

Case Name:
R. v. A.S.A.

Between
Regina, and
A.S.A.

[2012] B.C.J. No. 1737

2012 BCPC 278

2012 CarswellBC 2443

103 W.C.B. (2d) 847

File No. 190360-1K

Registry: Surrey

British Columbia Provincial Court
Surrey, British Columbia

R. Raven Prov. Ct. J.

Heard: April 27, 2012.

Judgment: April 27, 2012.

(21 paras.)

Counsel:

Counsel for the Crown: A. Ip.

Counsel for the Defendant: B. Mohan.

REASONS FOR SENTENCE

1 R. RAVEN PROV. CT. J.:-- Before me for sentencing at this point is A.S.A. who I have found guilty of assaulting his wife, contrary to s. 266 of the *Criminal Code*. I have just read fairly lengthy reasons for judgment in the matter so I do not plan to go over all of the circumstances of this case, other than to say I have found that Mr. A.S.A. assaulted his wife on August 25th, 2011, by slapping her across the face and hitting her with a slipper.

2 Mr. A.S.A. comes before the court without a criminal record. He did enter into a peace bond on October 22nd, 2009, with reasonable grounds being satisfied at that time that his wife, Ms. K.K.A., had reason to fear him. As a result, there is a history in this case of concern in the relationship between himself and Ms. K.K.A.

3 It is always an aggravating factor where an assault occurs in the context of an intimate relationship, as is the case before me. I agree that it is an aggravating factor that the assault is a spousal assault and that protection of Ms. K.K.A. is a primary issue. In cases such as this, the court also has to consider not just specific deterrence but general deterrence because of society's concern that partners in intimate relationships not be abused.

4 Mr. A.S.A. did not admit that he assaulted his wife; I found that to be a fact following a trial. His counsel argues for a conditional discharge which is clearly in the best interests of Mr. A.S.A. because he does not have any prior criminal record. There is some understanding of how an incident like this occurred in Mr. and Mrs. A.S.A.'s home as I can appreciate the frustration and stress that comes from a family of six people living in close quarters with both Mr. and Mrs. A.S.A. working outside the home and Mr. A.S.A., in addition, having responsibility for caring for his mother who is very ill with kidney dialysis. If it was just the circumstances of this family that I needed to consider I might give a conditional discharge, but I do have to consider as well the aspect of general deterrence and the interests of society as a whole. The criminal justice system has a strong interest, as does society, in ensuring that the offence of spousal assault is not minimized, there has to be a deterrence against this type of an offence. It is a serious type of offence and one that often is difficult for victims to report and to go through with a trial, as was clear in this case, because both Mr. and Mrs. A.S.A. want to reconcile; however, this issue of violence in the home needs to be addressed.

5 For those reasons, I do not think that it is an appropriate case for a conditional discharge, although as I have indicated I have some sympathy for the personal circumstances of these individuals. Therefore, I am going to impose a suspended sentence and a period of probation.

6 The period of probation will be for 12 months and the conditions will be to keep the peace and be of good behaviour, to report within 24 hours to a probation officer and report after that as and when directed, to attend for counselling as directed by the probation officer, and complete that counselling which may include relationship counselling and violence prevention counselling to the satisfaction of your probation officer.

7 You are not to have contact with K.K.A., directly or indirectly, nor to attend at her place of

residence or employment, except as allowed for pursuant to an order of competent jurisdiction from the Family Court. That condition will remain in place until, Mr. A.S.A., you have completed counselling. Once you have completed counselling I encourage you to come before me and ask to have the no contact condition deleted because it appears that you and your wife are interested in reconciling.

8 You are not to possess any weapons as defined by the *Criminal Code of Canada*.

9 In this particular case I do not consider it necessary for you to provide a DNA sample.

10 I will make the condition pursuant to section, is it 110?

11 MR. IP: 110.

12 THE COURT: The firearms prohibition.

13 I will not make a condition requiring you to complete community work service because I think it is more important that you continue working and support your family, including your children.

14 I think there will have to be payment of a victim surcharge fee in this case because Mr. A.S.A. is gainfully employed. Okay? Thank you.

15 MR. IP: Thank you.

16 THE CLERK: Your Honour, the firearms [indiscernible]

17 THE COURT: Five years.

18 MR. MOHAN: So have you ordered DNA?

19 THE COURT: DNA, no, I do not think it is necessary.

20 THE CLERK: And the victim surcharge is due?

21 THE COURT: 30 days, within 30 days.

(REASONS FOR SENTENCE CONCLUDED)