

James Thornton appeals conviction

Police refuse assistance Ottawa gay men assaulted

James Thornton's lawyer has said his client received an "unnecessarily harsh" sentence for attempting to donate blood that he knew was HIV-positive to the Red Cross. Judge K.A. Flanigan slapped Thornton with a 15-month jail term after the Ottawa resident was convicted of the offense of common nuisance. The maximum sentence is two years.

Defence counsel Lawrence Greenspon is appealing the conviction and sentencing to the Supreme Court of Ontario.

The defence believes there are ten grounds of appeal. Some of these are:

The judge erred in concluding that public lives were at risk. This is based on testimony from a Red Cross doctor who was unaware of anyone getting AIDS from blood transfusions made from a pool of more than 2,000,000 blood donations. Another doctor testified that Red Cross' screening techniques are accurate enough to prevent an HIV donation.

The judge failed to take into consideration that Thornton provided

his true identity to the Red Cross before testing, even though he wasn't required to. This was evidence of absence of malicious intent on his part.

It is not illegal to not inform the Red Cross of previous HIV test results. (Thornton had tested HIV-positive on two previous occasions.)

The sentence was "unduly harsh and excessive in the circumstances" since no injuries or damage were caused to anyone and given that Thornton is a first offender. Other grounds of appeal deal with the interpretation and application of points of law.

Thornton spent a few nights in jail before bail was granted. If the appeal is successful, it could lead to three alternatives: The case could be thrown out of court, or a new trial could be ordered, or a non "jail" sentence may be imposed.

The Thornton case revealed homophobia and AIDSphobia by the mainstream press and by the Ottawa Police, some observers in the gay community say. They point out Judge Flanigan's hour-and-a-half

long verbal decision never once mentioned Thornton's sexual activity. Yet the Ottawa Police, when charging Thornton, felt it necessary to publicly broadcast that he is still sexually active and also released his name, address, and photograph, arguing that he was a threat to the public. The press bought the story and sensationalized it, observers say.

Whether Thornton is guilty to innocent, some community members argue, he was entitled to a fair trial, free from harassment and media exaggeration. The one point of consensus in the community over the Thornton case seems to be that more education about AIDS is necessary and that everyone should practice safer sex.

Peter Zanette

Reprinted from Go Into

Prisoners denied AIDS education

MONTREAL—Homophobia is a major force behind prison AIDS policies. This was made clear at the Montreal AIDS Conference during a session entitled "Prisoners: Constraints and Challenges" at which prisoncrats from different countries outlined their ideas and approaches.

The worst was Patrick Hynes, of the Prison Medical Services, London, U.K. In a presentation entitled "Constraints to the Implementation

of Preventive Measures in Prison," Hynes said that Britain's prison population is overwhelmingly composed of "healthy young males," and showed slides of some of the U.K.'s 128 prisons, many of which are very old (up to 500 years). All are overcrowded. For Hynes, it

follows that hygiene facilities are poor and therefore homosexual activity is "induced." Distribution of condoms is not under consideration by the British penal system because "homosexual acts between consenting adults in England and Wales are legal only in private and nowhere in a prison is considered private." Therefore "distribution of condoms could not be seen as condoning illegal activity."

Hynes also attacked condom use on general principles. Because condoms sometimes break, he considers anal intercourse with a condom unsafe. When challenged by a member of the audience, he retorted "we don't have to have anal sex in Britain." As an interesting twist, Hynes included among

his slides images of tabloid front pages, with headlines like "Boys Jail Chaplain Dies of AIDS."

As for the future, Hynes noted that the number of HIV-positive inmates in Britain has risen sharply over the past year. He predicted that provision of special diets and proper rest and exercise periods for inmates with ARC or AIDS would be difficult, as would any consideration of compassionate release. Worse, it's possible that the National Health would not provide nursing care and would treat only the most acute of opportunistic infections. This begs the question of whether the Thatcher government is planning to withhold AIDS care as part of their destruction of the National Health System.

In Ottawa the gay community is up in arms over the rash of stabbings and assaults on gay men. There have been three attempted murders and one death. These occurrences occurred in Majors Hill Park, a cruising area for gay men. As well, there have been a number of people falling off a nearby cliff, and some people feel these may be related. In Hull, just east of Ottawa on the Quebec side, a number of assaults have also occurred on gay men.

Pressure is also being kept on police to use their resources but this serious problem. We police told the lesbian and gay community to prove that they were gay bashing, they did it. On August 29 a press conference was held where a gay man how he was confronted by a of teenagers who made horrible comments.

Pierre Beaulne of the C group is going to try to set up a system to record the number of assaults on lesbians and gay men in order to prove the extent of the problem. Many are coming up and telling stories of beating threats with guns.

For next year, Beaulne hopes to have a Park Watch organized sure this does not occur again. He maintains that if the police will protect us, we must protect ourselves.

Brent So

The lesbian and gay community in Ottawa through the Carleton University has started a whistle-blowing campaign based on a similar campaign in Chicago. Every time someone is in danger or they see someone else in danger, they are to blow a whistle and if a person hears the whistle they are to call 911.

The liberal approach is also homophobic and repressive! Timothy Harding, a Swiss expert in legal medicine, echoed the views of the World Health Organization (WHO) in his talk "HIV in Prison: a Test Case for Human Rights."

Harding posited two alternative models for dealing with AIDS in prisons, "authoritarianism" and "equivalence." This equivalence model advocates that PLWAs inside and outside the prison walls should have the same living conditions and treatment. But PLWAs in every country suffer from inhumanity, poverty, and repression. In some countries, people can be put in to quarantine just for being HIV-positive. And in prisons, which everywhere exist to punish and

control, the situation PLWA/ARC, or even of HIV, the prisoners is even worse.

The prevention area is particularly problematic. WHO's "Statement From the Consultation on Prevention and Control of HIV in Prisons" says "situations of homosexual behaviour may occur as a consequence of heterosexual deprivation." The Statement with acknowledgement of gay "Homosexual acts, intravenous drug abuse, and violence may occur in prisons in some countries varying degrees," and "Consideration should be given to making condoms available in prisons." Harding cited "individual homosexual behaviour" as a major risk factor in prison, saying well-administered and well-supervised prisons homosexual rape does occur. "This refusal to acknowledge the existence of actual lesbians and gay men among prison populations is the essence of homophobia. The outside, activists can take education about safe sex and life into their own hands. On the inside, repressive institutional regulations prevent all but a few from coming out and taking public stand.

Sadly, there was no contingent AIDS activists to disrupt the workshop, as there was for other workshops. It is clear that the treatment of all in prison is not that far away from that on the outside, and that an activist solidarity can improve the situation.

Karen Pearlsto



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