

ONTARIO COURT OF JUSTICE

HIS MAJESTY THE KING

V.

RYAN DICKEY

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

BEFORE THE HONOURABLE MR. JUSTICE MARION
On September 8, 2022, at WINDSOR, Ontario

APPEARANCES:

C. Houle

C. Kim

Counsel for the Crown
Counsel for Ryan Dickey

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THURSDAY, SEPTEMBER 8, 2022

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

5 MARION, J. (ORALLY):

10 [1] I have to take into account a number of factors, Mr. Dickey. First of all, the circumstances of these offences, to put it in perspective that has to be looked as well in relation to the existing criminal record, and counsel is quite correct in saying there is a gap in your record in the years of 2013 and 2014 there are similar offences, but then there is a gap of seven years, but during that 2021 and 2022 there are repeated offences for assault, and I count three of them, and a number of failure to comply with court orders. And so, the record is an aggravating factor, but it is additionally aggravating that you are before the court for similar offences again.

25 [2] In addition to the aggravating factors referred to the circumstances of the offence are aggravating. The nature of the assault committed on Charlene Moore, who was merely doing what she was responsible to do as part of her employment, the fact that you did spit on her, certainly is aggravating and concerning for her. It would require some medical intervention to ensure that she did not suffer adversely from it. The fact that this was done in the racial context

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5 or component adds to the aggravating nature of your conduct. That is followed up with a threat in addition which has clearly a racial component to it. And then, of course, we have the breach, which although is a lesser offence, it is still a breach of a court order.

10 [3] The mitigating circumstances are as set out by Mr. Kim. The fact that you have entered a plea saves some expense of judicial resources, and also it saves the complainants from the anxiety related to having to testify in court in order to make out the offence. In addition, in mitigation I am going to consider the fact that
15 all of the personal circumstances that you have had to deal with, and that you have basically needed assistance with in particular, mental health issues and substance abuse issues.

20 [4] Having said that, I agree with Mr. Houle that the major consideration in sentence of this nature, in view of the components that I have referred to was to denounce and deter such conduct. There is certainly a rash of violent
25 offences in the community, and this has to end. And so, I will start with the assault, Madam Clerk.

CLERK OF THE COURT: M'hmm.

30 [5] I will reflect it is 43 days that you have been in pre-sentence custody, at one and a half day per day served, that's 65 days. And I will

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add 80 days of pre-sentence custody. And on the other, Madam Clerk....

CLERK OF THE COURT: You are adding 80 further days, Your Honour?

THE COURT: Eighty further days, yes, 80 further days. And on the utter threat, I will reflect the same period of pre-sentence custody, and impose 80 days of further custody concurrent.

CLERK OF THE COURT: Okay.

THE COURT: On the breach, I am going to reflect - I will not reflect the pre-sentence custody credit, I will simply add 10 days consecutive custody.

[6] That is going to be followed by probation for a period of 12 months. The terms and conditions are to keep the peace and be of good behaviour, appear before the court when required to do so. Notify the court or probation office in advance of any change of name or address, and promptly notify the court or probation office of any change in employment or occupation. The probation is for 12 months.

[7] You will report in person to a probation officer within one working day of your release from custody and after that at all times and places as directed by your probation officer or any person authorized by your probation officer to assist in your supervision. You are to cooperate with the probation officer and sign any releases necessary to permit the probation

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officer to monitor your compliance and provide proof of compliance with any conditions to your probation officer upon request.

5 [8] You are not to contact or communicate in any way, directly or indirectly, by any physical, electronic, or other means, with Charlene Moore. You are not to attend within 100 meters of any place you know Charlene Moore to work, go to school, or live, or know her to be. You are also not to attend at any Tim Hortons in Windsor.

10 [9] You are not to possess any weapons as defined in the *Criminal Code*, for example, a BB gun, pellet gun, firearm, imitation of firearm, crossbow, prohibited or restrictive weapon or device, ammunition or explosive substance, with anything designed to be used and intended for use to cause death, or injury, or threat, or intimidate any person.

15 [10] You are to attend and actively participate in all assessment, counselling, or rehabilitative programs as directed by your probation officer, and complete them to the satisfaction of your probation officer for anger management, substance abuse, alcohol abuse, psychiatric or psychological issues. And you are to sign any release of information forms that will enable your probation officer to monitor your attendance and completion of any assessment, counselling, or rehabilitation programs as directed. I will

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waive the victim fine surcharge, Madam Clerk, on each and every one of these in view of his personal circumstances. Any ancillary orders that the Crown was looking for?

5 MR. HOULE: Yes, I've asked you to consider DNA on the assault, it's secondary, and a s. 110 for five years, please.

10 [11] All right, there will be a requirement that you provide a sample of your DNA for inclusion in the National DNA Bank on count one on the first information, Madam Clerk, on the assault charge.

CLERK OF THE COURT: Yes.

15 [12] And in addition there will be a s. 110 order, you are already serving one for 10 years in 2022, actually on two orders, so I will make it 10 years, Mr. Houle.

MR. HOULE: Thank you.

20 THE COURT: Preventing you from owning and possessing any weapons as defined in the *Criminal Code* for a period of 10 years. Anything else, Mr. Houle?

MR. HOULE: Not for the Crown.

25 THE COURT: Anything else, Mr. Kim?

MR. KIM: No, thank you, Your Honour.

THE COURT: Other counts, Mr. Houle?

MR. HOULE: Any other counts against this accused can be marked withdrawn, please.

30 THE COURT: The other counts are withdrawn at the request of the Crown.

CLERK OF THE COURT: When do you want the DNA by,

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Your Honour, so he is going to get 90 days.

THE COURT: I am sorry, all right, so within 10 days of this date.

CLERK OF THE COURT: Within 10 days of today's date?

THE COURT: Yes.

CLERK OF THE COURT: Okay.

THE COURT: All right, thank you, South-West.

CORRECTIONS OFFICER: Thank you, Your Honour.

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Certification

Evidence Act, Subsection 5(2)

I, Elaine Paquette, certify that this document is a true and accurate transcript of the recording of September 8, 2022, in the Ontario Court of Justice held at 200 Chatham Street East, Windsor, Ontario taken from Recording 0811-200-CRTRM10-20220908-085220-6-MARIONR which has been certified in Form 1 by Megan Hemstreet.

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February 16, 2023

Date

Elaine Paquette
Authorized Court Transcriptionist