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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SCC 21353266

THE QUEEN

and

CONWAY STEVENSON

(Sentence)

KELLY J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON MONDAY 14 SEPTEMBER 2015

Transcribed by:
DTI

HER HONOUR: Conway Stevenson, you were charged with the murder of Terasita Bigfoot, a woman who had been your wife since 2008. Although you were originally charged with murder, you pleaded guilty to engaging in conduct that caused the death of Terasita, being reckless as to causing her death. That is, you pleaded guilty to manslaughter, not murder.

The Crown has accepted your plea of guilty to manslaughter in full satisfaction of the charge against you because, as the Crown Prosecutor, Mr Usher said during the sentencing hearing, the Crown cannot prove beyond reasonable doubt that at the time you caused Terasita's death, you intended to kill her or cause her serious harm. This is because you were very drunk at the time.

It is agreed by the Crown and by you that you were reckless, not just negligent; that is, that you foresaw that death was a possibility when you bashed Terasita so badly. It is now my job to impose a sentence for the crime of reckless manslaughter. I emphasise that I am not imposing a sentence for murder; it is manslaughter.

These are the facts. This is what happened.

Terasita Bigfoot was your wife. On 26 November 2013, Terasita was 29 years old. Sometimes, she live at Bagot; sometimes she lived Belyuen; and sometimes, at Minmarama. At that time, you were 28 years old. You lived at Bagot community.

Earlier that year, on 20 March 2013, the Darwin Court ordered you not to be with Terasita and not to assault her or threaten her. That was a Domestic Violence Order. On that day, 26 November 2013, you were drinking at a house in Bagot. Your wife, Terasita, was unhappy about that and called out to you. She called your name but you wouldn't listen to her. So she got up and walked away.

Then, Terasita found her cousin and started drinking with her cousin. You were both drinking all day. Terasita was drinking with her cousin, her girl cousin, and you were drinking at another lady's house. You drank one 2-litre box of Chardonnay during that day and another one that night, sharing that Chardonnay with two other people.

You found Terasita drinking with her cousin at the big tree near your grandmother's house. You told her, 'let's go back to sleep. Come on, too drunk.' But she didn't listen to you. She told you, 'no, I'm following my cousin.' That made you angry. You said to her, 'you don't want to listen to them. How come you want to listen to them and you don't want to listen to me?' You wanted Terasita to go home with you to sleep. Maybe you punched her then; maybe not. I'm not sure. In any case, you went back to that other lady's house.

Later on, at about 5 o'clock that evening, you and Terasita were sitting on the ground between houses 56 and 57 at Bagot community with another woman. You growled at Terasita. You told her that you didn't want her anymore and you told her to go away. You were angry because she listened to her cousin and not you. Then,

you picked up a black square crate and swung it hard at Terasita. She put her hand on her head to protect herself but the crate hit her on top of the head.

Terasita got up and ran behind a car. You followed her. You lifted the crate over your head and swung it down hard on Terasita's head a second time. Then you kicked her in the back. A little later, the Bagot community bus that was going to Nightcliff stopped outside houses 57 and 58. Terasita went up to the bus and told the driver and the other passengers that she had been hurt.

Then she took off her clothes and sat down under the street light, outside house 58. You were there too. The bus driver told Terasita to put her clothes on and jump on the bus, so she could take her to Minmarama. But Terasita didn't answer or get up. You were saying that you didn't want Terasita and that you were having a bad relationship with her. Then you grabbed her bag and tipped her things out into the gutter.

After that, you walked away and Terasita followed you. I do not know exactly what happened next. Maybe you and Terasita went different ways. At 7 o'clock that night, a taxi bus came to pick up some people who had been visiting Bagot. Your grandmother was there with them. You went up to the taxi and you asked your grandmother where Terasita was. You said to her, 'I'm going to bash my wife', and then you went off looking for Terasita.

No one there tried to stop you or call the police. Shortly after that, you found Terasita on the path between the church and the park. When you found her, you did bash her and you kept bashing her, there on the grass, outside the church for nearly three hours.

Later, you told police what you did to Terasita when you were bashing her. First, you punched her, 'real hard', in the face six or eight times. She fell to the ground and you kicked her in the face three times. You also hit her across the face with a stick from a tree. You told the police the stick was 'not that big.' You hit her across the face with it five times.

Terasita was, and these are your words, 'bleeding like full mad' and screaming for help. You also jumped on her face four times and punched her three times in the guts very hard. Someone heard what you were doing near the church. They heard Terasita say, 'Conway, stop hitting me. I come looking for you.' You said, 'what you want to fucken come this area for?' Terasita said, 'I love you. I come looking for you.' And then she screamed, 'stop hitting me. I love you', and swore in language.

