

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

V.

JUSTIN SAVARD

R E A S O N S F O R S E N T E N C E

BEFORE THE HONOURABLE MADAM JUSTICE LISCHÉ

On October 23, 2020, at SUDBURY, Ontario

APPEARANCES:

L. Kim and B. Butler

Counsel for the Crown

J. Gauthier

Counsel for Justin Savard

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M. Venturi

Counsel for the Crown

Counsel for Matthew Bell

**ONTARIO COURT OF JUSTICE**  
**T A B L E O F C O N T E N T S**

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5 - Lische, J. (Orally)

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1.  
R. v. Ryan Mooney, R. v. Justin Savard, R. v. Matthew Bell  
Reasons for Sentence  
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FRIDAY, OCTOBER 23, 2020

...

R E A S O N S F O R S E N T E N C E

5 LISCHE, J. (ORALLY):

10 [1] I would like to start off by thanking  
counsel for both the Crown and the Defence for  
how you have clearly organized this plea,  
considered it, arrived jointly at a submission.  
And you know it rings true what the Crown said  
earlier, Mr. Kim said when the Crown first looked  
at this case they had to walk away from it  
because they were so angry. I find myself very  
15 angry at your behaviour. That a human being, a  
man, who happens to be gay could not enjoy what  
is rightfully his, which is the right to walk  
downtown, not be harassed and not be assaulted to  
the point where his life is forever changed. He  
20 has suffered, even before the incident with the  
two of you, he has suffered simply because of who  
he is, and that is very sad, it is very sad. But  
then after this incident, simply because he is  
gay, he has a scar, he has a permanent reminder  
25 physically when he looks in the mirror, but even  
more importantly he has that emotional scar that  
will follow him long after you have forgotten  
about what you did to him, he will remember.  
This is a hate crime. This is  
30 extremely aggravating.

[2] When I look at the Criminal Code it tells me

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that where there is evidence that the offence was motivated by bias, prejudice or hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender orientation, or expression, or on any other similar factor, that it is an aggravating factor and it is in this case. Whether it is a blind spot on your part or not, it is a gender based crime, it is a hate crime because of sexual orientation of the victim. An assault caused bodily harm is a, without the hate crime component, is a very serious crime.

[3] The agreed statement of fact indicates that Mr. Bell struck Mr. [REDACTED] with a closed fist several times, knocking him to the ground, that a third party tried to intervene repeatedly and told repeatedly Mr. Bell to stop and that did not end the matter. Mr. Savard got involved when Mr. [REDACTED] got back up, at which point both Mr. Bell and Mr. Savard repeatedly hit Mr. [REDACTED] in the face with closed fists and kicked him, sending him to the ground a second time defenceless. As they punched and kicked Mr. [REDACTED] both men repeatedly yelled the word faggot.

[4] The injuries, the physical injuries sustained by Mr. [REDACTED], he suffered broken blood vessels to his left eye and a laceration to the left eyebrow which required three stitches, a black eye, a bleeding nose, right jaw soreness

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and swelling, bruising around his ear and  
bruising to his right cheekbone. The left side  
of his face was covered in blood and some of his  
blood was on the arms of a female who tried to  
intervene. And in addition to the physical  
injuries Mr. [REDACTED]'s mental health suffered  
significantly as a result.

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[5] His victim impact statement at exhibit five,  
talks a little bit about that, how he has  
heightened levels of anxiety and depression,  
persistent and vivid and uncontrollable  
flashbacks. It is difficult for him to function  
in his personal life and at work. He experiences  
15  
episodes of extreme or intense anger which is  
misdirected at his loved ones. He is  
apprehensive about walking around downtown where  
he lives and where he works. He is constantly  
worried. He talks about his injuries taking a  
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long time to heal and, in fact, that he is still  
scarred a year later. He also talks about the  
financial loss which is the least of his worries.

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[6] I appreciate that there is a harm in a hate  
crime such as this one to not only the LGBTQ2S+  
community, but also to the community at large and  
to this particular victim. I have listened  
carefully to the joint submission which was very  
well put together and very well organized and  
30  
very well stated by all counsel. I agree that  
this joint submission is at the low end of the  
range but it is still within the range or what is

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acceptable.

5 [7] I note that Mr. Savard is 21 years of age. He has a prior related conviction. I note that Mr. Savard has entered a plea of guilt. He has admitted his responsibility. He has apologized when asked to speak. He has saved the complainant or the victim from having to come and testify, and has alleviated further trauma to the victim. And in addition to denunciation and deterrence, the Court has to look at Mr. Savard's rehabilitation.

15 [8] As for Mr. Bell, the Court notes that he is also a youthful adult, 22 years of age. He has entered a plea of guilt, admitted responsibility. He is clearly remorseful. When he addressed the Court, his lawyer was correct, he is contrite, he has taken steps on his own as a result of being charged, he has taken steps to self-reflect, and has stopped drinking. He has apologized. The Court, in addition to denunciation and deterrence, has to look at rehabilitation there as well. Mr. Bell has no prior criminal record. I accept that this was a chance encounter, an unfortunate chance encounter, that the two accused were immature, impulsive and intolerant.

