

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *R. v. Hubley*, 2017 NSSC 124

**Date:** 20170427

**Docket:** CRH 450084

**Registry:** Halifax

**Between:**

Her Majesty the Queen

v.

George Edward Hubley

**SENTENCING DECISION**

**Judge:** The Honourable Justice Felix A. Cacchione

**Heard:** April 27, 2017

**Oral Decision:** April 27, 2017

**Written Decision:** May 16, 2017

**Counsel:** Glen Scheuer, Esq. and Robert Kennedy, Esq., for the  
Provincial Crown  
Brian Church, Q.C., for Mr. Hubley

**By the Court (Cacchione) orally:**

[1] On February 17, 2017 Mr. Hubley was convicted of the following offences:

Count 1: that he between the 14<sup>th</sup> day of July 2014 and the 26<sup>th</sup> day of November 2014 at or near Sheet Harbour, in the Halifax Regional Municipality, did knowing that Jason James Johnson and Kelly Amanda MacDonald had murdered Catherine Elizabeth Miller, did assist Jason James Johnson and Kelly Amanda MacDonald to dispose of the remains and evidence thereby being an accessory after the fact contrary to section 240 of the Criminal Code.

Count 2: and at the same time and place aforesaid did interfere with human remains contrary to section 182(b) of the Criminal Code.

[2] Section 240 of the **Criminal Code of Canada**, R.S.C., 1985, c. C-46, carries a maximum term of imprisonment for life. Section 182(b) carries a maximum term of imprisonment for five years.

[3] The killing of Ms. Miller was particularly gruesome and brutal. Her face was smashed with a tire iron to the point where it was so swollen and smashed up that she, according to Mr. Hubley, appeared to him to be of Asian descent. Her throat was cut by Mr. Johnson on two separate occasions. The second cut was fatal. Her head and hands were dismembered by the use of an axe and saw.

[4] The evidence presented established beyond a reasonable doubt that Mr. Hubley's actions were extensive and based on deliberate, conscious and voluntary decisions he made over the period from July 15 to November 26, 2014.

[5] His involvement began on July 15, 2014, shortly after Ms. Miller was killed by Mr. Johnson. He received a number of telephone calls and/or text messages from Ms. MacDonald. Initially, he ignored these. He eventually returned Ms. MacDonald's call. When he spoke to her she had, according to his evidence, a "*bit of a panicked voice*." Ms. MacDonald asked him to have an axe, a saw and tarps ready and not to ask any questions. He did what he was asked to do and asked no questions.

[6] Ms. MacDonald had no accurate knowledge of where Mr. Hubley lived when she contacted him as she had only been to his residence once before. He agreed to meet her at a graveyard, a location that was known to Ms. MacDonald, which was located 5 to 7 kilometers from his residence.

[7] It took Ms. MacDonald three hours from the time she first contacted him to the time of her arrival at the graveyard. Mr. Hubley knew, well before this, that Ms. MacDonald had a dead body in the vehicle she was travelling in with Mr. Johnson.

[8] Mr. Hubley drove to the graveyard and awaited Ms. MacDonald's arrival. He then guided Ms. MacDonald and Mr. Johnson back to his house where he had assembled, near the back steps of the residence, the items requested by Ms. MacDonald.

[9] Mr. Hubley then assisted by doing the following:

- helping to remove Ms. Miller's body from the car trunk;
- helping place Ms. Miller's body on tarps located next to an exterior light so Mr. Johnson could see what he was doing when dismembering her body;
- helping with the removal of a blood-stained trunk liner and the cleaning of the car trunk;
- helping wrap Ms. Miller's torso in tarps and putting her head and hands in garbage bags;
- helping place Ms. Miller's remains back in the car trunk;
- helping put other pieces of incriminating evidence into garbage bags and taking these to the fire pit on his property; and
- providing Ms. MacDonald and Mr. Johnson with a change of clothing and a shovel.

[10] The following evening Mr. Hubley burned the blood-soaked trunk liner; the splitting maul and handsaw used to dismember Ms. Miller; the garbage bags containing Ms. Miller's personal effects and bloodied clothing, his bloodied clothing and that of Ms. MacDonald and Mr. Johnson together with other bloodied material. He also threw the knife used to kill Ms. Miller and Ms. Miller's keys into the ocean.

[11] Mr. Hubley was interviewed at his residence by the police on three separate occasions, October 3<sup>rd</sup>, 8<sup>th</sup> and 22<sup>nd</sup>, 2014. He lied to them on all three occasions.

