scale.
- [47] The Chief Justice considered a large number of precedent cases and in particular *R. v. Stone*, [1999] 2 S.C.R. 290. All of the cases to which the Court was referred had sentences of between five and seven years. Defence counsel submitted that an appropriate sentence would be two years. Crown counsel recommended four years. In passing sentence the Court noted the history of stalking, threatening, assaults, spousal abuse and the risk of re-offending. The Chief Justice sentenced Mr. McCulloch to imprisonment for a period of nine years.
- [48] An appeal of this sentence was dismissed and the sentence upheld. Mr. Conroy responded in writing to this and submitted that McCulloch "is clearly distinguishable from the case at bar, and if anything, supports the defense position" for reasons that he outlined.
- [49] Mr. Conroy contended that *Stone*, *supra*, "is much closer to the facts and circumstances before the Court" in the case at bar. In *Stone* the offender stabbed his wife forty-seven times but claimed to be in an automatistic state. The Crown submitted that provocation should not be considered in mitigation in that this had already served to reduce the offence from murder to manslaughter. The Court disagreed and held that provocation must be considered in sentencing.
- [50] The Court then considered the sentence range for provoked, spousal manslaughter. It noted the comments of McEachern C.J. in *R. v. Archibald* (1992), 15 B.C.A.C. 301 (B.C.C.A.) at 304 that the range "for this kind of manslaughter" is from a suspended sentence to "something less than eight years." It was the phrase "for this kind of manslaughter" that led Chief Justice Brenner in *McCulloch*, *supra*, to distinguish *Archibald*.
- [51] In *Stone* the Supreme Court of Canada declined to vary the sentence of seven years although indicating that the sentence might be regarded as on the light side.
- [52] In the case at bar defence counsel cited many cases with a range of imprisonment commencing as low as two years. The highest sentence in the cases he cited was in *R. v. Dasilva*, [1988] B.C.J. No. 1744 (B.C.C.A.). The crime involved a very brutal beating in which thirty-five blows were struck. The offender had a criminal record. The sentencing reasons of the trial judge were brief but his sentence of eight years' imprisonment was upheld.
- [53] In *H.M.T.Q. v. Widen*, 2001 BCSC 97 the killing was committed with the use of a firearm, which carries a minimum sentence of four years. However, it was caused by a single shot and the nature of the crime did not involve the bloody aspects prevalent in the case at bar. The Crown characterized the killing as akin to murder while defence counsel saw it as "close to accident." I commented in my reasons that this sort of diversity in perspective makes it obvious why manslaughter sentences vary considerably.

- [54] Mr. Widen pled guilty. He had an extensive criminal record. I expressed concern about Mr. Widen's uncontrolled behaviour and safety of the public and concluded that rehabilitation, specific deterrence and protection of the public were the main factors in the sentencing. After crediting Mr. Widen with three and one-half years for pre-trial detention, I sentenced him to four years imprisonment. Mr. Conroy characterized this case as "worse" than the case at bar. Mr. Keefer disagreed and submitted that such a sentence would be too light given the nature of the crime committed by Mr. Green.

DISCUSSION

- [55] Mr. Conroy referred to s. 718.1 of the Criminal Code. It provides that a sentence must be proportionate to the gravity of the offence and to the degree of responsibility of the offender. He conceded that the offence is grave but contended that the degree of responsibility of Mr. Green, that is, his moral culpability, cannot be any greater where the killing took place in a state of cocaine-induced paranoia simply because the killing was particularly heinous.
- [56] This submission emphasizes the lack of intent. However, the lack of intent to cause death is the factor that allowed Mr. Green to plead to manslaughter. I hesitate to further reduce the sentence within the category called manslaughter because there was no intent to kill. That is the very essence of manslaughter.
- [57] In Hicks, supra, Lambert J.A. referred to the trial judge's reasons wherein he adopted denunciation as a factor in spite of the fact that Mr. Hicks was in a cocaine-induced psychotic state. Defence counsel contended that deterrence of other people in a like state of mind is not a significant factor because in their psychotic state they would not be thinking about the sentences imposed on other people. Mr. Justice Lambert disagreed and said that denunciation is a factor in making a sentence commensurate with the gravity of the offence.
- [58] Mr. Justice Lambert noted that defence counsel suggested that there was a lesser degree of moral blameworthiness attached to a criminal act committed in the course of cocaine-induced psychosis and that the consequence of death was unintended. Lambert J.A. then said as follows:

In the end we are left with a case where there has been proven to have been vicious and intended assault with a stabbing instrument on two defenceless women without any proven intention to cause death; but the absence of the proven intention to cause death does not take away from the fact that this was a serious and vicious assault intending to cause bodily harm.

