

**NOVA SCOTIA COURT OF APPEAL**

**Citation: *R. v. Bryan*, 2008 NSCA 119**

**Date:** 20081217

**Docket:** CAC 293214

**Registry:** Halifax

**Between:**

Alan Clayton Bryan

Appellant

v.

Her Majesty the Queen

Respondent

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**Judge:** The Honourable Justice Jamie W. S. Saunders

**Appeal Heard:** November 21, 2008

**Subject:** Attempted murder in the context of a spousal relationship.  
Fitness of sentence. Parity. Consideration of mitigating and  
aggravating circumstances.

**Summary:** The offender caused grievous injuries to his common law wife  
when he attacked her with a sword, wounding her in 15 places,  
and terminating her pregnancy. He appealed his 15 year prison  
sentence following his guilty plea on a charge of attempted  
murder of his common law wife.

**Held:** Appeal dismissed. Detailed analysis of case law relevant to the  
charge of attempted murder in a domestic context. The  
jurisprudence cited by the appellant did not support the sought  
after reduction in the term of imprisonment. In any event parity  
will never trump the proper exercise of a trial judge's broad  
discretion in fashioning a proper sentence.

Here the trial judge correctly addressed the aggravating  
circumstances, and recognized that the "mitigating" factors were  
hardly significant.

There were a host of aggravating features in this case. The

offender planned to kill his wife and came within a hair's breath of doing so. The crime is especially horrifying not only for its sheer brutality but also because of the many tragic consequences that followed. The victim suffered devastating and permanent injuries leaving her in perpetual pain and depending on others. Her near death, treatment and continuing ordeal have left a huge emotional, physical and financial toll on her family members. Further, in attacking the victim with a sword the appellant targeted her abdomen without regard for the life of their unborn child, resulting in the termination of that pregnancy. Finally, the crime was committed against a spouse, thus violating the element of trust that is implicit in such a relationship.

Sentences imposed in cases involving domestic violence must reflect the seriousness of the offence, the community's unequivocal denunciation of such conduct, and lead to a sufficiently lengthy period of imprisonment as will provide both specific and general deterrence.

Accordingly, unless there are truly exceptional circumstances, the sentencing starting point upon conviction for attempted murder in a domestic relationship will be 8 years.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 18 pages.**