

2. Chief Justice Ray Wyant,
Provincial Court of Manitoba

Nov/5th/07

Your Honor;

I am Victoria Sveinson, mother of Crystal Taman who was killed by Derek Harver-Zenk in a Dangerous/Impaired driving escapade on February 25, 2005. I have spent two agonizing weeks attempting to express clearly the frustrating and demoralizing effects decisions like the one in this case have on innocent victims as well as on the public.

First, I was appalled to hear you acknowledge as the first order of business in the courtroom on Oct. 29th, 2007 that you had received several letters from the defendant or his relatives extolling his good, moral character and lily-white record and that these were then entered as part of the record! I, too, wanted to contact you to provide you with information that I had about the case and perhaps extol many of my daughter's wonderful qualities, qualities that were extinguished in a split second by Mr. Harvey-Zenk's horrendous crime. At every turn we were told that no one is allowed to contact the Judge during a case in progress at risk of the entire case. Even the witnesses to this case were intimidated in that way. One of these phoned a radio talk show host and said that they (the witnesses) were told they could not come forward while the case was in progress because that could ruin the whole case. So, for such reasons, much evidence did not get to you, evidence that was being withheld and that should have been considered in this case.

You, yourself admitted that everyone knows the scenario presented in the courtroom concerning this case was nothing like what actually happened. You also showed concern over the cynicism the public feels about our legal system. How in Heaven's name can they feel otherwise when they know full well what really happened, but yet, conniving lawyers can manipulate, misrepresent, twist and suppress the truth, and that is okay in a courtroom and Judges are obliged to accept it? You yourself stated that a Judge is not required to accept a recommended sentence at face value. You also provided many good reasons that could have allowed you to reject what we all know is a totally inappropriate sentence. And yet you chose to go along with all of their submissions. Wouldn't rejecting a questionable recommendation be more likely to bring forth the truth, especially if it was appealed? Isn't the revelation of truth an obligation of our Justice System? Otherwise, how is it Justice? As innocent victims we feel totally betrayed! Imagine being told that your child's life was worth only a few hours of nightly curfew and for just a few months! More severe sentences have been given for running down a dog on the road! Many of the public feel the same as they recognize that the order of the day was manipulation and deceit. The scales of Justice will never balance when next to no weight is placed on proportionate sentencing. Is it a wonder the public is cynical? They see countless criminals go free or receive a sentence that is totally out of proportion with their crimes. They see this occur because seasoned lawyers have learned how to manipulate the laws, skillfully employ many loopholes, and even maneuver their cases to appear before sympathetic Judges. That so-called proverbial silk purse is turned inside out, twisted and squeezed until it looks like a sow's ear. They see Judges applaud such methods by accepting a flat no to a request for evidence. They hear a Judge admit evidence was hidden, swept under the proverbial carpet, but, he is obliged to ignore this hidden evidence? That certainly is not JUSTICE !!

There was sufficient information to show that Mr. Minuk did have good evidence to prove Dangerous Driving and therefore the agreement struck between him and Mr. Wolson was

not a true plea bargain. On July 16/07 when Mr. Minuk remanded Mr. Harvey - Zenk's preliminary hearing he told that Judge there would be a guilty plea because the Crown had 33 witnesses scaled down to 12 for that preliminary hearing. That sounds like a lot of evidence to me! It makes sense there would be multiple witnesses as this horrendous crime occurred at a red light on a busy highway. On July 17/07 when Mr. Harvey-Zenk did YOUR hands.

