[2002] QCA 240

COURT OF APPEAL

DAVIES JA
WILLIAMS JA
JERRARD JA

CA No 125 of 2002

THE QUEEN

v.

VERONICA VERNA SINNAMON Respondent

and

ATTORNEY-GENERAL OF QUEENSLAND Appellant

BRISBANE

..DATE 03/07/2002

JUDGMENT

DAVIES JA: The Attorney-General appeals against a sentence of six months imprisonment imposed on the respondent on 21 March this year for unlawfully doing grievous bodily harm to her de facto husband. She had pleaded guilty to that offence.

The respondent is a 44 year old aboriginal woman who was born and lives in a remote aboriginal community of Kowanyama in the Cape York region of far north Queensland. She has been the de facto wife of the complainant for 18 years. The relationship has been dysfunctional and traumatic and may have been violent on both sides. I say this because it appears that there have been, and were at the time of the commission of this offence, domestic violence orders against both in respect of the other. Both the respondent and the complainant are, sadly, long term alcoholics.

The offence the subject of this appeal was committed by the respondent after both parties, and it seems some others, had been on a drinking binge for four days. The complainant had either gone to sleep or had lapsed into unconsciousness due to the effects of alcohol.

The respondent, without apparent provocation of any kind, attacked the complainant by striking him on both legs and the right hand with a steel picket. The attack caused the complainant either to wake up or revive. However, he has little memory of the attack.

He suffered a four centimetre laceration to his left knee, a 15 centimetre laceration to his right leg, displacement of the fifth finger and a cut on the index finger through the tendon and some bruising and abrasions. The injury with which she has been charged, the grievous bodily harm, relates to the finger injury and to some disability which, at least, lasted and may have been permanent. He was taken to Cairns Hospital where his injuries were treated and the prognosis was that he would not suffer any permanent disability. The parties have apparently resumed cohabitation.

This is not the first occasion on which the respondent has attacked the complainant. In 1999 she had stabbed him with a knife and hit him with a stick. For that offence of assault occasioning bodily harm she was sentenced to community service of 150 hours and 12 months probation. She had earlier, in 1997, been fined for an aggravated assault on a female. She was, as I have also mentioned, the subject of a domestic violence order at the time of commission of this offence. It seems unlikely that the respondent will cease offending in such ways as this unless she can overcome her alcohol addiction and there is no indication that there is any reasonable prospect of this.

Mr Campbell for the Attorney referred to six matters which he quite rightly submitted were aggravating circumstances in the present case. They were that the victim of the attack was sleeping and therefore vulnerable at the time of the attack, that the attack was completely unprovoked, that it was in

breach of a domestic violence order, that it was with a weapon, that it involved repeated blows and that the respondent had previous convictions for violence, including an offence involving the present complainant. It is also correct to submit, as Mr Campbell does, that in some other environment those offences would have justified a substantially heavier sentence in this case than that which the learned sentencing judge imposed. It must be borne in mind, however, that the removal from the respondent, an aboriginal who has lived all her life in a remote aboriginal community to a gaol remote to that community is a much harsher sentence than it would be upon someone who was not and had not lived all her life in that environment.

The respondent and the complainant, as I have said, have lived together for 18 years in what appears to have been a constant series of drunken binges, occasionally punctuated by violence; and even after the commission of this offence the complainant has chosen to continue living with the respondent and his victim impact statement indicates that the incident has had very little impact on him.

None of the sentences referred to in argument today were closely comparable to the facts of this case and I mean no criticism of either counsel in saying that. Perhaps R v. Foster [2000] QCA 134 comes closest though there were extenuating circumstances in that case making it less serious than this one. Cases such as R v. Craske [2002] QCA 49 and

R v. Dodd, CA No 241 of 1998, in my opinion show that this sentence was manifestly inadequate to reflect the seriousness of the conduct in the light of the respondent's previous conduct. I think that having regard to the approach which this Court has always taken to sentence by the Attorney and to the other matters to which I have already referred, that no sentence less than 18 months imprisonment should have been imposed.

On the other hand the respondent pleaded guilty to an ex officio indictment and, as I have mentioned, the assault appears to have had little impact on the complainant or his relationship with the respondent. Accordingly, it seems to me little point in requiring the respondent to serve more than six months of that term.

I will therefore allow the appeal, set aside the sentence imposed below and impose a sentence of 18 months imprisonment, suspended after six months with an operational period of 18 months.

WILLIAMS JA: I agree.

JERRARD JA: I agree, I have nothing to add.

DAVIES JA: The orders are as I have indicated.
