

ONTARIO COURT OF JUSTICE

5

HER MAJESTY THE QUEEN

10

v.

LANCE D. CROSSLEY

15

\*\*\*\*\*

**SENTENCING**

\*\*\*\*\*

20

HEARD BEFORE THE HONOURABLE JUSTICE R. WADDEN  
On Friday, March 19, 2021, at OTTAWA, Ontario

\*\*\*\*\*

25

**OFFICIAL WRITTEN REASONS PROVIDED  
THIS IS A TRANSCRIPT OF THE COURT HEARING**

30

APPEARANCES:

M. Savage  
L. Crossley

Counsel for the Crown  
In Person

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

Friday, March 19, 2021

U P O N R E S U M I N G:

...PREVIOUS PROCEEDINGS NOT TRANSCRIBED

SENTENCING: WADDEN, J.

So the sentence that I'm imposing, Mr. Crossley, is three months jail and three years' probation. So what I'll do now is I'll read out my reasons, so the reasons are as follows.

Lance Crossley threatened to damage a statue at a Buddhist Temple on Heron Road in Ottawa. He was convicted after a trial before Justice Bourgeois of one count of utter threats and one count of breaching a court order. Justice Bourgeois is unable to continue with the proceeding, and the matter has been assigned to me for sentencing.

I considered Justice Bourgeois' reasons for decision dated January 20th, 2021, and the presentence report dated March 12th, 2021. I have also had access to the full transcript of the trial and copies of the exhibits. Additional material was filed on behalf of a Crown application for an NCR assessment. Finally, a victim impact statement was filed by the Ottawa Buddhist community.

I'll go to the facts of the offence. Mr. Crossley has a history of dispute with the Ottawa Buddhist

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

5 temple, feeling that it engages in idolatry, which is forbidden according to his religious beliefs. On April 8th, 2019 he was put on a common-law peace bond by Justice Brown after having been acquitted of mischief to property in relation to the Buddhist temple. The only conditions were to keep the peace and be of good behaviour, and not attend within 500 metres of the Buddhist temple at 1481 Heron Road, Ottawa.

10 On February 25th, 2020 Mr. Crossley sent an email to Detective Ibray (ph) of the Ottawa Police in which Mr. Crossley threatened to "remove the head and perhaps more of that abominable statue on Heron Road", and daring the police to arrest him.

15 On January 20th, 2021 he was convicted after trial before Justice Bourgeois on a count of utter threats and breaching the "keep the peace" aspect of the order of Justice Brown.

20 A thorough presentence report was prepared, detailing the background of Mr. Crossley and his comments about the offence as reflected in an interview the author of the report had with him. Mr. Crossley is 49 years old, born in May 1971. He is a self-employed house painter, running his own company, but has been unemployed recently due to the pandemic, and has been supporter on CERB benefits. He is single and has one adult child from whom he is estranged. He is also estranged from other members of his family, apparently in

25

30

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

large part due to his strict religious views.

5 Mr. Crossley completed high school and attended university in his 20's. He described the degeneration of his life in 2001 at the age of 30, when he began living in the shelter system and had his first encounters with the law. He has a psychiatric history. In 2001 he was assessed at the Royal Ottawa Hospital but refused to take prescribed medication. Also in 2001, there was apparently an admission to the Vancouver General Hospital related to his threats to kill the prime minister.

15 In October 2001 he was admitted to the Thunder Bay Regional Hospital related to injuries he inflicted on himself. In 2004 he was readmitted to the ROH and involuntarily placed on medication. Mr. Crossley reports that he was diagnosed with schizophrenia but refused to take medication.

20 An assessment for criminal responsibility was ordered by me in this matter. Mr. Crossley attended the appointments but refused to speak with the psychiatrist, so no current information is available.

25 Mr. Crossley has a criminal record which includes related offences. The record is set out in detail in the PSR. In 2001 he was convicted of uttering threats and mischief, for which he received 51 days of presentence custody and two years'

30

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

5  
10  
15  
20  
25  
30

probation. He was convicted of failing to comply with probation in 2002 for which he received a suspended sentence and two years' probation. He was also convicted of mischief in 2008 for which he served four days presentence custody and one year probation. He was convicted of failure to comply with probation in 2009, for which he served three days presentence custody and 12 months' probation. He was convicted of mischief in 2016, for which he received a suspended sentence and 18 months' probation.

The PSR indicates that his mischief offences include the spray-painting of a business of a former employer and of the Ottawa courthouse.