[12] On one occasion, after the police had interviewed him, Mr. Hubley retrieved the metal maul head from his fire pit. He then drove his all-terrain vehicle some distance to a neighbour's property and threw the maul head into the ocean.

[13] Mr. Hubley then had contact with Ms. MacDonald through telephone calls and text messages. These communications were intercepted under a series of judicial authorizations. The interceptions clearly show that Mr. Hubley colluded with Ms. MacDonald to "*get their stories straight*" with respect to what information they had or would be providing to the police. The concocted story he told to the police involved Ms. MacDonald going to Mr. Hubley's home to sell him some tools and other items that belonged to her deceased fiancé.

[14] On October 22, 2014 an audio recorded statement was taken from Mr. Hubley. He told the police a story that was consistent with the discussions he had had with Ms. MacDonald about buying tools from her. Ms. MacDonald provided a statement to the police on October 15, 2014. The narrative she gave was consistent with her prior discussions with Mr. Hubley and with the statement given by Mr. Hubley on October 22<sup>nd</sup>.

[15] Mr. Johnson was arrested on November 22<sup>nd</sup>, 2014.

[16] On November 24<sup>th</sup>, two undercover police officers posing as drug dealers and roommates of Mr. Johnson approached Ms. MacDonald. They used a ruse which convinced her that they were there to assist Mr. Johnson by disposing of any incriminating evidence. On November 25<sup>th</sup> Ms. MacDonald took the officers to two separate locations. At one of the locations the officers observed the remains of Ms. Miller's torso wrapped in a tarp and tied to a tree. They were at that time unable to find her head and hands at the second location.

[17] As a result of their interaction with Ms. MacDonald, the officers learned of Mr. Hubley's involvement.

[18] Later that night Mr. Hubley was visited at his residence by the same two undercover police officers posing as roommates of Mr. Johnson. They told him they were there on Ms. MacDonald's advice and that she would vouch for them. Mr. Hubley was hesitant and skeptical about these two unknown individuals. They asked Mr. Hubley to verify what they told him with Ms. MacDonald via a text message.

He did this and after Ms. MacDonald replied to his text message, Mr. Hubley began talking to the undercover police officers.

[19] Mr. Hubley told them that he had disposed of all of the evidence by burning most of it. He also told them that he had thrown Ms. Miller's keys, a knife and the axe head into the ocean and had provided Ms. MacDonald and Mr. Johnson with a change of clothing. He took the officers to the fire pit where he had burned the items and provided one of the officers with gloves to use while searching through the ashes in the fire pit.

[20] Mr. Hubley also told the undercover officers that the police had, on a few occasions, come to question him but that he had "*covered it off with a story.*" Before the officers left his residence Mr. Hubley asked for the return of the gloves he had given to one of the officers and threw the gloves into his woodstove. He also told the officers to travel via an alternate departure route to avoid being recorded on surveillance video cameras located at the Emergency Health Services building on his road.

[21] Ms. Miller's murder was callous and brutal. I recognize that Mr. Hubley did not participate in her murder; however, the description I have given is accurate. It was callous and it was brutal. She was initially bludgeoned with a tire iron and rendered unconscious. Her unconscious body was placed in the trunk of Mr. Johnson's vehicle. When she regained consciousness her throat was slashed with the knife. After she regained consciousness a second time her throat was cut again, this time fatally.

[22] What occurred after her death was shocking and even more chilling than her death. Her body was dismembered and subjected to disrespect and degradation. Her head and hands were removed from her body by the use of an axe and a hand saw to prevent her identification through dental and fingerprint records. These were put in a garbage bag and disposed of at one location. Her torso was wrapped in a tarp, driven to another location and tied to a tree. This was clearly an unacceptable violation of the integrity and security of her person.

COURT: Think about how you would feel Mr. Hubley if somebody if somebody did that to Rebecca. Think about it.

MR. HUBLEY: I do.

COURT: I'm sure you do.

MR. HUBLEY: I do all the time.

[23] Except for driving Ms. Miller's remains to these two locations, Mr. Hubley's participation was active and conscious. His efforts to assist Ms. MacDonald and Mr. Johnson in evading justice continued long after the disposal of Ms. Miller's body. He burned incriminating evidence in his fire pit and threw other incriminating items into the ocean to avoid detection. He later retrieved the maul head, which had not been consumed by fire, and threw that into the ocean as well. He colluded with Ms. MacDonald by creating a false story to be given to the authorities.

