

Her Majesty the Queen (appellant) v. Sheldon Earl Crazyboy (respondent)  
(1101-0329-A; 2012 ABCA 228)

**Indexed As: R. v. Crazyboy (S.E.)**

Alberta Court of Appeal  
Hunt, Martin and Watson, J.J.A.  
July 20, 2012.

**Summary:**

The accused was charged with assaulting his common-law partner. While in custody awaiting trial, he tried to persuade her to have the charge dropped or, failing that, to refuse to attend court. He was charged with disobeying a no-contact court order and attempting to obstruct justice. Following trial, he was convicted of those charges. After receiving credit for time spent in pre-disposition custody, he was sentenced to an additional day in jail. The Crown appealed that sentence.

The Alberta Court of Appeal allowed the appeal. The circumstances called for a significant period of incarceration. The court sentenced the accused to nine months in prison for his attempt to obstruct justice, and three months consecutive for disobeying a court order. The accused was credited 145 days spent in pre-disposition custody, leaving seven months to be served.

**Courts - Topic 583**

Judges - Duties - Re reasons for decisions - [See both **Criminal Law - Topic 4684**].

**Criminal Law - Topic 4684**

Procedure - Judgments and reasons for judgment - Reasons for judgment - Sufficiency of - The accused was convicted of disobeying a court order and attempting to obstruct justice - He received an effective one day sentence - The Alberta Court of Appeal allowed the Crown's appeal - The court's majority reasons addressed the substantive appeal - The individual supplementary reasons of Watson, J.A., further commented on "the failure of the sentencing judge to adequately meet the functional requirements of reasons for judgment as to sentence" - Considered in their context, the words of s. 718 of the Criminal Code, describing the "fundamental purpose" of sentencing, "teach that the way courts explain their sentencing decisions is a key element of the objective to encourage respect for the law and compliance with it. Front line sentencing courts bear the real burden of this crucial feature of the honour system which is the legal fabric of our free and democratic society. A hard reality of the criminal justice system that first instance sentencing courts are often busy to the point of hectic. Parliament could not have intended to impose an unrealistic standard of reasons authorship upon those courts. Nevertheless, criminal courts are expected to do their best." - See paragraph 15.

**Criminal Law - Topic 4684**

Procedure - Judgments and reasons for judgment - Reasons for judgment - Sufficiency of - The Alberta Court of Appeal allowed the Crown's sentence appeal and imposed a

significant period of incarceration - The court's majority reasons addressed the substantive appeal - The individual supplementary reasons of Watson, J.A., further commented on "the failure of the sentencing judge to adequately meet the functional requirements of reasons for judgment as to sentence" - The first fundamental error arose in the reasons of the sentencing judge when he described principles of sentencing - A second fundamental error concerned the failure to identify what objectives of sentencing applied - A third failing turned on the assessment of aggravating and mitigating factors - "In the end, the reasons do not meet the functional requirements as to principles, objectives or factors. As a result, ... no deference is owed to the reasons of the sentencing judge and ... it fell to this Court to determine a proportional sentence for this case" - See paragraphs 12 to 35.

**Criminal Law - Topic 4856**

Appeals - Indictable offences - Grounds of appeal - Illegal or improper sentence - [See **Criminal Law - Topic 5910**].

**Criminal Law - Topic 4987**

Appeals - Indictable offences - Powers of Court of Appeal - Powers re sentencing - [See second **Criminal Law - Topic 4684**].

**Criminal Law - Topic 5810.2**

Sentencing - Sentencing procedure and rights of the accused - Reasons for sentence - [See both **Criminal Law - Topic 4684**].

**Criminal Law - Topic 5831.9**

Sentencing - Considerations on imposing sentence - Domestic violence - [See **Criminal Law - Topic 5910**].

**Criminal Law - Topic 5834**

Sentencing - Considerations on imposing sentence - Circumstances tending to increase sentence - [See **Criminal Law - Topic 5910**].

**Criminal Law - Topic 5834.1**

Sentencing - Considerations on imposing sentence - Seriousness of offence - [See **Criminal Law - Topic 5910**].

**Criminal Law - Topic 5842**

Sentencing - Considerations on imposing sentence - Previous criminal offences (incl. repeat, dangerous or long-term offenders) - [See **Criminal Law - Topic 5910**].

**Criminal Law - Topic 5846.1**

Sentencing - Considerations on imposing sentence - Aboriginal offenders - [See **Criminal Law - Topic 5910**].

**Criminal Law - Topic 5892.3**

Sentence - Disobeying of court order - [See **Criminal Law - Topic 5910**].