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30 REASONS FOR SENTENCE - JUSTIN SAVARD:

[9] Mr. Savard, you are hereby sentenced to 15 days in jail. Jail is the minimum acceptable

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punishment for this offence in these  
circumstances, and in your circumstances. They  
are to be followed by 24 months' probation with  
the following conditions.

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[10] For the first 12 months of the order, Mr.  
Savard, you will be bound by the following  
conditions: Keep the peace and be of good  
behaviour. Attend court as required. Advise the  
10 police of any change of name, employment or  
address. Attend and meet with the Probation  
Services within two business days following the  
completion of your custodial sentence and after  
that at all times and places as directed by your  
15 supervisor, cooperating with your supervisor and  
signing all documents necessary to monitor your  
compliance. Complete 100 hours of community  
service to the satisfaction of the probation  
officer. Do not consume alcohol. Remain away  
20 and do not communicate, directly or indirectly,  
by any electronic means with [REDACTED],  
[REDACTED] or [REDACTED]. Pay restitution  
of \$1,000 to be paid to [REDACTED] through  
25 Probation Services. Normally it is not through  
Probation Services, but it is to be through  
Probation Services?

30  
MR. KIM: Yes, I understand normally it is  
through Court Services Division, so I simply - I  
am not sure if we considered the difference but  
there is no reason why they have to deviate from  
the standard plan, I am not sure if....

MR. VENTURI: No, Your Honour, I am admittedly

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not wholly familiar, as long as there is a mechanism in place where they can make these monthly payments.

THE COURT: Yes.

MR. VENTURI: And if probation can facilitate that, then so be it.

MR. GAUTHIER: Yes, sure.

THE COURT: Thank you.

CLERK OF THE COURT: I can say, Your Honour, that typically is done through the criminal office.

THE COURT: Right, I am just looking for the wording and I don't have it in the documents that I have up here.

CLERK OF THE COURT: There is nothing printed, okay.

MR. KIM: If we have got a general wording we can have simply as directed by the probation officer or something to that effect.

MR. VENTURI: Yes, that is fine, Your Honour. My only concern obviously would be that we don't want it to get lost in the shuffle.

THE COURT: Yes, we will use the actual wording, just give me a moment to get it.

MR. VENTURI: Sure. Sorry, Your Honour, just one thing to add, just because the way the sentence is anticipated to play out, he should be released on November the 1<sup>st</sup>, as long as it is clear that the payments begins for November and not starting today, and the probation order won't take effect until November 1<sup>st</sup>, I just wanted that to be clear.

MR. GAUTHIER: I have the condition, Your Honour,

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if you are still looking for it.

THE COURT: I have now been provided with it by  
Mr. Clerk, ...

MR. GAUTHIER: Okay.

THE COURT: ...so thank you.

[11] So, I am dealing with Mr. Savard and the  
probation condition is to make restitution of  
\$1,000 to be paid to [REDACTED], to be paid in  
full within 18 months, it has got to be within 18  
months, and the instalments of not less than \$100  
per month. All restitution payments are to be  
made by cash or a certified cheque or money order  
payable to the Minister of Finance through any  
criminal court office for payment to the victim  
or aggrieved party. Is there an issue there with  
the 18 months, it is just the way it is worded it  
is in the 12 months but then they are given  
another....

MR. GAUTHIER: There is no issue.

THE COURT: There is no issue?

MR. KIM: Your Honour, I note as well the wording  
indicates at a rate of \$100, for instalments of  
\$100, perhaps we can have that commence in  
November.

THE COURT: Yes, commencing November of 2020.

MR. KIM: That is fine, yes, thank you.

[12] Then for the remainder of the probation  
order, the final 12 months, keep the peace and be  
of good behaviour. Attend court as required.  
Advise police of any change of your name,

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5 employment or address. Complete - so the  
community service has already been dealt with, so  
we can take that out. And remain away and do not  
communicate, directly or indirectly, by any  
electronic means with [REDACTED], [REDACTED]  
[REDACTED] or [REDACTED].

10 [13] I will make an order that you provide, Mr.  
Savard, a sample of your DNA on the primary  
designated offence of assault caused bodily harm.  
And given you are already on a weapons  
prohibition at the time of this offence and  
sentencing, under s. 109 for a period of 10 years  
you are prohibited from possessing any firearm,  
15 crossbow, prohibited weapon, restricted weapon,  
prohibited device, ammunition, prohibited  
ammunition or explosive substance. Mr. Savard,  
do you understand your sentence?

20 JUSTIN SAVARD: I understand, Your Honour.

THE COURT: Will you follow the orders and the  
conditions of your probation?

JUSTIN SAVARD: Yes, Your Honour.

