

IN THE COUNTY COURT OF DISTRICT NUMBER THREE

Between:

HER MAJESTY THE QUEEN

- and -

LENNIE RAY MIDDLETON

HEARD: At Yarmouth, in the County of Yarmouth, Nova Scotia
on the 8th day of November, A.D., 1990 and the 13th
day of December, A.D., 1990

BEFORE: The Honourable Judge C. E. Haliburton, JCC

CHARGE: C.C. Section 348(1)(b)

SENTENCE: On the 24th day of January, A.D., 1991

COUNSEL:

R.M.J. Prince, Esq., Crown Attorney
R.W.P. Murphy, Esq., Defence Attorney

- S E N T E N C E -

1.

HALIBURTON, J. (Orally)

This is the sentencing of **Lennie Ray Middleton** who has pled **guilty** to the included offence of assault by way of indictment as a result of having been charged under **Section 348(1)(b)** of the **Criminal Code**, the import of which is that he did break and enter a dwelling house for the purpose of committing an assault. The accused, Middleton, is the youngest of thirteen children. He has a grade seven education. He's eighteen years of age, barely old enough to be appearing in this court. He has a record of convictions in Youth Court for unrelated matters, matters nonetheless which are troubling in that they reflect an attitude of resisting authority or a refusal to comply with the orders made by the Youth Court, failure to comply with the recognizance, obstruction, failure to comply with the terms of probation and one offence of stolen property.

At the time of the taking of a guilty plea Mr. Middleton's matter was set to a delayed date for sentencing and arrangements were made for a pre-sentence report to be prepared. He did not report at the time specified for two separate interviews with the probation services. He did report at a time that was not arranged, and at a time when the probation officer was not present. As a result, there is no pre-sentence report before the court. If Mr. Middleton has problems of a psychological, societal or any other nature, we have no information about those problems. If he has problems with respect to drug abuse or usage, or alcohol use or abuse, the court is unaware. As a consequence, in attempting to sentence Mr. Middleton, I feel a little bit at sea in not knowing

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whether there is a genuine opportunity for rehabilitation or whether the court ought simply to make an example of Mr. Middleton for the community at large, and accordingly the sentence will be an attempt to ride the two horses.

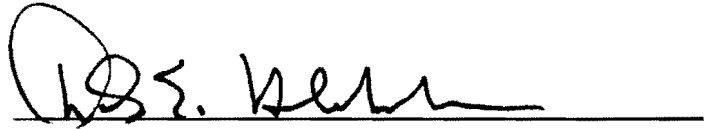
He is a first-time offender as far as this court is concerned. As an adult he has not previously been convicted of any offences. The particular incident was one which is quite serious. The circumstances surrounding it are unexplained. It would appear that Middleton was not an invited guest in the dwelling house where he assaulted one of the occupants. The assault was serious. It ended only when the police arrived on the scene. No substantial physical injury was done to the victim, which is very fortunate for both the victim and for Middleton.

Some period of incarceration, it seems to me, is required in the unexplained circumstances to serve as a deterrent to both Middleton and the public in general. Because Middleton is so young, because it's a first offence, I'm not prepared as I was first inclined to do to say that two years would perhaps be an appropriate penalty for this crime. If there were a record, such sentence would not be unreasonable.

The sentence of the court will be that Mr. Middleton be incarcerated for a period of three months in the County Jail, to be followed by one year's probation upon his release. During that period of probation he will be required to keep the peace and be of good behaviour; refrain from any contact whatever with the victim of this offence, a person by the name of Burke; and comply with a curfew in effect from ten o'clock in the evening

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until six o'clock in the morning, at his place of residence.

A handwritten signature in black ink, appearing to read "C. E. Haliburton", written over a horizontal line.

C. E. HALIBURTON
JUDGE OF THE COUNTY COURT OF
DISTRICT NUMBER THREE

4.

DATED at Yarmouth, in the County of Yarmouth, Nova
Scotia this 28th day of January, A.D., 1991.

TO:

The Prothonotary
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