

SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Slaunwhite, 2014 NSSC 41

Date: 20140127

Docket: Cr. No. 359000

Registry: Halifax

Between:

Her Majesty the Queen

-and-

Christopher Norman Slaunwhite

Sentencing Decision

Judge: The Honourable Justice Robert W. Wright

Heard: January 27, 2014 at Halifax, Nova Scotia

Oral

Decision: January 27, 2014

Written

Decision: February 4, 2014

Counsel: Crown Counsel - Christine Driscoll
Defence Counsel - Pat Atherton

Wright, J., (Orally)

[1] On October 15, 2013 the offender Christopher Norman Slaunwhite entered a plea of guilty to aggravated assault, contrary to s.268 of the Criminal Code. As part of a plea agreement with the Crown, all remaining charges were then dismissed. Sentencing was put over until today to allow time for preparation of a pre-sentence report and a victim impact statement.

[2] The facts upon which this sentencing is to be based are not in dispute. The offender, who was eighteen years old at the time of the offence committed in October of 2011, participated in a home invasion in the apartment of the victim Cody Priest. He was one of several young persons who broke into the victim's apartment, masked and armed with knives. They demanded both drugs and money from the victim.

[3] The victim initially handed over \$20 and a small amount of marijuana but the offender then pushed and punched the victim and demanded more. Tensions escalated which led to the victim being stabbed in the chest area by the offender. Panic ensued and the group of home invaders then fled the apartment. The offender was arrested shortly thereafter.

[4] The Crown has entered into evidence two medical reports describing the injuries sustained by the victim. Mr. Priest suffered a serious stab wound to the chest which caused a collapsed lung and permanent scarring. These were life threatening injuries at the time and the severe effect on Mr. Priest was readily evident from his reading of his victim impact statement.

[5] The foregoing summary of facts disclose a number of aggravating factors present here. The fact the offence was committed as part of a home invasion in a group attack should be considered as an aggravating factor, along with the life threatening injury inflicted on Mr. Priest. The offender also has a criminal record for an offence committed as a youth involving violence.

[6] There are also mitigating factors to be taken into account, namely, the youthfulness of the offender at the time and the remorse he has since expressed in accepting responsibility for his criminal conduct. Although he did enter a guilty plea, that only occurred on the opening day of the trial as part of a plea bargain, in a situation where the identity of the accused was in issue.

[7] The principles of sentencing are set out in ss. 718, 718.1 and 718.2 of the Criminal Code. I need not recite them at length for purposes of this decision. Suffice it to say that the courts in this province have stated on numerous occasions that the sentencing objectives to be emphasized for offences of violence are denunciation and deterrence, both general and specific.

[8] A balancing principle also to be taken into account is the offender's prospects of rehabilitation. Judging from the pre-sentence report filed, there are a number of positive signs that prospects for rehabilitation here are favourable.

[9] It is disclosed in the pre-sentence report that the offender presently resides with his grandparents and has their support. They feel he has matured and turned his life around in the past two years. This view is shared by Cst. Shaun Carvery,

the school response officer with Halifax Regional Police at Citadel High School where Mr. Slaunwhite completed his grade 12 in 2012. He has since been accepted into the Nova Scotia Community College to take courses in trades work although unfortunately, that plan now must be put on hold.

[10] The probation officer who prepared the report also expressed the opinion that Mr. Slaunwhite appears to have made positive life choices since the time of the offence in an attempt to better himself. He has accepted responsibility for his behaviour and has expressed remorse for his behaviour.

[11] The objective seriousness of this crime is established by Parliament which has enacted a maximum sentence for this offence of 14 years. Here, we have a joint sentencing recommendation by Crown and defence counsel of a period of four years to be served in a federal institution.

[12] The obligations of a sentencing judge, when presented with a joint recommendation of counsel following a plea bargain resolution, were confirmed by the Nova Scotia Court of Appeal in **R. v. McIvor** [2003] N.S.J. No. 188. In essence, the sentencing judge is required to assess whether the joint recommendation on sentence is within an acceptable range, (i.e., whether it is a fit sentence) and if it is, there must be sound reasons for departing from it.

[13] Crown counsel has provided the court with a number of cases involving the offence of aggravated assault, one of which is a recent decision of the Nova Scotia Court of Appeal in **R. v. Pike**, 2013 NSCA 61. This case and the others referred to satisfy me that on a balancing of sentencing objectives applicable here, the recommended sentence is within the acceptable range of sentencing outcomes for this offence.

[14] I therefore impose the following sentence upon Mr. Slaunwhite:

- (a) a term of imprisonment of four years to be served in a federal institution;
- (b) the imposition of an order authorizing the taking of a DNA sample from Mr. Slaunwhite as provided by s.487.06(1) of the Criminal Code;
- (c) the imposition of a lifetime weapons prohibition order pursuant to s.109 of the Criminal Code.

[15] In the circumstances, the defence request for a waiver of the victim surcharge is also granted.

J.

