

COURT OF QUEBEC

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
LOCALITY OF MONTREAL
"Criminal and Penal Division"

No.: 500-01-018771-037

DATE: January 23, 2007

THE HONOURABLE MARTIN VAUCLAIR, J.C.Q., PRESIDING

HER MAJESTY THE QUEEN

Prosecutrix

v.

PRESSEAULT, Jean-Sébastien

Accused

JUDGMENT

[1] The Crown charged Jean-Sébastien Presseault ("Presseault") with operating a website, for slightly less than a year, where he wilfully promoted hatred against black and Jewish people. When his trial was due to begin, Presseault pleaded guilty.

[2] The crime set out in s. 319(2) *Cr. C.* calls for imprisonment for a term not exceeding two years, when prosecuted by way of indictment, which is the case here. The Crown asks that Presseault be sentenced to one year of imprisonment, and the defence believes that the sentence may be served in the community.

[3] Before passing sentence, the Court must first ascertain the facts and circumstances surrounding the offence. Given the applicable personal and penological factors, it appears necessary to carry out a certain legal and case law analysis of the offence before imposing an appropriate sentence in the case of Presseault.

FACTS AND CIRCUMSTANCES OF THE OFFENCE

[4] A police investigation on another individual led indirectly to Presseault. After an initial contact and the downloading of hate music, the police obtained a search warrant for Presseault's residence. Presseault then admitted, which is not in dispute, that he was the administrator of the site "X".

[5] With a guilty plea, Presseault admits all the essential facts of the alleged offence.¹ The prosecution called two police experts to testify about the world of extremists advocating white supremacy, especially their groups, symbols (including tattoos) and practices.

[6] First, the address of the website was "X". Its name sets the tone for the content. The word "hatecore" is self-explanatory. The number 8 stands for the eighth letter of the alphabet, or "H", and "88" stands for "HH", or "Heil Hitler". This is a code used by white supremacist groups. "WP" stands for "White Power". The site's home page played a musical excerpt from the piece "Thank God I'm a Whiteboy" and presented an image of a burning Odin's cross, a rallying symbol popularized by the Ku Klux Klan (KKK).

[7] The site had sociological content and other aspects that Presseault described as humorous, as well as musical content.

[8] Prominently displayed was a tribute to Timothy McVeigh, sentenced to death for the murder of 168 people after he detonated a bomb in Oklahoma City in 1995. The bombing was inspired by *The Turner Diaries*, a novel in which the hero, Turner, bombs a government building as a gesture of rebellion against Black and Jewish domination. The novel was available on Presseault's site, although it was banned by Canada Customs under s. 318(4) *Cr. C.*

[9] The site contained pages dedicated to the memory of deceased influential members of extreme rightist groups. All the members of these groups were referred to as "POWs", or prisoners of war, following their arrest and imprisonment. To mark the years of birth and death of these persons, Presseault used a runic symbol also used by the Nazis to mark the graves of SS soldiers and other Nazi dignitaries.

[10] Another symbol found on the site was "14/88", referring, in addition to the "88" explained above, to the "14 Words", a cult phrase used by supremacist groups like the KKK. This 14-word sentence is the following: "We must secure the existence of our people and a future for white children."

¹ *R. v. Richard*, [1996] 3 S.C.R. 525 at paras. 8 and 22; *R. v. Matheson*, [1981] 2 S.C.R. 214 at 217.

[11] The website contains references to the Israeli-Palestinian conflict, with Presseault affirming: [TRANSLATION] “Death to the Jewery and to all the Zionist tyrants!!!” Elsewhere on the site, Presseault blatantly displayed a photograph of the “enemy”, *i.e.*, the S.H.A.R.P. (“Skinheads Against Racial Prejudice”), better known, he wrote, as “*Shitheads Against Real People*”. Presseault described them as homosexuals, a target group for proponents of the superior race approach, and embellished the page with an animation of two impaled people twisting in pain. The S.H.A.R.P. were allegedly involved in a violent confrontation with a supremacist in Montreal, and Presseault hoped that [TRANSLATION] “the victims of this aggression will visit our site in order to identify them [the aggressors]”. He also invited people to send him other photos of S.H.A.R.P. members that he could post on the site.