In the case before me, Mr. Crossley has been convicted of utter threats to damage property, specifically a Buddhist statue at a temple. Mr. Crossley has not only shown a lack of remorse for the actions leading to his conviction, he has reconfirmed his intention to continue committing the crime. According to the PSR, Mr. Crossley:

"....maintains that he is committed to his mission. As recently as March 3rd, 2021 he reiterated his goal to destroy the statue located at 1481 Heron Road, Ottawa, and asserted that he was making a threat to cause damage to property. He said he wanted this statement included in his presentence report."

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

The report continues that Mr. Crossley:

5                   "...verbalised a goal to take down all  
statues that violate the first commandment.  
This would include statues such as those of  
the Virgin Mary that adorn many churches and  
private homes. His priority, however, was  
10                   identified as the Buddhist statue in  
question, which he said he finds particularly  
offensive and will be his first target."

15                   Furthermore, the author of the PSR states the  
following, and this is a quote from the  
presentence report:

20                   "The subject reported no remorse for his  
offences. He indicated that his only remorse  
is that he was unsuccessful in removing the  
head of the Buddhist statue, which he finds  
offensive. In addition, he continued to  
25                   express intolerance of the LGBTQ community,  
expressing that these people hate God as well  
as those with religious beliefs different  
from him. He maintains that he is someone  
who strives to keep God's commandments and  
who likes law and order. He asserted that he  
30                   is offended by symbols such as Pride flags  
and statues, which he considers in violation  
of God's first commandment. Police report  
information also identifies racist behaviour  
which is very concerning. The subject is

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

well aware that his actions may result in arrest, but he is not deterred as he believes he has a mission.”

5 The presentence report reflects a poor history of compliance with probation in the past. It speaks of apparent mental health issues, but a history of non-compliance with treatment. The author states it is difficult to assess Mr. Crossley’s level or risk in the absence of a psychiatric assessment, but notes the following, and I’ll quote again from the presentence report:

15 “The subject’s potential for violence is unknown, but it is concerning that, according to file information, he previously verbalised a threat to kill a peace officer. There have also been concerning behaviours directed to groups, including members of the LGBTQ community, those of Muslim faith, and any other individuals who do not share his religious convictions. The subject has clearly articulated that he will not be deterred.”

25 Going back to this case, and I’ll turn to sentencing principles and the law, Mr. Crossley was convicted of offences under s.264.1 and s.127 of the *Criminal Code*. The Crown proceeded by summary conviction as the offences occurred after September 19th, 2019 when amendments to the Code came into effect. The maximum punishment for

30

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

5 these summary conviction offences is a fine of \$5,000 or imprisonment for up to two years less a day, or both. In addition, a period of probation of up to three years may be imposed pursuant to s.731(1) of the *Code*. In this case, the Crown asked for a period of imprisonment of four months plus probation.

10 In determining a fair and just sentence, I have to consider the principles of sentencing in s.718, 718.1 and 718.2 of the *Criminal Code*. Section 718.2 of the *Code* states, among other things, that evidence that the offences was motivated by bias, prejudice or hate based on religion is an  
15 aggravating factor on sentence.

20 It is clear from the content of the threatening email and Mr. Crossley's statements in the PSR that the threat for which he was found guilty was motivated by bias, prejudice and hate against an identified religious group, the Buddhist community of Ottawa. I find this is proven beyond a reasonable doubt through the admissions of Mr. Crossley, which he expressly wanted conveyed as  
25 part of the PSR. His motivation by religious hatred is an aggravating factor on sentence.

30 Aside from the hate crime aspect of the case, the other aggravating factors include Mr. Crossley's extensive and related criminal record, his lack of remorse, his risk to commit further similar offences, according to his own statements, his

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

lack of insight into his psychiatric issues, and his apparent unwillingness to take treatment for them.

5 The mitigating factors to take into account are that Mr. Crossley's last conviction for violence was in 2001 for utter threats. In spite of a lengthy record, he has not been sentenced to incarceration. His longest period in custody was 10 51 days of presentence custody in 2001. This will be his first jail term imposed as a sentence.

15 Furthermore, in spite of his related criminal convictions, Mr. Crossley shows some ability to abide by conditions. He did not breach the condition of Justice Brown that he not be within 250 metres of the Buddhist temple. Since his 20 arrest on the current charges, he has apparently not breached his conditions of release related to the Buddhist temple.

