

CITATION: R. v. Granger, 2011 ONCA 537

DATE: 20110729

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COURT OF APPEAL FOR ONTARIO

Feldman, Blair and Watt JJ.A.

BETWEEN

Her Majesty The Queen

Respondent

and

Kevin Granger

Appellant

James Foord, for the appellant

John Patton, for the respondent

Heard and endorsed: July 25, 2011

On appeal from conviction entered by Justice Janet Wilson of the Superior Court of Justice, dated June 16, 2010 and from the sentence imposed, dated August 10, 2010.

ENDORSEMENT

[1] The appellant appeals his convictions for attempted choking and threatening, and his sentence of 18 months, plus pre-trial custody, plus 3 years probation. The appellant submits that the trial judge misapprehended some aspects of the evidence, both Crown and defence, and that she ultimately imposed an uneven level of scrutiny on the evidence of the complainant as opposed to that of the appellant. We would not give effect to this submission.

[2] The trial judge was alive to the frailties in the evidence of the complainant and acquitted the appellant on some counts as a result. However, in respect of the attempted choking and threatening, she was satisfied that the evidence was “clear and credible”, as well as compelling, and that with regard to the choking, there was “more than ample evidence to support that count to the requisite burden of proof”.

[3] The trial judge’s reasons were more than satisfactory for appellate review and to explain to the appellant why the complainant’s evidence was accepted and his did not raise a reasonable doubt.

[4] The appeal against conviction is dismissed.

[5] The appellant also appeals his sentence saying it was too high and did not adequately reflect the mitigating factors of his strong family and employment record. Defence counsel properly conceded that the sentence was not outside the proper range. In our view, the trial judge did take into account the mitigating factors. The offence was a very serious one involving domestic violence. The principles of specific and general deterrence as well as denunciation warranted a sentence of the magnitude imposed.

[6] While leave to appeal sentence is granted, the appeal is dismissed.

Signed: “K. Feldman J.A.”

“R. A. Blair J.A.”

“David Watt J.A.”