

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Goodall*, 2014 NSPC 60

Date: 2014 08 06

Docket: 2640759, 2649106, 2657640
2657641, 2654971, 2675357, 2674358

Registry: Pictou

Between:

Her Majesty the Queen

v.

Joseph Allan Goodall

DECISION ON SENTENCE

Judge:	The Honourable Judge Del Atwood,
Heard:	August 6, 2014, in Pictou, Nova Scotia
Decision	August 12, 2014
Charge:	733.1CC (x5), 266(a)CC, 267(b)CC
Counsel:	Jody McNeill, for the Provincial Public Prosecution Service Stephen Robertson, for Joseph Allan Goodall

By the Court:

[1] The Court has for sentencing Joseph Allen Goodall. Mr. Goodall is before the Court to be sentenced in relation to a number of charges involving breach of probation, assault under section 266CC, and assault causing bodily harm under para. 267(b)CC.

[2] All matters were prosecuted indictably. Where required, Mr. Goodall elected to have his charges dealt with in this Court and Mr. Goodall entered guilty pleas in a timely fashion.

[3] The positive or mitigating factors are these:

- Mr. Goodall has entered guilty pleas to these charges.
- The presentence report informs me that, although Mr. Goodall continues to struggle with a serious alcohol addiction, he has insight into the nature of that dependency and he has resolved to putting it behind him.
- Mr. Goodall is a relatively young man at 27 years of age, and would not appear to be someone who is beyond the hope of rehabilitation; the

Court is mindful of the fact that it ought not to impose a sentence that would crush the prospect of rehabilitation.

[4] The aggravating factors here are these:

- Mr. Goodall committed two offences involving very high levels of violence against intimate partners. That, in my view, is an aggravating circumstance under section 718.2 of the **Criminal Code**. These were individuals who were in a position of trust with Mr. Goodall and, again, these were intimate-partner relationships.
- Particularly in the case involving Ms. Andrews, the level of violence was at the very high end of the range. Ms. Andrews was subjected to violence that is fairly characterized as being akin to torture. There was a very high risk of lethality and the photographs contained in Exhibit #1 satisfy me that Ms. Andrews' life and health were certainly at risk.
- Mr. Goodall's criminal history includes six prior convictions for bail-violation offences, one prior conviction for assault with a weapon, five prior findings of guilt for uttering threats, one prior finding of guilt for unlawful confinement, one prior finding of guilt for assault, one prior finding of guilt for making harassing phone calls, five prior breaches of probation—as an

adult and as a youth, and I am satisfied that the youth record is properly before the Court in accordance with the provisions of section 119 of the *Youth Criminal Justice Act*—as well as a small number of property-related offences.

[5] The Court does not judge people. What the Court judges, Mr. Goodall, are actions, and it is clear to the Court that your actions, particularly when under the influence of alcohol, endanger the safety and protection of the public; that would include people such as Ms. Halliday and Ms. Andrews, as well as the other people who have been intimate partners in your life, including Ms. Johnstone and Ms. Rae.

[6] There was a joint submission before the Court. In my view, the joint submission is a reasonable one. It takes into account the primary principle of proportionality. It takes into account as well the need for denunciation and deterrence. The Court of Appeal of this Province—going back over thirty years to *R. v. Perlin*, [1977] N.S.J. No. 548 at para. 8—has stated consistently that offences involving the commission of violence ought to attract sentences that place significant emphasis on denunciation and deterrence.

[7] I take into account that the fact that the assaults upon Ms. Halliday and Ms. Andrews were unprovoked and I apply the principles of sentencing as set out by our Court of Appeal in *R. v. C.V.M.*, 2003 NSCA 36 at para. 38, in which Bateman J.A. stated:

I have considered, as well, that this was an unprovoked assault. I do not suggest that provocation would, in any way, excuse this brutal attack. The lack of provocation, however, speaks of the random nature of such an outburst and the probability of the victim being unable to avoid future circumstances that could lead to a similar attack in the future.

[8] In my view, that is applicable here because the Court must be concerned about intimate partners who become involved with Mr. Goodall because of the high risk of lethality that he poses to them.

[9] The joint submission is within the acceptable range. Applying the principles set out by our Court of Appeal in *R. v. MacIvor* 2003 NSCA 60, the Court intends to give effect to that joint submission.

[10] A Court ought to depart from a joint submission only if the Court were to be satisfied that the joint submission would bring the administration of justice into disrepute. I do not believe that the recommended sentence would bring the administration of justice into disrepute because the recommended sentence is, indeed, within the appropriate range.

[11] Therefore, the sentence of the Court will be as follows: In relation to case #2640759, indictable breach of probation, a sentence of three (3) months imprisonment; case #2649106, breach of probation, indictable, three (3) months imprisonment, but to be served consecutively; case #2657640, the assault upon Ms. Halliday which proceeded indictably, a sentence of nine (9) months, to be served consecutively; case #2657641, breach of probation charge that proceeded indictably, a sentence of three (3) months, to be served consecutively; case #2654971, breach of probation charge, which proceeded indictably, three (3) months to be served consecutively; case #2674357, the section 267(b) charge, which proceeded indictably, twelve (12) months imprisonment, to be served consecutively; and finally, case #2674358, the final breach of probation charge, which proceeded indictably, three (3) months imprisonment, to be served consecutively. The result is a **total sentence of thirty-six (36) months' incarceration.**

[12] There will be a primary designated offence DNA collection order in relation to the assault causing charge, case #2674357. The Court is of the view, given Mr. Goodall's level of indebtedness, significant outstanding fines, that the imposition of further victim surcharge amounts would work an undue hardship. The Court will waive the imposition of victim surcharge amounts with respect to all charges,

with the exception of the last breach of probation count which occurred after the coming-into-force date of the amendments to section 737. In relation to that last breach charge, case #2674358, there will be a \$200.00 victim surcharge amount, and Mr. Goodall will have 48 months to pay.

[13] The Court will make a section 109 order that will be applicable to the section 267(b) charge. The Court prohibits you, Mr. Goodall, from possessing any firearm, other than a prohibited firearm or restricted firearm and any crossbow, restricted weapon, ammunition and explosive substance for life. In addition, the Court prohibits you from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.

[14] The warrant of committal will be endorsed in accordance with the provisions of section 743.21 of the *Criminal Code*, while in custody, Mr. Goodall, you are to have no contact or communication, directly or indirectly, with Crystal Dawn Halliday or Tonia Jane Andrews.

[15] The warrant of committal is also to be endorsed, Mrs. Fraser, with a recommendation that Mr. Goodall have access to addiction services counselling and mental health counselling at the earliest possible opportunity.

Atwood, JPC