[24] Mr. Hubley had different opportunities to distance himself from the perpetrators of Ms. Miller's murder. He did not do so. Rather, he made conscious decisions to assist them that night and in the months to come. He knew that her murder had been committed when he was asked by Ms. MacDonald to provide tarps, an axe and a saw and not ask any questions. He provided these items and did not ask any questions.

[25] Mr. Hubley was aware that Ms. MacDonald did not know the location of his house. He chose to tell her to meet him at a known location and guided her to his residence.

[26] Although Mr. Hubley did not participate directly in the dismemberment of Ms. Miller's body, he did provide the implements used and the materials used to dispose of her body and other evidence. He was also present at some point when Mr. Johnson was swinging the axe at Ms. Miller's hands. He refused Mr. Johnson's request to assist him in dismembering the body.

#### **THE LAW:**

[27] Section 718.1 of the **Criminal Code** requires that any sentence imposed be proportionate to the gravity of the offence and the degree of responsibility of the offender. The aggravating and mitigating circumstances pertaining to both the offence and the offender, together with the established principles of sentencing, including those set out in s. 718.2 of the **Criminal Code**, must be examined to achieve this.

[28] The Court must decide whether the sentence in this case should focus on denunciation, that is the expression of society's disapproval of the conduct through

the sentence imposed; general deterrence, that is relaying a message to others that this type of behaviour results in costly consequences to an offender; specific deterrence, that is sending a message to Mr. Hubley through incarceration to dissuade him from reoffending; and reformation and rehabilitation in an attempt to assist him in reforming so that he does not offend again. No matter what objective or objectives are stressed, the Court must always be mindful of the principles of restraint contained in s 718.2 s-s (c) through (e) of the **Criminal Code**. A fit sentence that will best achieve the objectives identified, bearing in mind that the present sentence should be similar to sentences imposed in similar cases. The inquiry is intended to justify the adverse consequences that are being imposed on an individual by society, while ensuring that those consequences are fair and constructive.

[29] In *R. v. Wisdom*, [1992] O.J. No. 3110, the accused pleaded guilty to a charge of being accessory after the fact to murder. He was sentenced to a period of five years. Watt, J., (as he was then) stated at paras. 25 - 30:

25 ... Parliament, however, has made an exception for conviction of accessory after the fact to murder. In such cases, the maximum punishment is imprisonment for life under Criminal Code s. 240. It would seem self-evident from the enactment of such punishment, that Parliament regarded accessoryship after the fact to murder as one of the most serious crimes under our law. Reserved for it, in appropriate cases, is our most substantial sentence. Undoubtedly, the maximum punishment is discretionary. In accordance with general principle, it must be reserved for the combination of worst offender and worst offence. It nonetheless attests to the gravity, at least potential gravity, of the offence charged and admitted here.

26 It is textbook law that the fundamental purpose of any sentence is the protection of society. Due regard must be had to ensure that a just balance is achieved amongst the several factors that inform the discretion of the sentencing judge. In some cases, as for example non-violent offences by first or youthful offenders, it may be that rehabilitation will predominate. In others, specific deterrence will assume the most significant role. Yet others will witness the overriding influence of general deterrence.

27 Accessoryship after the fact to a crime is an offence which constitutes an interference with the administration of justice. An offence has been committed by a principal offender, in this case the crime of murder. It is the purpose of the accessory, as it was of this accused, to enable, indeed to facilitate, the principal offender to escape detection and/or punishment for his or her criminal conduct. By the means adopted, whatever they may be, the accessory interferes with the

investigation of crime and the detection of offenders. Serious crimes may go unsolved and dangerous criminals left at liberty only to re-offend. The resourceful accessory stifles the investigation and deflects attention from the true principal, as much as the suborned witness' perjury seeks to avoid successful prosecution. The due administration of justice is defeated in the event of success, as much in the one case as it is in the other.

28 Accessoryship after the fact frustrates the legitimate investigation of crime. It is as much a part of such investigation to clear the innocent, as it is to convict the guilty. To the extent that accessories deflect the investigation and investigators from their proper or true course, the attendant risks are obvious.