## **Criminal Law - Topic 5910**

Sentence - Particular offences - Obstructing justice - The accused (an aboriginal person) was charged with assaulting his common-law partner - While in custody awaiting trial, he repeatedly tried to persuade her to have the charge dropped or to refuse to attend court - He was charged with disobeying a court order (no-contact order) and attempting to obstruct justice - Following trial, he was convicted - After receiving credit for time spent in pre-disposition custody, he was sentenced an additional day in jail - The Alberta Court of Appeal allowed the Crown's appeal - The circumstances called for a significant period of incarceration, namely, nine months in prison for his attempt to obstruct justice, and three months consecutive for disobeying a court order - The trial judge erred when he gave the accused credit for pleading guilty and emphasized that he had not used violence or threatened violence - The fact that violence was not employed in the course of the attempt to obstruct justice was not mitigating - Those errors led to an unfit sentence - Not every case involving an aboriginal offender called for a mitigated sentence - Lengthy, related criminal record - High risk to re-offend violently in an intimate relationship - Completed a domestic violence treatment program just prior to latest domestic assault - His attempt to obstruct justice and his persistent breach of the no-contact order were serious matters - See paragraphs 1 to 11.

### **Cases Noticed:**

- R. v. Gladue (J.T.), [1999] 1 S.C.R. 688; 238 N.R. 1; 121 B.C.A.C. 161; 198 W.A.C. 161; 133 C.C.C.(3d) 385, refd to. [para. 10].
- R. v. Ipeelee (M.) (2012), 428 N.R. 1; 228 O.A.C. 224; 280 C.C.C.(3d) 265 (S.C.C.), refd to. [para. 10].
- R. v. Sheppard (C.), [2002] 1 S.C.R. 869; 284 N.R. 342; 211 Nfld. & P.E.I.R. 50; 633 A.P.R. 50; 2002 SCC 26, refd to. [para. 15].
- R. v. Teskey (L.M.), [2007] 2 S.C.R. 267; 364 N.R. 164; 412 A.R. 361; 404 W.A.C. 361; 2007 SCC 25, refd to. [para. 15].
- R. v. R.E.M., [2008] 3 S.C.R. 3; 380 N.R. 47; 260 B.C.A.C. 40; 439 W.A.C. 40; 2008 SCC 51, refd to. [para. 15].
- Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board) et al., [2011] 3 S.C.R. 708; 424 N.R. 220; 317 Nfld. & P.E.I.R. 340; 986 A.P.R. 340; 2011 SCC 62, refd to. [para. 16].
- Halifax (Regional Municipality) v. Canada (Minister of Public Works and Government Services) (2012), 431 N.R. 10; 2012 SCC 29, refd to. [para. 16].
- R. v. Ly (T.Q.), [2012] A.R. TBEd. JL.002; 2012 ABCA 203, refd to. [para. 17].
- R. v. Pham - see R. v. Ly (T.Q.).
- R. v. Hamilton (M.A.) (2004), 189 O.A.C. 90; 241 D.L.R.(4th) 490 (C.A.), refd to. [para. 17].
- R. v. Dingwall (D.D.) (2005), 361 A.R. 306; 339 W.A.C. 306; 2005 ABCA 14, refd to. [para. 18].
- R. v. Wharry (W.E.) (2008), 437 A.R. 148; 433 W.A.C. 148; 234 C.C.C.(3d) 248; 2008 ABCA 293, refd to. [para. 18].
- R. v. Goodstone (G.E.) (2008), 440 A.R. 357; 438 W.A.C. 357; 2008 ABCA 401, refd to. [para. 18].
- R. v. Nguyen (T.M.) (2008), 257 B.C.A.C. 38; 432 W.A.C. 38; 234 C.C.C.(3d) 67; 2008

BCCA 252, refd to. [para. 18].  
R. v. Smith and Southam, 2008 QCCA 1391, refd to. [para. 18].  
R. v. Abourached (N.) (2007), 259 N.S.R.(2d) 379; 828 A.P.R. 379; 2007 NSCA 109, refd to. [para. 18].  
R. v. D.J.D. (2010), 487 A.R. 84; 495 W.A.C. 84; 2010 ABCA 207, refd to. [para. 18].  
R. v. Nasogaluak (L.M.), [2010] 2 S.C.R. 206; 398 N.R. 107; 474 A.R. 88; 479 W.A.C. 88; 2010 SCC 6, refd to. [para. 18].  
R. v. J.L.M.A. (2010), 499 A.R. 1; 514 W.A.C. 1; 2010 ABCA 363, refd to. [para. 18].  
R. v. Innes (J.) (2008), 429 A.R. 164; 421 W.A.C. 164; 231 C.C.C.(3d) 48; 2008 ABCA 129, refd to. [para. 19].  
R. v. Andrukonis (M.) (2012), 524 A.R. 306; 545 W.A.C. 306; 2012 ABCA 148, refd to. [para. 19].

**Statutes Noticed:**

Criminal Code, R.S.C. 1985, c. C-46, sect. 718 [para. 14]; sect. 726.2 [para. 13].

**Counsel:**

C. Rideout, for the appellant;  
M.S. Takada, for the respondent.

This appeal was heard on June 6, 2012, before Hunt, Martin and Watson, J.J.A., of the Alberta Court of Appeal. The Court delivered the following memorandum of judgment, with reasons, filed at Calgary, Alberta, on July 20, 2012:

Martin, J.A. (Hunt, J.A., concurring) - see paragraphs 1 to 11;  
Watson, J.A. (concurring in the result) - see paragraphs 12 to 35.

Appeal allowed.

Editor: E. Joanne Oley