

R. v. Jackson, 2018 ONCA (the “Jackson” case)



You are an Ontario Court of Appeal Judge (ONCA). The controversial Jackson case has been granted appeal to the court. The Crown (government prosecutor) has challenged the sentencing decision handed down by Justice Nakatsuru (i.e., the sentencing judge). As a judge, you must decide whether or not to grant or deny an appeal on sentence.

You must review the fact pattern of the case and Justice Nakatsuru's sentencing decision [[LINK TO FULL DECISION](#)] and fully develop answers to the five tasks set out below. You may uphold (agree with) Justice Nakatsuru's decision on sentence or overturn it (disagree with).

APPLICABLE LAWS

Section 718.2(e) of the Criminal Code of Canada

A court that imposes a sentence shall also take into consideration the following principles:

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

PROJECT TASKS

In judging Justice Nakatsuru's sentence, submit a fully developed answer to each task below that directly references the required readings and resources provided:

1. Select 4 facts that have legal significance to judging the case from the perspective of your chosen legal theory (**COM – 4 marks**). Detail each relevant fact followed by an explanation as to why it is significant to your chosen theory (bullet-points is recommended).
2. State and explain the two most important legal issues (or questions) in Jackson's sentencing case from the perspective of your chosen legal theory (**COM – 4 marks**).
3. Discuss one consideration a judge must follow in deciding this case from the perspective of your chosen legal theory (**COM – 2 marks**).
4. Using the required website materials as a foundation of knowledge:
 - a. Explain the 2 most important concepts of legal positivism, legal realism, natural law, and critical legal theory. You must directly reference the website readings and resources provided to fully support your explanations (**KU 10 – marks [2.5 marks per theory]**).
 - b. Explain how a judge would decide this sentencing case from the perspective of your chosen legal theory. You must directly reference the website readings and resources provided to fully support your answer (**APP – 10 marks [for applying your chosen theory to s. 718.2(e) and the sentencing of Jackson]**).
5. Defend the legal theory that makes the most sense to you in sentencing Jackson? Explain by contrasting the strengths and weaknesses of the other legal theories (**T – 10 marks**).

Your answers must be digitally produced. Maximum length is 2 pages, single-spaced, 10 — point font.