

Re: A Tale of Two Sentences

We are writing regarding an article that appeared in the Winnipeg Free Press on Saturday, March 18, 2023, and an editorial on Wednesday, March 22, 2023, comparing the different sentencing outcomes for two offenders of different races. We believe it is important to bring some nuances.

Our primary concern is that it was an unfair comparison of these two sentences to suggest, implicitly or directly, racism on the part of the court or this judge, the consequences of which can serve to undermine our confidence in the administration of the justice system and distract or deflect from real solutions to address systemic racism.

Beyond the races of the two accused, there were real and significant differences between the two offences. The Indigenous offender who was sentenced to a three-year sentence in prison (a Conditional Sentence Order, which can be served out of jail, is unavailable for a sentence of more than two years), had a loaded shotgun while agitated with his girlfriend. When another attempted to disarm him, he discharged the loaded shotgun in a home with 13 people, one of whom was his infant son. He then left the loaded shotgun outside where anyone could have found it. He had also pled guilty to a *Controlled Drug and Substances Act* charge, possession for the purpose of trafficking as well as three counts of breaching court orders. The article references the substances as cocaine and methamphetamine.

The distinguishing factors in the offence of the non-Indigenous accused was that the firearms were left in his garage by a friend, he had not used them to threaten or endanger anyone, was in the process of moving them to his basement when the police arrived and had no drugs on him at the time. To say that these two accused should have similar sentences because of the similar charges, ignores the circumstances of the offences and the danger to the public. Sentencing is fact dependent.

Certainly, systemic, and structural racism is a significant concern of the Provincial Court, and many efforts have been taken to address the overrepresentation of Indigenous people in jail and to establish a renewed and more just relationship with Indigenous peoples. We believe that Provincial Court is cognizant of its responsibility to all the stakeholders in the legal system and that responsibility means not being blind to race but considering the legacies of colonialism and the manifestation of injuries that arise from residential schools, day schools and prolonged government policy against Indigenous people that have led to an overrepresentation of Indigenous people in the criminal justice system. The Judge who presided over the cases mentioned above did consider the systemic disadvantages of this Indigenous accused, and sentenced with the information that was before her.

The Provincial Court of Manitoba has shown a commitment to restorative justice and Indigenous traditions. Reconciliation is a long-term project. They are aware that they must do better and are consistently striving to do better. The Provincial Court has been working with the many Indigenous communities where they sit and have shown their commitment to these communities by engaging in a mutually respectful dialogue on justice issues. There is an expectation on judges to continue their education – education to enhance their understanding, empathy, and respect – and many have voluntarily taken ongoing education on the legacies of colonization and broader issues that bring Indigenous peoples before the court. The Manitoba Provincial Court incorporates education on Indigenous people in their court education program.

There is no shame in admitting that much more work needs to be done on reconciliation, and our own self-reflection on cultural biases. We also believe that journalism plays an important role in our society. Without journalists, some of the most tragic and vile offenses against Indigenous peoples would still be festering in the dark. We all play a role in acknowledging the harms that were and continue to be perpetuated against Indigenous peoples and do our part to advance reconciliation.