29 As it would appear to me, it is of the utmost public importance that all who are knowingly in touch with criminals and who might be minded, for whatever reason, to offer or furnish their assistance, ought to be alive to and fully cognizant of the fact that should they receive, comfort or assist them in order to enable the or a principal to escape, then they, the accessories, themselves run a substantial risk of losing their own liberty for a very significant period of time. In this respect, see, for example, *R. v. Kerrigan*; *R. v. Panayiotou* (1972) 57 Cr. App. R. 269 (CA-CD). It is a fortiori where the offence of the principal is itself grave. See, *R. v. Morgan* (1971) 56 Cr. App. R. 181 (CA-CD).

30 The factor or principle of superordinate importance in cases such as at present, in my respectful view, is that of general deterrence. The courts, whose task it is to ensure the due administration of justice, must devoutly set their face against and display their denunciation of any conduct, whether during the investigation or upon the trial of alleged offenders, that seeks to or does interfere with it. Put shortly, we shall brook no interference, actual or attempted, with the proper investigation of crime, as well the proper trial of alleged offenders. Those who set out with such a purpose shall be punished, and severely.

[30] At para. 32, Justice Watt set out some relevant factors to be considered in arriving at a proper sentence:

- (a) the nature, extent and duration of the accessory's involvement;
- (b) the age and experience of the accessory;
- (c) the nature, extent and duration of the relationship, if any, between the accessory and the relevant principal;

- (d) the presence or absence of any coercion of or threat to the accessory or others to obtain the accessory's participation;
- (e) the nature of the accessory's assistance; and,
- (f) the antecedents, present status and realistic prospects of the accessory.

[31] In *R. v. Gowen*, 2011 NSSC 259, the accused pled guilty to being an accessory after the fact. The accused helped his brother, the principal, create an alibi and attempted to get his friends to do as well.

[32] Gowen was a youthful offender, aged 21. The court considered his early guilty plea as a significant mitigating factor and sentenced him to a period of three years incarceration.

[33] In *R. v. Dow*, 2003 NSSC 82, the accused had an extensive previous record. He entered a guilty plea. His involvement was to hide the murder weapon which was never recovered and the offence was undetected for many years. The murder occurred in 1998. As a result of a joint recommendation, Mr. Dow was sentenced in 2003 to a term of five years imprisonment.

[34] In *R. v. Spencer*, 2014 NSSC 444, the accused pled guilty and was sentenced to a term of two years imprisonment based on a joint recommendation. Her involvement was described as being at the lower end of the range for such offences.

[35] In *R. v. Steadman*, 2010 BCCA 382, the accused had no prior criminal record. After being convicted at trial he was sentenced to a term of four years imprisonment. His participation was extensive. He assisted in the disposal of the body, selected a remote location where the body was buried, drove the principal to that location, helped the principal cut off the head and hands of the victim and buried the head, tried to burn the hands and threw away other pieces of evidence. He also assisted in moving the principal's car in aid of the ruse that the victim had died in a hunting accident. He also assisted in disposing of the murder weapon. At para. 16 the court stated:

16 The sentencing judge observed that there was a need to denounce unlawful conduct of this sort and to deter others so minded. That is what we refer to often as general deterrence. The judge characterized the activities of Mr. Steadman in assisting to dismember and bury the body and secrete it and the efforts to mislead the investigators as "a profound affront to society's values".

[36] In *R. v. Campbell*, 2001 NSSC 229, the accused was convicted by a jury and sentenced to a period of three years incarceration based on a joint recommendation. The accused's participation was to wash blood off the principal's shoes and assisting in the cleanup of blood and other evidence at the murder scene. The court noted that the accused went to considerable effort to conceal evidence and continued to conceal the commission of the offence until the principal was arrested.

[37] In *R. v. Hynes*, 2014 NSSC 119, the accused pled guilty to being an accessory after the fact to the murder of Brett Elizabeth MacKinnon which occurred in 2006. He was sentenced to a period of three years incarceration. The court set out the aggravating factors in that case as being: the accused's criminal record; the disrespect shown to the body and the method of disposal of the body as being an affront to the deceased; and, that Hynes had willingly put himself in a situation where he had little choice but to help the principal.

[38] The following mitigating factors were noted: in *Hynes*: the accused's guilty plea; his remorse; his assistance in identifying the principal; the limited time of the accused's involvement; the influence of the principal's propensity to violence and the accused's disclosure to the police of the principal's name in 2006. In the present case, save for an expression of remorse, none of these factors are present.

