

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Agyeman, 2012 ONCA 893

DATE: 20121217

DOCKET: C54359

Blair, Rouleau and Tulloch JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

James Kofi Agyeman

Appellant

Brian Snell, for the appellant

Joan Barrett, for the respondent

Heard and released orally: November 23, 2012

On appeal from the sentence imposed on January 18, 2011 by Justice R. Reilly of the Superior Court of Justice sitting without a jury.

ENDORSEMENT

[1] We do not wish to be seen as condoning the unfortunate and in some cases inappropriate comments by both Crown counsel and the sentencing judge. However, the global sentence of 9 years (8 years for aggravated assault) less 3 years credit for pre-trial custody was fit and entirely within the range for the offences committed.

[2] In the earlier part of his reasons, the sentencing judge appears to have attempted to neutralize the effects of the stated mistreatment of the appellant while in pre-trial custody by inappropriately balancing that factor against the severe injuries inflicted on the victim in the course of the crime. We do not agree with this approach. In the portion of his reasons where he dealt specifically with the amount of credit for pre-trial custody however, the sentencing judge did state that he took into account the difficulties experienced by the appellant while a detainee. At the end of the day, we cannot say he erred in principle in exercising his discretion and assessing the appropriate credit to be given for pre-trial custody in the circumstances.

[3] Accordingly, while leave to appeal sentence is granted, the appeal from sentence is dismissed.

“R.A. Blair J.A.”
“Paul Rouleau J.A.”
“M.H. Tulloch J.A.”