

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Tolton, 2012 ONCA 801

DATE: 20121119

DOCKET: C52900

Goudge, Sharpe and Gillese JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Vincent Tolton

Appellant

Michael Dineen, for the appellant

Alex Hrybinsky, for the respondent

Heard: November 15, 2012

On appeal from the sentence imposed on March 31, 2010 by Justice T.D. Little of the Superior Court of Justice, sitting without a jury.

APPEAL BOOK ENDORSEMENT

[1] In our view the reasons for sentence disclose an error in principle insofar as the sentencing judge said he was throwing all sentencing principles out the window with exception of separating the offender from society.

[2] It falls to this court to impose sentence. Looking at the circumstances of the offender, his egregious record, the offence, which was clearly serious, and in

which two young people were involved, and his prior sentences for similar offences, we would impose a global sentence of 10 years taking account of his pre-trial custody.

[3] The sentence is to be allocated as follows:

- a) nine years on count 1
- b) one year on count 3
- c) the sentences on the recurring counts to be concurrent

[4] The appeal is allowed and the sentence altered accordingly.