

# COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Harmsworth, 2014 ONCA 531

DATE: 20140707

DOCKET: C57584

Laskin, Cronk and Blair JJ.A.

BETWEEN

Her Majesty the Queen

Applicant/Appellant

and

Thomas Harmsworth

Respondent

Michelle Campbell, for the appellant

James Lockyer and B. Eberdt, for the respondent

Heard and released orally: June 18, 2014

On appeal from the sentence imposed on August 8, 2013 by Justice Kelly A. Gorman of the Superior Court of Justice, sitting with a jury.

## ENDORSEMENT

[1] By the credit given for pre-sentence custody, the sentencing judge effectively imposed a low penitentiary sentence for an unprovoked and brutal aggravated assault. The sentence was undeniably lenient. The Crown appeals this sentence.

[2] The Crown submits that the trial judge erred by failing to give proper effect to denunciation and deterrence and by imposing a sentence that was manifestly unfit. We do not accept the Crown's submissions.

[3] The trial judge recognized that this was a difficult sentencing decision. Having listened to the respondent, she accepted the sincerity of his statement and decided to give him one last chance to turn his life around. Therefore while recognizing that ordinarily denunciation and deterrence are the most important sentencing principles for aggravated assault, in this case, she decided to emphasize the principle of rehabilitation. As we read the fresh evidence, it supports the trial judge's conclusion that the respondent's efforts to rehabilitate himself were likely to be more successful than they had been in the past. On the particular facts of this case, we see no basis for appellate intervention.

[4] Accordingly, although leave to appeal sentence is granted, the appeal is dismissed.

"John Laskin J.A."

"E.A. Cronk J.A."

"R.A. Blair J.A."