

**PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** *R. v. Crowther*, 2014 NSPC 64

**Date:** 2014 08 19

**Docket:** 2737430, 2737431, 2737433, 2737434

**Registry:** Pictou

**Between:**

Her Majesty the Queen

v.

Jason Earl Crowther

***DECISION ON SENTENCE***

**Judge:** The Honourable Judge Del W. Atwood,

**Heard:** 19 August 2014, in Pictou, Nova Scotia

**Charge:** 270(1)(a)CC, 249(1)(a)CC, 264.1(1)(a)CC, 430(3)CC

**Counsel:** Patrick Young, for the Nova Scotia Public Prosecution  
Service  
Hector MacIsaac, for Jason Earl Crowther

**By the Court:**

[1] Jason Earl Crowther is before the Court to be sentenced in relation to one charge of assault of a peace officer, a charge of dangerous driving, a charge of uttering a threat to a peace officer and a charge of damage to property.

[2] All matters were prosecuted indictably. Mr. Crowther elected to have his trial in this Court, and entered guilty pleas on today's date, after having initially entered pleas of not guilty.

[3] Mr. Crowther has been in custody for 69 days since he was taken into custody and the Court will take that into account in the imposition of a sentence that will put into effect the joint submission.

[4] The mitigating factors are that Mr. Crowther entered guilty pleas and has accepted responsibility for his actions. Furthermore, the section 672.2 assessment report that is before the Court, with the consent of the parties, satisfies the Court that what Mr. Crowther did on 29 May 2014, although involving some degree of prior deliberation, was essentially impulsive; Mr. Crowther's common-law partner is involved in a custody and access dispute with a Mr. Christopher Walsh, who is the father of her children. Mr. Crowther believed that Mr. Walsh and his parents

had brought on a number of unreasonable applications in Family Court; Mr. Crowther also believed that the Westville Policing Service had shown favouritism to the Walsh family in failing to charge Christopher Walsh in response to a criminal complaint from Mr. Crowther's common-law partner.

[5] The Supreme Court of Canada in *R. v. Stone* stated that provocation may be an appropriate factor for a court to take into account in imposing sentence.<sup>1</sup>

Although the facts of that case were certainly unique, the principle applies here; I find that Mr. Crowther's motivation lessens somewhat his degree of responsibility, which is a core proportionality factor.

[6] Mr. Crowther does have a prior record; however, that record is very dated. Mr. Crowther has gone a long time without coming into conflict with the law and I consider that to be a mitigating factor. Mr. Crowther's adult record is populated almost entirely around specific dates in 1999 and '95 and '96 and, in my view, the remoteness of the record ought to be considered as a mitigating factor, given the application of the gap principle.

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<sup>1</sup> [1999] S.C.J. No. 27 at para. 234.

[7] The aggravating factors are that Mr. Crowther's conduct on 29 May 2014 caused actual property damage and also gave rise to a significant risk of danger to the public.

[8] The facts that were read in at the bail hearing on 3 July 2014, received by me today by consent for the purposes of sentencing under sections 723 and 724 of the *Criminal Code*, satisfy me that Mr. Crowther was operating his red Mazda truck in a manner that did, indeed, endanger the public—not just the Walsh family at their home, but also pedestrians who were. Mr. Crowther drove through a 4-way-stop intersection; he charged up to the Walsh home and crashed into their truck and ATV.

[9] In addition, Mr. Crowther committed a serious assault upon Staff Sgt. Stewart, who responded to the Walsh's 9-1-1 call for help. I have reviewed exhibit #1 and specifically photos 8 of 29 and 9 of 29 that depict Sgt. Stewart's injuries. I have observed the crowbar shown in photograph 2 of 29, 3 of 29 and 4 of 29 that Mr. Crowther held up to menace the police. I observed the damage to the Walsh's truck that was written off, photographs 4 and 5 of 29. There was also substantial damage sustained by the Walsh's ATV shown in photographs 14 and 15 of 29. Suffice it to say that it is clear to the Court that Mr. Crowther's actions on 29 May

2014 endangered not just Sgt. Stewart, the Walshes, but also the public in the vicinity, in general.

