

Jacob Scenario ([R. v. M.N.J., 2002 YKTC 15](#))

Marcellus Jacob, 21 years old, Indigenous (*Gwitchin*), and raised as a ward of the state until age 18, will spend years in jail for a horrible crime.

THE OFFENCE

Jacob has been convicted of break and enter into private dwelling (s.348 CCC), assault (s.265 CCC), assault using a weapon (s. 267 CCC), assault causing bodily harm (s.267 CCC), and aggravated sexual assault (s.273 CCC). All of these offences were committed against one woman who lived in *Jacob's* community.

The heinous details of the offence cannot be related without unduly impacting on the dignity of the victim. In setting out the factual foundation for sentencing, only the principal facts are recounted.

Jacob broke into the victim's home some time after 1:00 a.m. He pulled his T-shirt over his head to hide his identity. Carrying a knife, he woke the victim from a deep sleep. For the next two to three hours, holding the knife over her, he ordered her to carry out numerous deplorable, degrading acts. These acts included multiple physical and sexual assaults. The repeated assaults included using various objects to commit sexual violence. He used duct tape to bind her hands and feet, and to cover her eyes and mouth, leaving only her nose exposed.

At one point, when her head was covered with a blanket, *Jacob* began sawing through the blanket near her neck. He sawed off most of her waist-length hair that she had worn for 22 years. At this point, the victim was convinced that she was "as good as dead". *Jacob* sprayed chili pepper in the victim's nose. She could hardly breathe. By forcing the inhalation of several noxious substances, such as lamp oil, chili powder, hair spray and perfumes, he caused the victim's lungs to burn and become asthmatic. At times, he violently jerked her shoulders from behind, causing whiplash in her neck.

When she heard no more noise in the house, she struggled free of the duct tape and fled to the street. Numerous bruises and cuts covered her body. Her lungs were weakened and burned. Skin and eyebrows were removed when he violently ripped the duct tape off. The physical injuries were serious, but not permanent. The emotional and spiritual damage may last a lifetime.

The numerous times and methods of physical and sexual assault over a protracted period, the use of a weapon, and several life-threatening actions combine to classify this offence within the category of "worst case".

The horrific sexual assault is compounded by breaking and entering into the victim's home in the middle of the night. As a consequence, the victim has lost any sense of safety that a home generally provides. His disrespect for the victim extended to her home, as he wantonly ransacked the premises. Finally, his threats to harm her if she reported the incident to the police further traumatized the victim.

Jacob's BACKGROUND

- Before he was seven years old, his parents left him to be cared for by his grandparents.
- Before the age of two, *Family and Social Services* became involved, as there was evidence of neglect and inadequate care.
- At two years old, Jacob was found alone in a bedroom in an unsanitary condition with a board across the door.
- Life got worse for *Mr. Jacob* – At three he was almost run over by a bus due to neglect by his grandparents and sent back to his natural parents where he suffered severe physical and sexual abuse.
- *Jacob* was surrounded by severe alcohol abuse by multiple family members.
- Over the course of the next five years, *Jacob* was moved between different family members, foster parents and *Family and Social Services*. During that time he suffered physical, sexual and emotional abuse and neglect.
- Since age one, doctors, public health nurses, teachers, foster parents, social workers, and community members had reported to *Family and Social Services* about the abuse and neglect *Jacob* suffered.
- *Jacob* has repeated problems at school and in the community as he aged, such as stealing from teachers, neighbours and local stores, severe temper/anger issues, skipping school, smearing feces on walls, property damage, inappropriate sexual activity, cruelty and violence toward other children and committing acts of cruelty to animals.
- His treatment and conduct only worsened as *Jacob* approached 18 years of age.
- A psychiatrist assessed *Jacob* as a “*high risk for continued delinquency and anti-social behaviour*” while still in the care of the state. As series of recommendations were made for treatment. None of these recommendations were implemented.
- *Jacob* became out-of-control and one night lashed out at a woman in his community (as described above).

What sentence should Jacob receive?

TASKS –

- 1) **Research & Read** about each of the Core 4 Theories of Crime: *Rational Choice Theory*, *Psychological Theories*, *Sociological Theories*, and *Critical Race Theory* <see *G. Classroom* post titled “*Jacob Scenario & TASKS*” under the title “*EVALUATION 1*” for the selected research sources and link on *Canadian sentencing law*>. **Summarize** the core concepts of each theory in ½ to 1 page (i.e., for each theory).
- 2) **Apply** the theory best suited to **a)** explaining Jacob’s criminal behaviour, **b)** to judging Jacob’s case, and **c)** to sentencing Jacob. Be sure to link specific details from the information above to the core concepts of your chosen theory.

Ultimately, which theory makes the most sense to you in judging Jacob’s actions and how does this theory help decide Jacob’s degree of responsibility and the appropriate punishment?