

**IN THE TERRITORIAL COURT OF YUKON**  
(Before His Honour Judge Faulkner)

REGINA

v.

PAUL NORMAN STERRIAH

Kevin Drolet

Appearing for Crown

Malcolm Campbell

Appearing for Defence

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**REASONS FOR SENTENCING**

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[1] FAULKNER T.C.J. (Oral): Paul Sterriah is before the court to be sentenced for offences of breaking and entering a dwelling house with intent to commit an indictable offence therein, a charge of assault causing bodily harm, and a charge of breach of probation. Mr. Sterriah was convicted after trial.

[2] The victim of the offence was a woman named Lizzie Dickson, who is a disabled elder who lives here in Ross River.

[3] The circumstances of the offence might be characterized as being in the nature of a home invasion, as Mr. Sterriah broke in and attacked Ms. Dickson for the purpose of obtaining money to get alcohol. Those circumstances are, in and of

themselves, bad enough, but matters are made worse by the fact that the offender is a relative of Ms. Dickson. There was extensive bruising to Ms. Dickson's face and elsewhere. The injuries were quite significant, as indicated on the photographs which were marked as evidence in the trial.

[4] On top of all this, the other disturbing aspect of the matter is that, in addition to having an extensive prior record, Mr. Sterriah has a previous conviction for a very similar attack on the same victim. In fact, Mr. Sterriah was on probation at the time of this offence with a condition that he have no contact with Ms. Dickson. I should also add that, although I have described the circumstances as similar, the resulting conviction in the earlier case was a charge simply of assault causing bodily harm.

[5] The offender can be described as a mature offender with, as I say, an extensive criminal record. He has, unfortunately, suffered throughout a number of years from mental illness, that mental illness being seriously exacerbated by his addiction to his use of alcohol. Despite the fact that Mr. Sterriah does have a history of mental illness, he is, I think, certainly capable of discerning right from wrong, and is responsible and culpable for his misdeeds notwithstanding the disabilities from which he suffers.

[6] With respect to these offences, the Crown submitted that Mr. Sterriah should be sentenced to a term of five years in the penitentiary, for the breaking and entering and the assault causing bodily harm offences, and six months consecutive with respect to the breach of probation charge. The Crown, however, conceded that Mr. Sterriah was entitled to extensive credit for time that he has spent in custody awaiting disposition on these matters.

[7] On behalf of the offender, Mr. Campbell submitted that a sentence of 16 to 18 months would be appropriate, but again submitted that the time in custody should be tempered in large part, if not fully, by the time that Mr. Sterriah has already spent in custody. The time that Mr. Sterriah has spent in custody, prior to today, equals approximately eight months, which he served at various times over the last year or so.

[8] A lot of the time that Mr. Sterriah spent in custody was a result of problems associated with the administration of justice and not through delays caused by the offender. Firstly, there were significant and inexcusable delays in obtaining psychiatric assessments for Mr. Sterriah. Secondly, there were considerable delays in getting the matter on for trial. These delays were caused, essentially, by the difficulty in obtaining a Kaska translator; a translator being necessary for the purpose of hearing the evidence of the complainant.

[9] Given the circumstances in which Mr. Sterriah spent this time, it seems to me that he is entitled to credit, certainly well in excess of the actual eight months that he has spent, and, indeed, well in excess of the normal two-for-one credit that is given for pre-sentence custody. In fact, it seems to me that it should be assessed at something like three times the actual amount given the circumstances of those remands. Accordingly, I fix the amount of credit to be given to Mr. Sterriah for pre-trial custody at two years.

[10] Now with respect to the sentence to be imposed in this case, I was referred to the decision of this court, in fact my own decision, in the case of *R. v. Henry*, [2002] Y.J. No. 91. In my view, the attack in this case was not of the same ferocity or persistence as occurred in *Henry, supra*. Nevertheless, it was a very serious attack

perpetrated on a defenseless victim in her own home. It is unfortunately a crime which is prevalent in this jurisdiction. Matters are further exacerbated by the fact, which I have already mentioned, that there was a prior history of an attack of this offender on the same victim, and the further fact that a probation order has been proven to be ineffective in preventing a recurrence. That being the case, and notwithstanding, as I say, this case is not on all fours with *Henry, supra*, nevertheless, I am satisfied that a very substantial period of custody is called for, for the purposes of the safety and the protection of the public.

[11] I have anxiously considered what other options there might be, given the difficulties that Mr. Sterriah has labored under, and also of course having regard to the directions to sentencing judges contained in, amongst other things, the Supreme Court of Canada decision in *R. v. Gladue*, [1999] 1 S.C.R. 668, 133 C.C.C. (3d) 385 and s. 718.2(e) of the *Code*. At the end of the day, it seems to me that there is no fit sentence that I can impose which would be adequate to reflect the seriousness of the offence and the need to provide protection to Ms. Dickson particularly, and to the public generally.

[12] Having regard to the prior record of the accused, and the egregious circumstances of this offence, I am of the opinion that a sentence in the range of four years in a federal penitentiary would have been fit. The accused, as I have already indicated, is entitled to some two years credit for the time he has already spent.

[13] Accordingly, and in the result, Mr. Sterriah, you are sentenced to a period of imprisonment of two years to be served in a federal penitentiary. That is with respect to Count 1, and for Count 2, one year concurrent; on the breach charge, six months concurrent. The surcharges are waived.

[14] You are prohibited from having in your possession any firearm, ammunition or explosive substance for the remainder of your life. I hereby direct that you provide samples of bodily substances for the purpose of DNA analysis and banking.

[15] MR. DROLET: Your Honour, there were two charges contrary to s. 733.1, one for failing to keep the peace and be of good behaviour, the other for prohibitive contact.

[16] THE COURT: Yes. The convictions entered on both?

[17] MR. DROLET: Yes.

[18] THE COURT: The sentence should be six months concurrent on each. I am making them concurrent because I have considered it to be an aggravating factor with respect to the commission of the principal offences.

[19] MR. DROLET: One final matter, Your Honour. Would the Court consider making an endorsement on the warrant of committal recommending that Mr. Sterriah be assessed at the regional psychiatric facility?

[20] THE COURT: Yes, absolutely.

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FAULKNER T.C.J.