[39] Mr. Hubley's involvement in providing tools used to dismember Ms. Miller's body and being present at during part of the dismemberment together with his actions of helping unload her body from the trunk of the vehicle, cleaning out the bloodied car trunk, returning Ms. Miller's dismembered torso to the trunk, burning evidence and throwing other evidence into the ocean, together with his continued collusion with Ms. MacDonald in evading justice demonstrated a chilling detachment to the violent death of a young woman. No logical explanation was provided for his behaviour. Mr. Hubley's defence that he was acting under duress was rejected by the court. As well, there was no evidence presented to show that Mr. Hubley was threatened in any way by the principals.

[40] In the *Steadman* case the trial judge, Justice Barrow, stated the following when he sentenced the accused: [See *R. v. Steadman*, [2008] BCJ No. 2284 at para. 51]

... It is not uncommon for offenders to assist in hiding a murder because of threats made against them or their families which do not rise to the level of duress.

[41] On appeal the court was of the view that the presence of such threats significantly mitigates the offender's moral culpability. It noted, however, that the case at bar did not contain that mitigating factor.

[42] The same is true in the present case. There were no implicit or explicit threats made to Mr. Hubley. Any fears he may have had were the product of his imagination and not caused by anything the principals may have said or done to him.

[43] The trial court in the *Steadman* case also stated at para. 51:

... A not uncommon aggravating feature is when the accessory is present for or knew in advance that a murder was going to be committed.

[44] That factor is not present in this case, however, Mr. Hubley knew for several hours before Ms. MacDonald and Mr. Johnson's arrival that a murder had been committed. He also knew that these persons did not know the exact location of his residence. He chose to drive to a location known to them and guide them back to his residence. He provided the tools used to dismember Ms. Miller's body and he was present for some of the dismemberment. He also assisted in disposing of the remains by helping load them into the car trunk. As in the *Hynes* case, Mr. Hubley willingly put himself in a situation where he had little choice but to help the principals. These are aggravating circumstances.

[45] The burning of the bloodied clothing of the victim, the principals' and Mr. Hubley's, together with the disposal of other items of evidence by throwing them into the ocean are also aggravating circumstances.

[46] The Crown recommends a sentence of five years incarceration while the defence recommends a Federal sentence of two years plus one day incarceration.

[47] The cases submitted by both Crown and Defence indicated that the range of sentences for this offence, at a low end 18 months incarceration and at the high end 5 to 7 years' incarceration, save for the *Dowe* decision, which refers to the high end as being ten years.

[48] The Defence correctly states that the Court did not accept Mr. Hubley's evidence that he acted under duress and found that there was no air of reality to his evidence of being under duress. The Court also found that there were numerous examples of inconsistencies, omissions and fabrication in Mr. Hubley's evidence.

[49] The presentence report indicates that Mr. Hubley is 32 years of age, single and has a grade 11 education. He has a daughter who is six years of age. He is presently residing in his mother's home where he assists her, as she is disabled and awaiting a knee replacement.

[50] The court was advised that subsequent to Mr. Hubley's conviction the house he had been living in, and where the dismemberment of Ms. Miller's body occurred, burned to the ground. There was no fire insurance in place for this residence.

[51] Mr. Hubley has been employed as a fisherman for the majority of his life. He has also done carpentry work and is the caretaker of the graveyard in Mitchell Bay.

[52] He is presently employed with Maritime Rock Weed Limited. His present employer describes him as a good, hard-working and reliable worker who is now responsible for training new employees. His employer is hopeful that the offender will be sentenced to a period of community supervision and is prepared to provide Mr. Hubley with full-time employment as well as providing him with transportation to and from his counselling appointments.

[53] Mr. Hubley has never been diagnosed with any mental health concerns but does experience anxiety. He has been meeting with clinical therapist, Shauna Stuart, since December 2015, to assist him in dealing with his anxiety and panic attacks. His therapist indicated that he has been receptive to treatment and has engaged in the strategies presented to him to deal with his anxiety.

[54] In a letter dated January 27, 2017, Ms. Stuart describes the offender as an unsophisticated person with no antisocial tendencies. She notes that he is a hard worker, a provider, a caretaker and a father. Ms. Stuart indicates that the offender has a history of anxiety, depression, victimization through bullying and assaults.

[55] Other letters provided described the offender as polite, courteous, loyal to family and friends, a hard worker who is dependable and reliable, kind-hearted and caring and helpful to others.