[10] The Court of Appeal of this Province—going back over thirty years to *R. v. Perlin*<sup>2</sup>—has stated consistently that offences involving violence, particularly those that endanger the public, ought to attract sentences that reflect a high degree of denunciation and deterrence. In *R. v. S.F.A.*, Cacchione J. imposed a global 6-year sentence upon an offender who viciously attacked a man whom he believed had attacked his girlfriend.<sup>3</sup> The offender had believed it was his job to be a protector and enforcer. Cacchione J. described the offence in these terms:

62 The conduct which forms the basis for these charges can only be characterized as a form of vigilante terrorism. There is a need for the courts to indicate that such behaviour is not appropriate nor is it acceptable in a civilized society. The unlawful conduct must be denounced in no uncertain terms and the sentence must be one which will deter others of a like mind from committing such offences.

[11] Although the offender in *S.F.A.* exhibited a level of violence at the extreme end of the spectrum, the principle enunciated by this highly experienced criminal-law judge is applicable here.

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<sup>2</sup> [1977] N.S.J. No. 548.

<sup>3</sup> 2001 NSSC 13; varied in 2002 NSCA 42 to require the collection of a DNA sample.

[12] I have reviewed the victim-impact statements prepared by the parents of Christopher Walsh. In my view, they reflect the level of anxiety, stress and fear unfortunately typical in cases of this nature.

[13] There is a joint submission before the Court. The Court applies the principles set out by our Court of Appeal in *R. v. MacIvor*.<sup>4</sup> I ought to depart from a joint submission only if I were to find that the joint submission would bring the administration of justice into disrepute.

[14] I am satisfied that the joint submission is a reasonable one. It takes into account the proper principles of sentencing and it is an authentic *quid pro quo*.

Therefore, Mr. Crowther, the sentence of the Court will be as follows:

In relation to case #2757430, the section 270CC count, there will be a sentence of one (1) year imprisonment.

In relation to case #2737431, the dangerous driving count, there will be a sentence of one (1) year imprisonment, to be served concurrently.

In relation to case #2737433, the uttering threats count, there will be a sentence of one (1) year plus one (1) day, to be served consecutively.

In relation to the section 430 count, there will be a sentence of three (3) months, but to be served concurrently.

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<sup>4</sup> 2003 NSCA 60.

For a total sentence of **two (2) years plus one day**.

[15] There will be a primary-designated-offence DNA collection order made in relation to the section 270 count.

[16] There will be a one year driving prohibition, to be worded as follows: in accordance with the provisions of para. 259(1)(a)CC, that period of prohibition will run for a period of one year plus the two year and one day period to which Mr. Crowther is sentenced to imprisonment.

[17] In relation to the 270(1)(a)CC charge, Mr. Crowther, under the provisions of Section 109 of the *Criminal Code*, you are prohibited from possessing any firearm, other than a prohibited firearm or restricted firearm, and any crossbow, restricted weapon, ammunition or explosive substance for a period of ten (10) years after your release from imprisonment. You are prohibited from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited ammunition and prohibited device for life.

[18] In relation to the section 430 charge, there will be a stand-alone section 738 restitution order in favour of Mr. John Walsh at the address as shown in the invoice from Ceilidh Honda Power House, that will be in the amount of \$1,440.02.

[19] These offences occurred after the coming-into-force date of the amendments to section 737CC, and accordingly, there will be mandatory \$200.00 victim surcharge amounts in relation to each of the counts before the Court and Mr. Crowther will have 36 months to pay those victim surcharge amounts.

[20] And finally, in relation to the warrant of committal, the warrant of committal is to be endorsed in accordance with the provisions of section 743.21CC, while Mr. Crowther is in custody, he is to have no contact or communication, either directly or indirectly, with Christopher Walsh, Mary Theresa Walsh or Mr. Danny Walsh.

[21] Anything further in relation to Mr. Crowther, counsel.

[22] Mr. Young: No, Your Honour.

[23] Mr. MacIsaac: No, Your Honour.

[24] The Court: Thank you. So, Mr. Crowther, I'll have you go with the sheriffs, please sir. Thank you very much.

Atwood, JPC