- [59] The Court must consider the gross nature of this killing. In the Crown's words, "it was a shocking killing." The sentence must, as far as possible, reflect society's values. Neither society nor the courts should be expected to assess the appropriateness of a sentence without reference to the details of the crime. This can be taken from the adoption by Bastarache J. in Stone, supra, of what was said by Fraser C.J. in R. v. Laberge (1995), 165 A.R. 375 (C.A.) at 382:

the court must look not only at the physical characterization of the act itself, but must assess a range of other considerations. These include the choice of weapon used to effect the unlawful act, the degree of force the offender used in perpetrating the act, the extent of the victim's injuries, the degree of violence or brutality, the existence of any additional gratuitous violence, the degree of deliberation involved in the act, the extent to which the act reflected forethought of action or planning, the complexity of the act, what, if anything, provoked the act, the time taken to perpetrate the act and the element of chance involved in the resulting death.

[60] The words of Fraser C.J. regarding "any additional gratuitous violence" might accommodate the evisceration in the case at bar. In spite of the fact that it was post-mortem, it should not be ignored and must be acknowledged in the overall characterization of the event, the degree of violence, and the offender's conduct.

[61] In *Stone*, supra, the Court said that the law with respect to sentencing must be in harmony with prevailing social values. It adopted the comments of Lamer C.J. in *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500 at para. 81:

The objective of denunciation mandates that a sentence should also communicate society's condemnation of that particular offender's conduct. In short, a sentence with a denunciatory element represents a symbolic, collective statement that the offender's conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive criminal law. Our criminal law is also a system of values. A sentence which expresses denunciation is simply the means by which these values are communicated. In short, in addition to attaching negative consequences to undesirable behaviour, judicial sentences should also be imposed in a manner which positively instills the basic set of communal values shared by all Canadians as expressed by the Criminal Code.

CONCLUSIONS

[62] Throughout these reasons the concept of the sentence reflecting society's values has repeatedly surfaced. It is left to the Court in each case to determine, from the facts of the case, what level of sentence will satisfy these values. In the case at bar the brutality of the crime, the voluntary drug consumption, the senselessness of the killing of a defenceless and vulnerable person and a consideration of the victim impact statements all lead to a conclusion that society's values have been grossly abridged.

[63] While the sentence that I am about to pronounce is not in keeping with the range suggested by defence counsel, it is in keeping with Mr. Conroy's concepts. He acknowledged that there must be general deterrence and that the Court must express its denunciation of self-induced cocaine psychosis but suggested that a mild sentence is appropriate because of the cocaine psychosis.

[64] Mr. Conroy submitted, as noted earlier in these reasons, that sentences at the higher end of the range are unlikely to deter others from such offences. He may well be correct if he is directing his contention only to the events at the time of the killing. However, I cannot

accept that sentences at the high end of the range might not have some impact upon those who are giving thought to intoxicating themselves on illegal drugs. The sentence must buttress society's efforts to make known the potential dire results of illicit drug use and to dissuade persons from entertaining the potentially fatal results thereof.

- [65] If it were not for the psychosis the conviction would be for an intended killing, i.e. murder. The sentence would be life imprisonment. The grounding of the crime is the use of cocaine, but it was a voluntary consumption and led directly to a brutal killing. This is not, in my opinion, simply gross negligence. The crime, in my opinion, is closer to murder than to accident in spite of the conclusion of Dr. Lohrasbe that Mr. Green did not form "the intent to harm or kill the victim."
- [66] Regardless of semantics, a life has been lost. The preciousness of life is a concept that has not recently attracted significant comment in court judgments. I am of the opinion that social values do not and should not undervalue the taking of a life and the nature of that taking.
- [67] In the case at bar the killing was extremely brutal. Mr. Conroy submitted that the finding in Hicks, supra, of intent to cause bodily harm distinguishes Hicks from the case at bar. I am nevertheless of the opinion that Hicks, McCulloch and the other cases being cited by the Crown and referred to earlier are cases that are appropriate precedents. Those cases suggest a range of from nine to ten years.
- [68] I do not accept the defence suggestion that the circumstances in Widen were "worse" than those in the case at bar. I am in agreement with the Crown that the case at bar outstrips the events in Widen and that a gross sentence of seven and one half years would be inadequate. It follows that I do not accept the defence submission that a net sentence of two to three years would be appropriate. Such a sentence would not, in my opinion, reflect the nature of the crime, the circumstances of the offender or society's values.
- [69] The sentence in this case, after allowing three and one half years for pre-trial incarceration, is seven years' imprisonment.
- [70] In addition, there will be an order, by consent, that Mr. Green supply, upon request, a DNA sample. Further, Mr. Green is prohibited from possessing any firearm, cross-bow, restricted weapon, ammunition or explosive substance, for life.

"A.D. Thackray, J."

The Honourable Mr. Justice A.D. Thackray

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