The person who heard this did not try to stop you or help Terasita, and they did not call the police. You were still bashing her at 8:30 that night. Someone heard your voices coming from the area near the church. You said, 'get up before I start booting you.' And Terasita said, 'just let me have a rest first.'

About ten minutes later, another person was walking past the church area and heard Terasita say, 'don't run, don't run. Come back here Conway.' That person

also heard the sound of you punching her and he heard you say, 'you have no one here to help you. You want to get cheeky, fight me back. Get up. Get up. Come and have a go with me. Why you want to listen to your cousin?' Neither of the people who heard these things tried to help Terasita or stop you from bashing her. Neither of them called the police.

You must have moved away from the grassy area at some point because you told police that while you were bashing Terasita, you grabbed her by the head and banged her head on the bitumen. Also, at some time between 9 o'clock and a quarter to ten that night, a woman was walking away from the bus stop on Bagot Road. She walked past the church area and she saw you and Terasita.

Terasita was lying next to a bin near the church and you were dragging her along by her arm. The woman saw what you were doing by the light of headlights from a passing car. You were holding onto Terasita's right wrist and dragging her along. At first, you dragged her along on her back and then on her stomach. You said, 'get up. You always wake me up at day break.'

When Terasita was lying on her back, you lifted your foot up and stomped on her stomach, four or five times. Terasita tried to get up but you pulled her by the arm. Then you let go of her arm and her head fell on the ground. You said, 'you'd better get up before I boot you again.' Terasita was still breathing at that time. You told police you knew she was breathing because she was trying to suck up all the blood to spit it out. The woman who saw you dragging Terasita and stomping on her stomach did not try to help Terasita. She did not try to stop you and she did not call the police.

At about 10 o'clock that night, you went to house 52 and you asked the people there, 'where is my wife, Pussycat?' You were quite drunk but you must, in fact, have known where she was because you had left her lying on the ground. This is what you told police: 'I tried to drag her back home but she didn't want to get up. I just lifted her then. I dragged her by the leg and arm. I just lifted her. Oh, you're too heavy. I just left her. I just dropped her and said good night.'

You also told them, 'she was singing out for help but I just walked away. She make me angry because she wouldn't got with me. I was angry with her because she went off with her cousin and drink with her. I wanted her to go home and sleep with me.'

At 10:30 that night, you went to another house, house 3. You asked for water and filled up an empty Coke bottle. You were only wearing a pair of white shorts and they had a lot of blood on them. The people in the house noticed this but they didn't ask you about the blood. They did not go out and see if anyone was hurt and they did not call the police.

Between 11 and 12 that night, you went to another house, house 11, and asked for a smoke. You were drunk but you were in a happy mood. You were joking around. You had blood up your arms and your knuckles were blood-red. You went

into the kitchen of the house and you washed your hands. The people in that house noticed the blood. Someone asked you where the blood came from. You said you had a fight. You did not say who you had been fighting. No one asked whose blood it was or whether someone was hurt. No one went outside to see if someone was hurt, and no one called the police.

After that, you went back home to sleep, or maybe you went to sleep in the driveway. You told different things to police at different times. You woke up early as the sun was rising and you found Terasita lying in the grass near the church. She was dead. At first, you thought she was sleeping. You tried to wake her but then you saw she wasn't breathing. You screamed out to your grandmother, 'come here. Take a look at her. She's maybe finished.' Then you shouted, 'Pussycat is dead.' You sat down and held Terasita's head in your lap. Later, you put a blanket over her body.

You went up to one of the houses and said to a man who was there, 'get up. Get up. I think my wife is dead.' That man went to the church area and saw Terasita, lying naked on her side in the grass. A woman covered Terasita with a t-shirt. While you were at that house, you said to the man you spoke to, 'punch me, hit me, because I do the wrong thing.' And the man punched you once to the left side of your face.

At about 6:30 in the morning, your grandmother called the police on 000 and told them she thought there had been a murder and that Terasita was dead. Paramedics arrived within 15 minutes. They saw Terasita, lying face down with a blanket over her body, in the grass area near the church. She wasn't breathing. You were sitting beside her.

Police arrived at about the same time. When they arrived, you were standing near Terasita's head, crying. You had a large cut over your left eye where that man had punched you. It was bleeding heavily. Police saw large patches of blood on the footpath, a large blood patch on the road and Terasita's body under a blanket.

