

## THE QUEEN and JESUS CHRIST

THE SUPREME COURT  
OF THE NORTHERN  
TERRITORY  
No. 99033

THE QUEEN and  
JESUS CHRIST  
(Sentence)

SOLOMON J

TRANSCRIPT OF  
PROCEEDINGS  
AT DARWIN ON THURS-  
DAY 29 JULY 1999 AT  
10am

Transcribed by:  
Court Forgery Services (NT)  
Pty Ltd 10e/jh  
Christ (Edited)

HIS HONOUR:

The accused, Jesus Christ, has pleaded guilty today to the offences of disturbing the public peace, contrary to section 47(b) of the Summary Offences Act, and one count of unlawfully damaging property, contrary to section 251 of the Criminal Code.

The admitted facts are that just before the Jewish Passover Jesus went up to Jerusalem, and in the Temple he found people selling cattle and sheep and pigeons, and the money changers sitting at their counters there. Making a whip out of some cord, he drove them all out of the Temple, cattle and sheep as well, scattered the money changers' coins, knocked their tables over and said to the pigeon sellers, "Take all this out of here and stop turning my Father's house into a market".

In the course of overturning the tables, various items of prop-

erty were damaged, including an abacus, and various items of pottery. The total value of the property was 50 shekels.

Having overturned the tables, it appears that a group of people assembled, a number of them from a group calling themselves "The Disciples". Jesus was challenged by a number of onlookers (described in the Crown facts as "The Jews"), who asked him to justify his actions. Jesus replied "Destroy this sanctuary, and in three days I will raise it up". It is unclear whether this was an incitement to further damage on the part of Jesus, but in any event, the Jews do not seem to have taken much notice of this, perhaps purely rhetorical claim, and the defendant is not charged in relation to this comment. I therefore do not take it into account when sentencing the defendant.

Police attended the scene of the disturbance and Jesus was arrested. He declined to participate in a record of interview.

I note that Jesus has pleaded guilty at the earliest opportunity, and he is given full credit for that in the sentence I will impose. He comes before me with no prior convictions of any sort, and he is given all the leniency that I am able to afford to a first offender.

He is, it appears, a man of significant community works. Evidence was given by Mr St. Matthew that following the events which gave rise to these offences, Jesus then proceeded to cure a

number of blind and lame people who came to him in the temple. The evidence of Mr St. Matthew was essentially unchallenged, and I accept it. The Crown did suggest, however, that this conduct was in no way mitigatory, as it caused further offence to the chief priests and the scribes when he cried "Hosanna to the Son of David" (a matter which was conceded by Mr St. Matthew in his evidence). Despite this perhaps provocative flourish from the defendant, I am prepared to give Jesus credit for the miracles he performed, and do so in fixing the appropriate sentence for these offences.

A number of people were called on behalf of Jesus, and gave lengthy testimony as to his contribution to the community. His efforts were described by all as "miracles", and while I would perhaps choose another word, I do not doubt, and it was not submitted that I ought doubt, the positive contribution made by Jesus. I should say that I was particularly impressed by his work on Channel Island in Darwin Harbour, which was the subject of a reference from the Chief Health Officer.

The matter which occupied the main part of the submissions by counsel before me was as to the application of the "mandatory sentencing" provisions of the Sentencing Act NT, and I now turn to address that issue.

The Crown, quite appropriately in my opinion, conceded that the defendant, if he was to be sentenced to a period of imprisonment under the mandatory



sentencing regime, should not receive a sentence of imprisonment in excess of 14 days. I agree with that proposition.

The main point in dispute was as to the "exceptional circumstances" provisions introduced in the amendments to the Sentencing Act which commenced operation on 4 July 1999. The legislation provides that the court is not required to make an order of mandatory imprisonment where "exceptional circumstances" exist. Section 78A(6C) provides that "exceptional circumstances" will only exist when a defendant is charged with a single property offence and satisfies all of the following elements:

- (a) that the offence was trivial in nature;
- (b) that the offender has made, or has made reasonable efforts to make, full restitution;
- (c) that the offender is otherwise of good character and that there were mitigating circumstances (which it is noted do not include intoxication due to alcohol or the use of illegal drugs) that significantly reduce the extent to which the offender is to blame for the commission of the offence and demonstrate that the commission of the offence was an aberration from the offender's usual behaviour; and
- (d) that the offender co-oper-

ated with law enforcement agencies in the investigation of the offence.