25 The threats for which he was convicted are serious and were motivated by hate, but they were not conveyed directly to the Buddhist community, they were uttered to a police detective who was able to act on them before Mr. Crossley acted on them. 30 The facts of Mr. Crossley's offences are not at the high end of the spectrum of the offence of uttering threats.

In summary, having taken all the factors into account, I find that the threats uttered by Mr.

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

5  
10  
Crossley were hate motivated, and that he has expressed no remorse for them. He presents as a high risk to reoffend, as he has declared his intention to damage the property of the Buddhist temple and stated a hatred towards other groups in society. He must receive a punishment that will show the court's condemnation of his actions against a minority religious group and will serve as a deterrent to him to dissuade him from committing any further crimes. There must also be a preventative aspect to protect anyone who would be harmed by his actions.

15  
In my view, a jail term is a necessary punishment in this case. Mr. Crossley has received probation orders in the past, but he has not complied with them and he has not been deterred from continuing to commit further offences.

20  
25  
30  
Mr. Crossley has said that he does not want to go to jail. However, the prospect of being jailed has not stopped him from voicing his intention to continue his threats against the Buddhist temple and others. It is clear to me that a period of jail is necessary to punish Mr. Crossley for his hate crime against the Buddhist community. It is necessary to act as a deterrent for future crimes that Mr. Crossley might commit. Mr. Crossley must see that deliberate and defiant breaking of the law will result in him serving time in jail.

I am also of the view that a lengthy period of

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

5 probation is necessary for the protection of the public, and so that efforts can be made to have Mr. Crossley receive treatment for his psychiatric issues. Given Mr. Crossley's stated intention to commit crimes against identified groups and his lack of insight into his psychiatric issues, the maximum period of three years' probation is necessary.

10 On the offence of uttering threats under s.264.1 of the *Criminal Code*, Mr. Crossley will be sentenced to three months in jail and three years' probation. On the offence under s.127 of the *Code*, the sentence will be the same and  
15 concurrent.

20 The terms of probation, in addition to the statutory terms that include keep the peace and be of good behaviour, will be to report to a probation officer within two working days of release from custody, and after that at all times and places as directed by the probation officer; to live at an address approved by the probation officer, and not change that address without the  
25 advanced written consent of the probation officer; to attend for any assessment, counselling or treatment as directed by the probation officer for psychiatric or psychological issues, and to sign any releases required by the probation officer to  
30 monitor attendance and compliance; to attend any appointments at the Royal Ottawa Mental Health Centre or with any attending psychiatrist or

R. v. Lance D. Crossley  
Sentencing: Wadden, J.

5  
10  
15  
20  
25  
30

general practitioner as may be designated by the probation officer, and to comply with the direction of the psychiatrist or general practitioner; not to possess any weapons as defined in the *Criminal Code*; not to possess any hammer, sledgehammer, chisel, crowbar, or any tool or projectile that can be used for the damage or destruction of property; not to be within 250 metres of the Buddhist temple at 1481 Heron Road in Ottawa, and not to damage or threaten to damage the property of any religious organisation or any other identifiable group, including the LGBTQ community.

Mr. Crossley is ordered to provide a sample of DNA for the DNA databank on the count of utter threats, a secondary designated offence. Mr. Crossley has accumulated a significant criminal record and has expressed an intention to commit further offences. The circumstances surrounding the threat to destroy property were serious in the context of this case. The taking of a DNA sample has been held to be minimally intrusive, and it would have a minimal impact on the privacy and security of Mr. Crossley. It is in the best interest of the administration of justice to make the order in this case.

...SENTENCING PORTION OF HEARING ENDS

...SUBSEQUENT PROCEEDINGS NOT TRANSCRIBED

...COURT ADJOURNED

R. v. Lance D. Crossley  
Certification

CERTIFICATE OF TRANSCRIPT  
*EVIDENCE ACT*, subsection 5(2)

5

I, **Elizabeth Logan**, certify that this document is a true and accurate transcription produced to the best of my skills and ability of the recording of R. v. Lance D. Crossley in the Ontario Court of Justice held at 161 Elgin Street, Ottawa,  
10 Ontario, taken from Recording No. 0411-07-20210319, which has been certified in Form 1 by C. Garant.

---

Date

**Elizabeth Logan**

15

**PHOTOCOPIES OF THIS TRANSCRIPT ARE NOT CERTIFIED UNLESS AFFIXED  
WITH THE ORIGINAL SIGNATURE OF THE REPORTER.**

20

**Ontario Regulation 158/03 - Evidence Act**

25

30