Police arrested you and took you to the Darwin Watchhouse. They gave you a breath test which gave a reading of 0.166 percent. They took Terasita's body away and the pathologist performed an autopsy.

The autopsy showed that Terasita had suffered cuts and abrasions to her face. Her jaw was broken right through. Her face was swollen and distorted. Her eyes and eyelids were distorted by the injuries to her face. Her lips were swollen from the injuries to her mouth.

She had a cut on her left ear. She had abrasions on her left shoulder and left chest, and two broken ribs. Her bowel membrane had ruptured and was bleeding into her abdomen. There was more bleeding into her abdomen, near the broken ribs. She had lesions on both knees.

As well as these fresh injuries, the pathologist doing the autopsy noticed scars from old injuries on Terasita's arm and leg. The pathologist found that the cause of death was the multiple injuries she received and noted that she was also suffering from acute alcohol toxicity; alcohol poisoning. That evening, you took part in an interview with police and you admitted that you had bashed Terasita. You gave quite a bit of detail and told them most of the things that you did to her that night that I have already spoken about.

Those were the facts. I am going to talk about you now.

This is not the first time that you bashed Terasita. You have four convictions for aggravated assault and one for breaching a Domestic Violence Order. Each time, the victim was Terasita and each assault followed a similar pattern. You would get drunk. Usually, Terasita had been drinking too. You would tell her to go home or to come with you and when she didn't, you would bash her savagely, usually with a weapon.

In October 2010, you raised a metal pipe over your head and hit Terasita with it. She raised her arm to protect herself. You hit her with full force with the metal bar and broke her arm. You also hit her with a one metre long piece of two by four timber, twice on top of her head and once to the back of her neck. She bled heavily and needed 12 staples to the top of her head.

On that occasion, you were convicted on two assault charges and sentenced to 5 months' imprisonment for one and 4 months for the other. Then in March 2012, you yelled at Terasita to go home then punched her in the face a number of times and knocked her to the ground. You raised your leg and stomped your foot rapidly towards her face. But fortunately, that time, she moved her head out of the way. You were convicted and sentenced to 3 months in prison for that assault.

In March 2013, you wanted Terasita to leave your mother's house and she didn't. You got angry. You got a steel bar from the bedroom and took it outside and moved towards Terasita with it. She tried to run away but she had a cast on her leg and could not run. She tried to take the bar from you but you held onto it. You lifted the bar over your head and hit her on top of the head with it, four or five times. She held her arms up to protect her skull. You were convicted and sentenced to 6 months in prison for that assault.

This time, you killed her.

You also have some not really relevant convictions for non-violent offences. You are not to be punished again for those earlier matters but it means you do not come here as a person of good character and you are not entitled to a lighter sentence for being a first offender. You have committed violent crimes before against the same victim and you learned nothing from the sentences that were given to you in the past.

Your counsel gave me information about your background and your family. You were born in Darwin in 1985. Your mother and father are Walpiri people. Your parent's country is the central desert area of Kalkarindji and Lajamanu. You speak Walpiri and some Gurindji.

You were raised by your grandmother at Bagot community. Your mother also lived at Bagot but your father went back to Lajamanu. Later, he married a woman from Yuendumu and moved there and you have not seen him very much. He was a heavy drinker and I am told he spent a lot of time in prison.

You have a full brother and a number of half-siblings. You went to school at Ludmilla Primary School and Nightcliff High School. You left school in year 9. I am told you found school difficult. You speak English well, I am told, but you cannot read or write any more than your own name and you are not good with numbers.

After you left school, you went to Lajamanu and went through men's business. But after that, you stayed in Lajamanu, from 2000 to 2002. While you lived there, you worked for the CDEP program in Lajamanu and Kalkarindji, doing fencing. At that time, you were living with a woman from Lajamanu. Sadly, in 2002, you had to go to Darwin for medical reasons and while you were away, your wife committed suicide.

You felt you could not live there anymore and you came back to Darwin. Since then, you have not had a job. At the time you committed this crime, you were living with your step-mother at Bagot.

You began drinking in your early teens. At the time you committed this crime, you were drinking a lot, may be half a cask, maybe a cask of wine every day. You began a relationship with Terasita in 2008. You were both drinkers and I am told that you got together through drinking.

I finished talking about your background and I need to tell you about some of the things I have to think about in sentencing you. There is no fixed punishment for manslaughter because every kind of manslaughter is different. The maximum penalty is life imprisonment.