It became obvious during the course of argument that the variety of expressions used in that section are open to many interpretations, and I suspect that they will be the cause of much protracted litigation. In any event, I do not seek to give precise definition to the terms of the section – it would seem to be an impossible task. Each case must be decided on its own facts and circumstances, and that is what I will proceed to do given the ordinary meaning of the words in the statute.

I cannot find that the offence was trivial in nature. Although counsel for the defence argued that “trivial” was to be seen in the context of the property offences contained in the schedule to the sentencing, ultimately this was a matter of a considerable disturbance to public order. Although Jesus had formed the view that the activities of the pigeon sellers and others was repugnant to him, he was not entitled to take the law into his own hands as he did. These were people going on about their business, and Jesus not only overturned numerous tables, but then proceeded to chase the individuals from the temple with a whip. I do not think that members of the community would class this as trivial, however noble the motives of the defendant may have been, and nor can I find that the offence is trivial.

Although I need go no further in determining the matter of exceptional circumstances, I will nevertheless state my reasons why this defendant’s case does not come within s.78A(6A) of the Sentencing Act.

The defendant has not made restitution. Counsel for the defendant submitted that Jesus was a man of limited means, receiving no government benefits, and having no regular source of income. He appears to subsist entirely from the support provided to him by members of the “The Disciples”, and other supportive members of the community. It was therefore argued that “reasonable efforts” in his case meant no real effort at all because there was simply no way he could conceivably pay this money.

I am unable to accept that submission. There was no effort made, it would seem, by the defendant to find work. It was noted by the Crown that a CDEP program exists in his community, and it appears that Jesus made no efforts to avail himself of the income that could have been earned through that project. It also appears from the material presented as character references, that Jesus has some skills in carpentry, his father’s profession.

I am not satisfied, as I must be by the material put by the defendant, that the defendant is of good character, and that there were mitigating circumstances that “significantly reduce” his blame and demonstrate that “the offence was an aberration from the offender’s usual behaviour”. Counsel for the defendant argued that the personal conviction of the defendant amounted to such mitigation, and I was referred to the judgment of Murphy J in *Neal v R* (1982) 149 CLR at 316-317 in which his Honour notes the important role played in society by “agitators”.

Unfortunately this is a two-edged sword for the defendant, and ultimately in my opinion, operates against him. It would appear, indeed, that Jesus is known in the community as an “agitator”, and although I do not consider that a factor of aggravation, I do not believe that it is then open to Jesus to argue that the offence was “an aberration”. Rather, it seems to be consistent with his usual behaviour, which is that of, in the words of Murphy J, to “come down to some perfectly contented class of the community and sow the seeds of discontent amongst them” (at 317).

The Crown, unusually I might add, called evidence on this particular issue, which supports the view I have taken. Ms Zebedee gave evidence that on one occasion she had been present at a wedding celebration when Jesus distributed wine to the gathering which he had procured. The gathering included some people under the age of 18, and this distribution by him was clearly in contravention of the Liquor Act. I was unimpressed by the attempt made by counsel for the defendant to describe this as a “miracle” and claim it was of little consequence.

Further evidence was called from two young men Caleb and Jacob, both followers of “The Disciples”, who told the court that

they had on one occasion been asked by Jesus to go and take a tethered donkey and colt from a nearby community and bring them to Jesus who was at the time near Jerusalem Station, in sight of Bethphage on the Mount of Olives. They were so procured and Jesus proceeded to use them for his own purposes. This was done without the consent of the owners, and as such was an unlawful use of a conveyance. Such a display of disregard for the property of others makes it impossible for me to conclude, therefore, that this matter was “an aberration”.

I turn to the final factor to be considered. I can dispose of it quite simply. Jesus did not co-operate with law enforcement agencies in the investigation of the offence. He was asked to participate in a record of interview, and declined to do so. Counsel for the defendant argued that this provision should be read down, as it threatened the right to silence. I can see no reason to do so. The words of the statute are clear, and Jesus did not co-operate with police when they requested his assistance.

I am therefore left with no option but to sentence the defendant Jesus Christ to 14 days imprisonment. I would add that, although I have indicated that these offences are not “trivial” and I have treated them as serious offences, I have no doubt that but for the mandatory sentencing provisions of the Sentencing Act NT, I would not impose a prison term for this man who comes before me with a host of impressive references and no history of criminal behaviour. I would have thought that an order for restitution and a bond would have been more appropriate. In the circumstances I do not order restitution – the principle of totality dictates that I should not given the prison sentence I am obliged to impose.

The defendant is therefore sentenced to 14 days imprisonment to commence forthwith.

N.B.

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