

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

V.

MATT MacMILLAN

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

BEFORE THE HONOURABLE MADAM JUSTICE PRINGLE

On March 1, 2022, at 1000 FINCH AVENUE WEST, TORONTO, Ontario

APPEARANCES:

J. Tupper

Counsel for the Crown

J. Griffiths

Counsel for Matt MacMillan

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- Pringle, J. (Orally)

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1.
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TUESDAY, MARCH 1, 2022

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

5 PRINGLE, J. (ORALLY):

[1] So, Mr. MacMillan, let me say a couple of things to you now as I pass sentence. There are a number of aggravating factors in your case. On top of the aggressive and threatening behaviour itself that took place, you also made racist comments that were offensive and abusive to Mr. Myers. His victim impact statement is very thoughtful, articulate and it is very distressing. Not only are comments like that abusive to someone like Mr. Myers, they are abusive and distressing to other people in society, including the court and the judge. It is painful to hear that Mr. Myers had to deal with this kind of anti-black racism from you or anyone else. What is aggravating....

MATT MacMILLAN: Well, I, I, I did have a...

THE COURT: Mr. MacMillan.

MATT MacMILLAN: ...little point there.

THE COURT: Mr. MacMillan, I'm going to...

MATT MacMILLAN: It's not like, ...

THE COURT: ...ask you to...

MATT MacMILLAN: ...it's not like I'm a racist...

THE COURT: ...please....

MS. GRIFFITHS: Okay.

MATT MacMILLAN: ...or anything like that.

MS. GRIFFITHS: Okay, enough, Matt. Matt be

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quiet.

MATT MacMILLAN: So, like I'm a, I'm a white
male....

MS. GRIFFITS: Matt, be quiet, enough.

5 THE COURT: Mr. MacMillan, I am going to ask you
to just be quiet until I finish, okay, I have a
number of things I want to say here. So....

MATT MacMILLAN: Well (indiscernible) to say
anyways.

10 [2] So, what is also...

MATT MacMILLAN: Well, it's frigging
(indiscernible) to say anyway.

15 THE COURT: ...aggravating, ...

MR. GIDDINGS: Okay, Matt, you need to listen.

20 THE COURT: ...what is also aggravating in this
case, Mr. MacMillan, is that on another occasion
the victim of your offence was an older person
who also felt that you targeted him for his
heritage as a Filipino. You have a long and
persistent criminal record for similar type of
offences. You clearly do need some counselling.
You clearly do need some help. And as I have
said before, I am very grateful that Mr. Giddings
25 is involved, that COTA is involved and that you
are getting some support. I am sorry that you
may not return to that program at Seaton House
but unfortunately it appears that you are the
author of your own misfortune there, and as a
30 result of these offences you are no longer
welcome at Seaton House at this time.

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5 [3] So on today's date I am going to accept the joint position that the lawyers have put forward and I am going to note that you did two days of pre-trial custody at credit of 1.5, it is a total of three days of a sentence served. I am going to impose a suspended sentence with 18 months of probation.

10 [4] On probation you need to keep the peace. You need to be of good behaviour. You need to return to the court if you are told to do so. You have to tell probation or the court of any changes in your address, of your employment if you are ever able to find it, or if you were to change your name.

15 [5] You will be reporting to probation, your first report will be tomorrow via telephone. Mr. Giddings, can you help facilitate that for Mr. MacMillan?

20 MS. GRIFFITHS: I think they may have muddled themselves, Your Honour, but....

MR. GIDDINGS: Yes, yeah, it's okay, we're good for tomorrow, yeah.

25 THE COURT: Okay, good, thank you, so I am just going to put the phone number in the probation order, it's 416-314-0184. And, Mr. MacMillan, you will be reporting tomorrow for your first time on the telephone to probation, and after that they will tell you how you report and where you report. You are going to be reporting to them as required throughout your probation. I

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know that probation does provide you good supports and I am sure that they will work together with COTA and the other counselling agencies who have been supporting you.

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[6] You will need to live somewhere that probation approves of, and you will be taking counselling for alcohol and substance abuse, anger management, and mental health issues. You will need to sign releases so that probation can see how you are doing in that counselling.

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[7] On this probation, Mr. MacMillan, you may have no contact with any of the victims or people who were involved as victims or witnesses to the offences, and that is Syed Hussain, Dion Myers, Luis Mendoza, or Rogelio Sanchez. You must not be within 50 meters of anywhere that you know they live, work or happen to be. As we have discussed, you may not attend the TTC Bay subway station at 1234 Bay Street, except if you are passing through while on the train. You will not attend at the Finch subway station at 5714 Yonge Street, except if you are passing through while on the train. You must not attend within 50 meters of Seaton House at 339 George Street.

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[8] And I am going to make an order under s. 110 of the *Criminal Code* about not having any firearms or other weapons. I am just going to read that to you. For a period of 10 years, you may not have a firearm, a crossbow, a prohibited
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weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition, or an explosive substance.

5 [9] With respect to DNA, the Crown has made a request for DNA. I agree that a DNA order would be completely appropriate in normal
10 circumstances. I will say that we are in exceptional times with the pandemic, and people such as yourselves who are having a real struggle with mental health and addiction issues, who are being supported by a number of support agencies, often find that it is next to impossible to
15 comply with all the different requirements of attending at different locations, at different times. I am very concerned that it is not in the best interest of the administration of justice to make the order in this case, simply because I know that CIPC indicates you are already on the
20 DNA databank. I know that the police are well aware and have your DNA. If you were to attend for an order for DNA in this case, it would simply be to confirm that you were somebody who had previously provided DNA. You would not be providing it again; they would simply be taking
25 your fingerprints to confirm that you had provided previously. Knowing that you have provided previously, understanding that this an exceptional circumstance during the pandemic, taking into account your circumstances, I am not
30 prepared to find that it is in the best interest of the administration of justice to have you

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attend to confirm what is already known. So, no, so I will not make an order for DNA in these exceptional circumstances.

5 [10] I will also waive the victim fine surcharge, that you are not in a position to pay any fine at this point given your financial and person circumstances. So, let me ask, Mr. Tupper, is there anything else that I might have overlooked that I should address?

10 MR. TUPPER: No, not from the Crown's perspective, Your Honour, thank you.

15 [REDACTED]

20 [REDACTED]

25 [REDACTED]

30 [REDACTED]

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Certification

Certificate of Transcript
Evidence Act, Subsection 5(2)

5 I, Elaine Paquette, certify that this document is a true and
accurate transcript of the recording of March 1, 2022, in the
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6-PRINGLL which has been certified in Form 1 by Ruth Chamale
Abarca.

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February 22, 2023

Date

Elaine Paquette

Authorized Court Transcriptionist

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