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NOVA SCOTIA LEGAL AID

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March 28, 1988

David V. Orsborn
Commission Counsel
c/o Royal Commission on the
Donald Marshall, Jr. Prosecution
Maritime Centre
Suite 1026
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Halifax, Nova Scotia
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Dear David:

Re: Lawrence Burton

Further to your letter dated March 10, 1988, this is to advise you that I would indeed concur with the opinion of Mr. and Mrs. Angus Burton regarding their son, Lawrence, that indeed he presents an extremely difficult problem for all concerned in this matter.

I have had numerous discussions with the Burtons regarding Lawrence, and to the best of my knowledge, I have shared with them, all the assessments and the reports that we have obtained to date on their son.

However, Mr. Angus Burton refuses to accept the results of the various assessments we have done, which essentially all say that Lawrence Burton is fit to stand trial, and that his problems arise more from psychiatric and psychological problems as opposed to any brain damage as a result of an automobile accident he was involved with a number of years ago.

There has been, I would submit, no effort spared on obtaining assessments of Mr. Burton. In fact, I believe every time he was involved in a serious criminal matter, an assessment was obtained, and the results of all these assessments are remarkably similar.

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The problem with Mr. Burton is that there appears to be no way the courts can adequately deal with this man with the options presently available to them. Lawrence Burton can be an extremely dangerous individual, and at this time, certainly protection of the public must be considered foremost in any judge's mind, when sentencing Mr. Burton. On the other hand, Mr. Burton has very serious psychological problems, and certainly the value of prison in either protecting the public and, in this case I believe the other inmates in prison must be considered as public as well, whether rehabilitating Mr. Burton or deterring him from further activity, is of little or no value.

Mr. Burton, at this time, must be segregated from society, but it should be done in the confines of a mental institution, and not a penal institution, as penal institutions are simply not equipped to deal with people like Lawrence Burton.

The dilemma is that psychiatrists repeatedly find him fit to stand trial, and able to instruct counsel, and appreciate the nature and consequences of his act, so there is no defence of insanity available to Lawrence Burton, and so, a judge cannot sentence him to a mental institution.

The bottom line with Mr. Burton, simply put, is that he cannot be sentenced to a mental institution, he should not be sent to prison, nor should he be released back into society in his present state.

My plan of action in dealing with this matter at the present time, is to meet with Dr. Sheard, and explore the seemingly insurmountable problems this case presents, and try to formulate a plan that will both protect the public and rehabilitate Lawrence Burton, at the same time.

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If you have any further questions in this matter, please do not hesitate to contact me.

Yours truly,

NOVA SCOTIA LEGAL AID


Allan F. Nicholson
Barrister and Solicitor

AFN/dl