[56] Mr. Hubley was polite and cooperative when he met with the author of the presentence report. Mr. Hubley has one criminal conviction for an offence contrary to s. 86(1) of the **Criminal Code** which was not in place at the time of the commission of this offence. He will therefore be treated as a first offender. On his conviction for the s. 86(1) **Criminal Code** offence he received a suspended sentence

for 12 months. There were no issues with his compliance with the conditions of the probation order.

[57] Mr. Hubley enabled and facilitated Mr. Johnson and Ms. MacDonald's escape, detection and punishment for their conduct for a period exceeding four months. He interfered with the investigation of the crime and the detection of the principals by disposing of incriminating evidence, lying to the police on several occasions and colluding with Ms. MacDonald to provide the police with a false story about the nature of her contact with him on July 15, 2014.

[58] The degree of Mr. Hubley's moral blameworthiness and responsibility is high. He had the opportunity, on several occasions, to disassociate himself from the situation but chose not to do so. The first opportunity was when Ms. MacDonald told him to have tarps, an axe and a saw ready for her arrival and not to ask any questions. Mr. Hubley did not ask any questions.

[59] The second opportunity arose when Ms. MacDonald advised him that she did not know where his house was located but that she would drive around until she saw his vehicle. Instead of leaving his residence and going to another location or hiding his vehicle, Mr. Hubley chose to drive to a location that was known to Ms. MacDonald and then guide her and Mr. Johnson back to his house from that location.

[60] The court rejected Mr. Hubley's evidence that he was acting under duress and that his actions were because of threats made against him or his family. There were no threats present in this case which would significantly mitigate Mr. Hubley's moral culpability.

[61] Denunciation and deterrence, both specific and general, together with proportionality are the principles of sentencing to be stressed in this situation.

[62] The court accepts that Mr. Hubley is an unsophisticated person who likes to help others and is someone who has difficulty saying 'no' to a request made of him. This, however, by itself does not excuse his actions, especially in light of the fact that Mr. Hubley knew well before the arrival of Ms. MacDonald and Mr. Johnson, that they had Ms. Miller's body in their vehicle.

[63] Mr. Hubley continued to assist Ms. MacDonald and Mr. Johnson in the months that followed, despite the fact that no threats or incidents of violence were made against him or his family. He concocted a story about why Ms. MacDonald might have been at his residence on July 15, 2014, which he told to the police.

[64] Mr. Hubley is 32 years old. He is a first offender. He has participated in a series of offences calculated to hide the commission of a murder and to distract the investigation of that crime. This was a substantial interference with the administration of justice which must be denounced. He had no familial connection to either of the perpetrators which might provide some explanation for his participation in these events. While the court recognizes that Mr. Hubley was not bound to go to the police and tell them what Mr. Johnson and Ms. MacDonald had done, he was certainly not acting as a responsible person when he assisted the principals in the dismemberment and disposal of Ms. Miller's body and his subsequent efforts to interfere with the investigation of Ms. Miller's murder.

[65] The Victim Impact Statements, prepared by Ms. Miller's father and brother, shows the horror his family has endured and will forever continue to endure as a result of what the principals and Mr. Hubley did. Mr. Hubley has indicated that he, as well, will continue to live with what he did.

[66] The brutal nature of Mr. Miller's death and the indignities committed to her body are a profound affront to society's values. Instead of choosing the right, natural, humane and obvious choice, Mr. Hubley chose to participate in this heinous offence. The sentence to be imposed is meant to denounce the offending conduct and deter Mr. Hubley and others from committing such offences.

[67] Taking into consideration the principles of sentencing as set out in the **Criminal Code**, the relevant case law, the circumstances of the offence and the offender's personal circumstances, I sentence Mr. Hubley on count 1 to a period of four (4) years' incarceration in a Federal institution on count 1 of the indictment and a period of 2 years concurrent incarceration on count 2. As well there will be a DNA Order as both offences are designated offences pursuant to s. 487.051 of the **Criminal Code** and there will be a firearms prohibition pursuant to s. 109 for life - preventing you from possessing any firearms or ammunition for the rest of your life.

[68] Mr. Hubley, I have no doubt that the sentiments expressed by the people who wrote letters on your behalf were true. However, you are not a child. You are an adult with life experience. We cannot undo what happened but I think in future, you should think about what you do before you do it. Given Mr. Hubley's present circumstances and where he is going, I will waive the victim fine surcharge.

Cacchione, J.