

Date: 20050411  
Docket: CR. Am. 234382

**IN THE SUPREME COURT OF NOVA SCOTIA**  
**Cite as: R. v. Gouchie, 2005 NSSC 106**

**HER MAJESTY THE QUEEN**

versus

**WALTER BRUCE GOUCHIE**

**DECISION**  
**(Sentence)**

**HEARD BEFORE:** The Honourable Justice J.E. Scanlan

**PLACE HEARD:** Amherst, Nova Scotia

**DECISION DATE:** 11 April 2005

**WRITTEN RELEASE**  
**OF ORAL DECISION:** 29 April 2005

**COUNSEL:** Ms. Mary Ellen Nurse, on behalf of the crown  
Mr. Robert Gregan, on behalf of the defence

**SCANLAN, J., orally:**

[1] Mr. Gouchie is 44 years old. He doesn't have any positive employment history. It appears as though he works sporadically when he can find work. He's on a disability because of a problem related to his back as I understand it. He reports in the pre-sentence report that he uses alcohol and on a rare occasion, smokes marijuana. There were collateral contacts made in the pre-sentence report, talking of him working with the boxing clubs in Truro and in Sackville, New Brunswick. There have been letters of support offered up by Mr. Ridgeway, Mr. Gray and Mr. Nelson. Also the collateral contacts were noted in the pre-sentence report.

[2] In terms of the offence itself, especially as I view the accused's record, these were violent offences. The accused went up and made a couple of very direct threats to kill, with white knuckles, clenched fists. One of the witnesses described him as Jekyll and Hyde, or made the reference to Jekyll and Hyde. In other words, Mr. Gouchie can go from being a very nice guy to being a very bad guy. That concerns the court.

[3] As I look at Mr. Gouchie's record, he's been in trouble on many occasions because of his Jekyll and Hyde type of behaviour. He has been incarcerated repeatedly, but he has not changed his ways. I cannot ignore that. I cannot ignore the nature of the threats that were made here. These were threats to kill. The maximum penalty is five years. The crown has asked for two years.

[4] To Mr. Gouchie's credit, he has been released into the community, and while there were some difficulties in terms of how he was prepared to interpret the release order he has not been breached.

[5] As I said, he has not, after being repeatedly incarcerated on these types of offences, chosen to mend his ways. I'm satisfied that a period of imprisonment is appropriate in this case. The question is how long and whether it should be served in the community. I take into account the offences themselves. I take into account the time he has spent under restraint in terms of his release into the community. I'm satisfied that it would not be appropriate to impose a sentence of two years as requested by the crown. I am, however, satisfied that it would be appropriate to impose a sentence of 15 months on each offence, to be served concurrently.

[6] As to whether or not they could be served in the community, I would first have to be satisfied they would not endanger the community. I'm not satisfied that's the case.

[7] The reference in the evidence in terms of the nature of the offences, the unexplained reason, or at least there is no good reason as to why it occurred. He was described as being a bully, and indeed he is. There is no sufficient explanation as to why he goes from being a nice guy to the bad guy. I am concerned that if he is released into the community, or allowed to serve the sentence in the community that it would in fact endanger Mr. Crossman, Mr. Mills or others. I am not prepared to allow him to serve the sentence in the community.

[8] The 15 months will be followed by a period of probation of two years. During that time, Mr. Gouchie will keep the peace and be of good behaviour. He will have no contact direct or indirect with Mr. Mills, Mr. Crossman or their families. In addition, he will take such alcohol and/or substance abuse counseling as directed by his probation officer.

[9] I'm prepared to make a separate order under the provisions of the *Criminal Code* as regards weapons. I'm satisfied that Mr. Gouchie should have no firearms, ammunitions or explosives for a period of ten years. I'm prepared to so order. That's not part of the probation order, counsel, because I think the term should be longer, because of the concerns I have in relation to Mr. Gouchie.

[10] Mr. Gouchie, in terms of the sentence, I'm trying to send a message to you that no matter what goes wrong in your life, you cannot resort to violence or threats of violence. You have to get that message. If you don't change your ways, Mr. Gouchie, you better be prepared to spend longer and longer periods of time in prison. You cannot go around threatening people, under any circumstances. So you better mend your ways and make sure it does not ever happen again. If not, be prepared to live with the consequences. The sentence I have just imposed is but one consequence.