Taking away somebody's life is one of the most serious crimes anyone can commit. I have to give you a sentence that says just how much the court and the whole community disapproves of violent crimes like this and that will discourage other men from doing the same thing. Drunken violence is far too common in our community. It is particularly common, unfortunately, in Aboriginal communities and vulnerable Aboriginal women, vulnerable people of all kind, deserve the fullest protection that the law can give them.

I have to think about passing a sentence that tries to teach you that what you did is totally unacceptable. It does not matter if your wife disagrees with you. It does not matter if she does not do what you want her to do. It is not right to bash her and it is as wrong as it can be to bash her to death. If you do these things, you will be

punished. A man should use his strength to protect his wife, not to bully her and hurt her.

I need to think also about protecting the community. You cannot hurt Terasita anymore but you are clearly a dangerous man, especially when you have been drinking, and you could hurt another woman. There are some things that make what you did more serious. You used several weapons: the crate and the sticks. You did not just lose your temper and lash out.

You planned to bash Terasita and you went looking for her. You kept punching her and kicking her and jumping on her for a very long time. You did not stop when she begged you to. You just kept on bashing her. After you bashed Terasita, you did not help her. You left her lying naked to die in the dark alone. You told police, 'she was singing out for help, but I just walked away.'

The Crown prosecutor and your lawyer referred me to some earlier cases so I could see what sentences had been given in other manslaughter cases. The one I think that is most like your case is *R v Wheeler*. Like you, Mr Wheeler was drunk, got angry with his wife and bashed her and she died. Like you, he used weapons; in his case, sticks, a star picket and a rock. Mr Wheeler's wife died from head injuries.

Like you, Mr Wheeler had a number of past convictions for domestic violence against women; four past convictions, that same as you. Like you, Mr Wheeler pleaded guilty to manslaughter. He was sentenced to imprisonment for 10 and a half years. The judge was going to sentence him to 14 years but he took off 25 percent because Mr Wheeler pleaded guilty straight away and was genuinely very sorry for what he had done.

Your case is more serious than Mr Wheeler's in a number of important ways. Without going into detail, there was provocation that made Mr Wheeler lose control. Terasita did not provoke you in any way at all. As soon as Mr Wheeler stopped bashing his wife, he realised he had hurt her, was immediately very sorry and tried to help her. He tried to stop the bleeding, carry her back to town and get help for her. Afterwards, he got someone to call the police and turned himself in.

You did not help Terasita at all. As I said, she cried out for help and you walked away. Mr Wheeler was younger than you. He was 24. That is not a big difference but young people under 25 are less able to control themselves and think about the consequences of their actions. Mr Wheeler also had a strong work history and strong family support, from family members who did not drink, who had jobs and did not get into trouble. These things would have helped him to stay out of trouble when he was released.

Finally, Mr Wheeler pleaded guilty straight away and, because of that, he was entitled to have more taken off his sentence than you. Your matter was set down for a three-week trial and you pleaded guilty not long before the trial was due to start. So those are the things that make your case worse than Mr Wheeler's case.

The other thing I have to think about it that you did plead guilty and I am going to take some time off your sentence for this. It is not an early plea. It is true that you were originally charged with murder and that you offered to plead guilty to manslaughter earlier this year. But that was after a five-day preliminary hearing in the lower court. Thirty-six witnesses had to give evidence and be cross-examined at that hearing. In the circumstances, I think that it would be proper to take about 12 percent off your sentence because you cooperated with police and pleaded guilty.

Stand up now please, Mr Stevenson, because I am going to sentence you.

If you had not pleaded guilty, I think a proper sentence would have been a term of imprisonment for 16 years. Allowing a reduction of just over 12 percent, you will be convicted and sentenced to a term of imprisonment for 14 years.

I fix a non-parole period of 8 years. Because of the seriousness of the offending and the other factors I have mentioned, that seems to me to be the minimum period which the justice of the case would require you to serve.

Have a seat please, Mr Stevenson.

Now I need to fix a start date for that sentence.

MR USHER: Yes, your Honour, I confirm that the offender was arrested on 27 November 2013.

HER HONOUR: Alright. Your sentence, Mr Stevenson, has to start on 22 November 2013, to take into account the time you have already served on remand.

MR USHER: Sorry, your Honour, 27 November.

HER HONOUR: I thought you said 22nd.

MR USHER: Sorry, your Honour, 27th, 2-7.

HER HONOUR: 27th?

MR USHER: Yes.

HER HONOUR: 27 November 2013.

Is there anything further?

MR USHER: No, your Honour.

HIS HONOUR: Alright. Well, I do thank both counsel for your assistance during the sentencing hearing.

And Madam Interpreter, thank you very much for your assistance to the Court.

Please adjourn the Court.