25 THE COURT: If you breach any of the conditions  
or the orders that are made you could be charged  
with a breach of a court of order or a breach of  
probation which is a criminal offence.

JUSTIN SAVARD: I understand.

THE COURT: All right, do we have his address,  
Mr. Clerk, or do you need it?

30 CLERK OF THE COURT: Yes.

THE COURT: You have it, all right. You can have  
a seat, Mr. Savard.

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REASONS FOR SENTENCE - MATTHEW BELL:

5 [14] Mr. Bell, you are sentenced to 15 days of  
jail commencing today, followed by 24 months of  
probation. For the first 12 months of the  
probation order, Mr. Bell, you will have to keep  
the peace and be of good behaviour. Attend court  
as required. Advise the police of any change to  
10 your name, employment or address. Attend and  
meet with Probation Services within two business  
days following the completion of your custodial  
sentence and after that at all times and places  
as directed by your supervisor, cooperating with  
your supervisor and signing all documents  
15 necessary to monitor your compliance. You are to  
complete 100 hours of community service to the  
satisfaction of your probation officer within 12  
months. Do not consume alcohol. Remain away and  
do not communicate, directly or indirectly, by  
20 any electronic means with [REDACTED], [REDACTED]  
[REDACTED] or [REDACTED].

25 [15] You are to pay restitution of \$1,000 to be  
paid to [REDACTED] Sorry, I am going to have  
to change, I made a mistake, I will have to  
change Mr. Savard's also, it is to be paid within  
12 months, so the date would be by October 23<sup>rd</sup>,  
2021, so I will have to change that for Mr.  
30 Savard as well, I had confused two things. In  
any event, and the instalments are not less than  
\$100 per month commencing November of 2020. All  
restitution payments are to be made by cash or a

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certified cheque or a money order payable to the Minister of Finance through any criminal court office for the payment to the victim or aggrieved party.

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[16] For the remainder of the 12 months of the probation order, you are to keep the peace and be of good behaviour. Attend court as required. Advise police of any change to your name, employment or address. Now, here is where I have to change Mr. Savard's probation as well, complete if not already completed the 100 hours of community service to the satisfaction of the probation officer. Now, there has to be an end date there, prior to the expiry of the 24 months' probation, so subject to your, and when I say your I mean Mr. Gauthier and Mr. Venturi's comments and the Crown, perhaps August 30<sup>th</sup>, 2021? There has to be an expiry date.

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MR. VENTURI: Wouldn't that be 2022 though?

THE COURT: 2022, thank you.

MR. VENTURI: That's fine, ...

THE COURT: Yes.

MR. VENTURI: ...we have no issue.

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THE COURT: August 30<sup>th</sup>, 2022, so for both Savard and Bell. So complete if not already completed 100 hours of community service to the satisfaction of your probation officer, but in any event no later than August 30<sup>th</sup>, 2022.

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[17] Remain away and do not communicate, directly or indirectly, or by any electronic

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5 means with [REDACTED], [REDACTED] or [REDACTED]  
[REDACTED]. Mr. Bell, you will have to provide a  
sample of your DNA on the primary designated  
offence of assault cause bodily harm. And under  
s. 110 of the Criminal Code, I am using my  
discretion and ordering that for a period of 10  
years you are prohibited from possessing any  
firearm, crossbow, prohibited weapon, restricted  
10 weapon, prohibited device, ammunition, prohibited  
ammunition and explosive substance. Do you  
understand the conditions of your probation order  
and the other orders that I have made against  
you?

15 MATTHEW BELL: Yes, Your Honour.

THE COURT: Will you abide by them?

MATTHEW BELL: Yes, Your Honour.

20 THE COURT: As I indicated to Mr. Savard, if you  
breach any of those conditions you could be  
charged with a breach of a court order or of a  
breach of probation and find yourself back before  
the court. You now have a criminal record, sir.

25 [19] I just want to indicate before ending  
dealing with both Mr. Savard and Mr. Bell, that  
you are both very youthful. That hopefully this  
has opened both of your eyes with regard to how  
to treat others who are different from you  
potentially and I am encouraged, especially for  
you, Mr. Bell, given how you have focussed your  
time in obtaining a promotion, spending time at  
30 the gym, working hard and working on improving  
yourself to be a better person, and hopefully you

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can take this very awful circumstance and work it to your advantage. And, Mr. Savard, you as well, use it to your advantage to remind yourself going forward on how to be better. Were those the only two charges against these two gentlemen?

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[REDACTED]

17.  
Certification

Certificate of Transcript  
Evidence Act, Subsection 5(2)

I, Elaine Paquette, certify that this document is a true and  
5 accurate transcript of the recording of October 23, 2020, in the  
Ontario Court of Justice held at 155 Elm Street, Sudbury,  
Ontario taken from Recording 4011-CrtRmB-20201023-091043-6-  
LISCHEK which has been certified in Form 1 by Tanya Beals.

October 13, 2021

Date

\_\_\_\_\_  
Elaine Paquette  
Authorized Court Transcriptionist