There was not even a mention of a recommended conditional sentence which would have been if this truly was a plea bargain. Such a recommendation was never mentioned, even to us when we queried Mr. Minuk, until Aug. 22/07 at the scheduled sentencing. And then, when you questioned it, how is it proper that these two lawyers can simply change their submissions to defend that recommendation? It is unconscionable that Mr. Minuk's previous testimony confirming the defendant admitting to drinking alcohol could simply be rescinded. Mr. Minuk even edited our Victim's Impact statement where I made some references to Mr. Harvey -Zenk's impairment and his refusal of the breathalyzer. The East St. Paul Police themselves assured us there was a great deal of other evidence to prove Mr. Harvey-Zenk's impairment other than the breathalyzer. That was because I expressed great concern over the fact that he was able to refuse that test and conceal his impairment. In addition there is a Paramedic completely independent of the police who was willing to testify to the smell of alcohol on Mr. Harvey-Zenk, and another independent witness in the next lane of traffic who saw Mr. Harvey- Zenk fly by which would be evidence of speeding. There was also another charge against Mr. Harvey- Zenk of Dangerous Driving causing bodily harm to the driver of the car immediately in front of our daughter's. Isn't that one of those aggravating circumstances you requested? We, the victim's parents, along with the court were denied access to our daughter's autopsy report, a report that would have revealed how extreme that impact was that crushed her life. And a charge of Criminal Negligence causing Death also just disappeared. When we expressed these concerns to Mr. Minuk, he simply told us that we were not allowed to bring forward any evidence. Totally naive regarding legal proceedings, we were intimidated. At that point in time we also assumed that Mr. Minuk had the integrity to produce all relevant evidence. We know that Mr. Minuk has suppressed a great deal of evidence and we do not consider it proper or just that it was his sole discretion to decide whether that evidence is valid or sufficient, especially when it was requested by the Court. His reasons for withholding this evidence are not necessarily above reproach. If it is your contention that you wouldn't be conned by respected lawyers, please consider that statistics prove that the best salesmen are often sold the greatest bill of goods. With all due respect Your Honor, the above mentioned situations as well as many other circumstances that you yourself reiterated, could very justifiably have allowed you to reject this most questionable sentence, and if appealed, it could have forced a revelation of crucial evidence which was required in the case. As it stands now, that evidence is buried forever and we as victims have no recourse to appeal because one independent Prosecutor was given total leeway to make all the decisions, hide any and all information that he and his friend Mr. Wolson saw fit, and recommend a completely inappropriate sentence. Yet, if the situation was reversed, the defense would have had indefinite recourse to appeals. How is that considered Justice?

Even aside from all of that Your Honor, Mr. Harvey - Zenk pleaded guilty to Dangerous Driving causing Death. There are no facts to dispute that. Therefore, if presidents must be considered, shouldn't all the presidents be considered? There exist many presidents for sentences other than House Arrest for Dangerous Driving causing Death. None of those appear to have been taken into account. How can it even remotely be viewed as just and fair when only one side of the evidence and only one type of presidents were considered?

And adding this case to those presidents that will promote conditional sentences in future cases is another slap to us as victims and to our daughter's memory.

I was similarly appalled to hear you state that the Prosecutor was not obliged to reveal any evidence, even if it was available to him? If anyone else refused to provide evidence they possessed, it would be considered a crime. Just a few months ago we heard of a case where gang members refused to provide evidence to the court and received a 3 yr. Jail term for their refusal. Are Prosecutors exempt from the laws? That truly is a double standard and a complete travesty of justice. Legitimizing secrecy enables horrendous crimes that destroy many lives to be treated like simple misdemeanors.

Enclosed please find the letter my husband had written to you on Oct. 18 /07 and a copy of the letter from the Attorney General's Dept. where even they admitted that Mr. Minuk had evidence to prove dangerous driving. We did not mail them however, as we had been told such an action could be considered interference in a court process. This letter was our desperate attempt to provide you with information we sincerely believed you needed in order to make an appropriate decision. We had contacted the Attorney General, the Crown Attorney's Dept., the Law Society as well as other lawyers in a desperate bid to have this Prosecutor investigated and removed from this case, since we knew he was biased, in a conflict of interest position, and therefore not performing his mandate as Prosecutor. We were told the same thing by everyone, over and over again. They could not interfere while the case was in progress. So we resisted our impulse to contact you even though we felt this case was defiled and in jeopardy as you had not been provided with all the evidence that was crucial for an informed decision. If that is a wrong view and wouldn't jeopardize the case, then we along with all the witnesses were misled by the entire legal community and especially by Mr. Minuk. If it was a fact however, then that information provided to you by the defendant's relatives should also be viewed as interference. Because of the obvious improprieties and your admitted awareness of existing evidence, we hoped that you would make a just decision in spite of the absence of that additional information. And then, we learned in Court on Oct. 29, 2007, that the defense had contacted you with their added information extolling Mr. Harvey-Zenk's so-called good character and clean record in an obvious attempt to sway you in his favor since you expressed the view that policemen should be held to a higher standard. That is blatant manipulation and interference which should for all intents and purposes result in a mistrial. How can it be considered justice that a court ignores evidence that is known to exist but at the same time accepts compliments about the criminal's character to offset the seriousness of his crime? Since the victim's emotional, anguished cries are not considered, why should the defendant's blown up claims of remorse and upright moral standing be deciding factors in sentencing? Since all other evidence was discounted because it wasn't presented as such, why should the added submissions of the defense be considered? Since they were provided after the fact, during that so-called sacred period during which all claim interference of any kind is untenable, they should be viewed as exactly what they are, unorthodox interference.

With all due respect Your Honor, your sentencing comments revealed you were aware there was much evidence being withheld, thus compromising the integrity of this case. The sympathy extended to the victim's family could have been validated by Justice which we sincerely believe was within your discretion to provide. It is the belief of many that this case should have been completely thrown out and redone in a proper manner. And in view of this obvious interference, a mistrial should also be warranted.