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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SCC 20907622

THE QUEEN

and

CORNELIUS MOLLINJIN

(Sentence)

RILEY J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON WEDNESDAY 7 OCTOBER 2009

Transcribed by:
Merrill Legal Solutions

HIS HONOUR: Mr Mollinjin, you have pleaded guilty to the offence of reckless manslaughter in relation to the death of your wife. The maximum penalty for the offence is imprisonment for life.

At about 3.30 pm on 28 February 2009, you and your wife were walking along Casuarina Drive near the corner of Trower Road. The evidence of what occurred comes from some high school students who alighted from a bus in the area. They heard screams and thudding noises coming from the mangroves. They walked into the mangroves and saw you assaulting your wife. You were kneeling over her as she lay on her side. You repeatedly punched her in the head, chest and torso area while she tried to shield her head with her arms and her hands. You had clenched fists and you were bringing your arms behind your head and slamming down so hard into the victim that the witnesses could hear the blows from a distance away. This went on for a number of minutes. The victim could be heard pleading with you to stop and then she fell silent. The beating continued after she fell silent.

The witnesses called upon you to stop but you continued on. You finally did stop when one of the witnesses said that police had been called. You then came out of the mangroves and walked towards the witnesses. You then began to walk away. However another witness persuaded you to remain there until the police arrived. When the police did arrive, you were taken to the watchhouse.

In the meantime, your victim was taken to the Royal Darwin Hospital where her condition deteriorated. She suffered internal injuries as well as head injuries. She died on 1 March 2009 as a result of the injuries suffered in the assault.

In the meantime, you had been released from custody and you were again located and again arrested. You were charged and remanded in custody.

The injuries suffered by the deceased included a laceration above the left eye, a swollen and bloodied mouth, swelling to both eyes and an intra-abdominal haemorrhage consisting of a rupture of the splenic vein. I am told that the splenic vein of the deceased was in very poor condition, probably as a result of the excessive consumption of alcohol over a prolonged period of time. The significant internal bleeding eventually caused her death.

At the time of the attack, you and your victim were both heavily intoxicated. Her blood alcohol reading was 0.273%.

You have no real recollection of the attack. You can recall punching her but you cannot recall why. The next thing you remember is waking up in the police cells. You were not then aware of the damage you had done and you did not find out until much later when you returned to the camping spot you shared with the deceased and when you were arrested.

You have a criminal history. Of significance for present purposes are two matters from the early 1990s. In 1992 you were convicted of aggravated assault and sentenced to imprisonment for six months. In 1993 you were again convicted of aggravated assault, this time causing bodily harm, and sentenced to imprisonment for nine months. Those offences were obviously serious cases of violence. You have not been convicted of an offence of violence since that time and I bear in mind that the convictions are now somewhat old.

You are aged 48 years. The victim was your wife and you were her carer. You had been together since the mid 1990s. She had seven children from a previous relationship. She had previously been the victim of an assault by two young men as a result of which she lost her left eye and she had difficulty with her right eye. She was not in good health. You had been her carer for some time. You had developed together a life of living in the long grass in Darwin and then for periods at Wadeye. Together you had a daughter aged 12 but she was largely cared for by the oldest daughter of your wife. The young girl, that is, your daughter has been devastated by the loss of her mother. She continues to be in the care of her older stepsister.

Your parents are still alive. You were raised by an auntie. You attended school at Parap Primary School and also at Wadeye. You left school at the age of 16 or 17 years. You have worked as an assistant to a mechanic and as a stockman. You have been a member of a relatively successful local band and you have three years training as a health worker. It was not until you were about the age of 28 years that you gave up work and commenced living in the long grass.

It seems the relationship between yourself and your wife was a strong one. After you were told that your wife had died, you expressed your sorrow and repeatedly said that you had 'lost everything'. I accept that you felt and that you continue to feel deep remorse.

You have entered your plea of guilty at an early time. It comes in response to an ex officio indictment. You are entitled to credit for the utilitarian benefits that flow from the plea. You have also accepted responsibility for what you have done and you have shown genuine remorse. You are entitled to credit for those matters.

You have been in custody since 1 March 2009. Your sentence will be backdated to reflect your time in custody. You are likely to be required to spend a good deal of time serving your sentence in protective custody because of the risk of attack from relatives of the deceased. Your time in custody is unlikely to be easy.

By any measure, this was a brutal assault committed upon a woman who was not able to defend herself. She was pleading with you to desist, but you continued on. Others called on you to stop but you did not do so. The violence was unrelenting and brutal. It only came to an end when you were

informed that the police had been called. As a consequence of the vicious attack, your victim died.

Unfortunately, offending of this kind is not uncommon in the Northern Territory. Violent attacks by drunken Aboriginal men upon vulnerable and often drunken Aboriginal women are, regrettably, commonplace. I was reminded by counsel of some remarks I made in a similar matter in 2008. The remarks have direct application to your case:

The regrettable reality of this matter is that your close friend, your wife, died as a consequence of your drunken actions. The life of a loved family member has been taken. She lost her life for no good reason. Indeed, you are unable to give an explanation for your conduct. This is yet another tragedy of this kind.

Over many years, the Courts have been expressing concern as to the level of violence inflicted upon Aboriginal women by men in circumstances where alcohol has been at the root of the violence. In recent times, the wider community has become more aware of the problems and it is hoped that action now being taken will have the positive effect for which so many hold out hope. In the meantime, the Courts will continue to impose sentences upon people such as yourself that fulfil the need for punishment and contribute to specific and general deterrence insofar as it be possible.

As I say, those observations have direct application to your case. There is little that can be done by the Courts to deal with this issue other than to impose sentences designed to reflect the abhorrence of the community and hopefully provide some deterrence to others who may be inclined to offend in this way.

There are significant underlying problems which need to be addressed. One aspect of the senseless violence is the almost inevitable presence of an excessive, sometimes unbelievable, consumption of alcohol on the part of one or both parties to the violence. Whilst the underlying problems need to be addressed over the long term, the issue of the abuse of alcohol may be addressed in a shorter timeframe. This is a problem for the whole of our community. We need to confront it as soon as possible.

In the present case, the sentence I impose is one which must reflect a strong element of general deterrence and retribution. Men like you who may be inclined to offend in this way must know that significant sentences of imprisonment will follow.

In all the circumstances, I regard your prospects for rehabilitation as being positive. Your acceptance of responsibility and your immediate remorse give hope for the future. However, your rehabilitation will depend upon your ability to deal with your problems with alcohol. I trust you will take advantage of the rehabilitation courses available within the prison system.

I turn to sentence you. You will be convicted. But for your plea of guilty I would have sentenced you to imprisonment for a period of twelve years. In light of your plea, I sentence you to imprisonment for a period of nine years. I set a non-parole period of six years.