[12] A number of hate messages were presented in what was supposed to be a “humorous” manner. Above the caption [TRANSLATION] “Proud supporter of our national sport” was a black man tied by the neck to the fender of a pickup truck and being dragged behind it. While the picture was only a drawing, it seems that some men actually did commit this sordid crime in Texas in 1998. The site also contained representations of black people as chimpanzees accompanied with words like these: [TRANSLATION] “Bring your negroes...we’ve got the rope”. Elsewhere, a drawing showed a white man in a KKK outfit urinating on a black man. In another drawing, a member of the KKK is getting ready to shoot at point-blank range a black man making love to a white woman, a caricature entitled [TRANSLATION] “the last lay”, evoking fundamental opposition to the mixing of races. There was also a particularly cruel image of a man in a KKK uniform stretched out in a hammock formed by two black people, each attached by the neck to a tree and together by the feet. Finally, there was a reference to the Jewish community represented by a rat with the caption “Jew Busters”.

[13] It should also be noted that Presseault offered Internet users a downloadable game called [TRANSLATION] “Super Mario KKK”, with characters named “*NIGGER H8R*” (“Nigger h-eight-r” or “Nigger hater”). The police officer summarized it as follows:

[TRANSLATION]

This is a racist version of the Super Mario Bros game. The Super Mario character earns points by killing black people. He can get extra lives by opening boxes marked with a swastika. When they open up, a Ku Klux Klan knight comes out and if Super Mario captures him, he gets bigger (with an extra life).

[14] Presseault also designed several “skins” for a music program, *i.e.*, small size computer programs that change the presentation of the software in the user’s interface. These skins were composed exclusively of slogans promoting the dominance of the white race.

[15] Much of the website’s content was music by extremist groups promoting white supremacy. The lyrics were also available. Visitors could download files via the link “...”. Presseault commented on the lyrics or events related to some of the people who were

members of the groups. About one, he wrote: [TRANSLATION] “[the] singer from [name of the group] was killed by a dirty fucking nigger”. There was also a comment on a singer who abandoned his hate convictions and set up a multiethnic musical group. Presseault called him a [TRANSLATION] “traitor to our race” and [TRANSLATION] “an embarrassment to the white race”. Presseault also reviewed songs, and about one he wrote, [TRANSLATION] “The songs by [name of the group] are aggressive and put us in a good atmosphere of hate.” About another album, he wrote: [TRANSLATION] “This album is fast and powerful and the words are very well written and it deals with all kinds of subjects that are close to our hearts.” These subjects (song titles) include: “Hate Train Rolling”; “Hymn of the Conquerors”; “Jesus Hitler”; etc. About another, he wrote, [TRANSLATION] “The singer’s voice is filled with a rage and hatred that is (*sic*) really excellent. You must have this album!” The police investigation showed that on November 15, 2006, more than 311,200 songs had been downloaded since the site opened on January 21, 2002.

[16] So much for the site, which also featured many other racist and violent elements and clearly sought to promote hate, particularly against Jews and black people. It is fair to state that most of the symbols associated with Hitler, Nazi Germany and the KKK could be found on this site, with all the violence they suggest.

[17] The evidence showed that the environment in which Presseault was also in keeping with his website. Several flags representing groups involved in racial conflicts in the modern era were found decorating his dwelling.

[18] Furthermore, Presseault expressed his profound belief in supremacist ideas by being tattooed with more than 20 fairly imposing illustrations. These tattoos were of symbols connected with the racist movement or more specifically with the Nazis. In short, almost his entire torso (except his back) and arms are covered with these symbols, including the following:

- 18.1. The “14 words”, a rallying point for the KKK and other racist groups.
- 18.2. A clenched fist (the Aryan Fist), a symbol of the white supremacists.
- 18.3. The symbol of the “SS”, representing Nazi Germany (SchutzStaffel – protection group) originally created to protect Adolf Hitler.
- 18.4. The Star of David (associated with the Jews), juxtaposed with the “forbidden” sign.
- 18.5. Someone giving the Nazi salute, with the German caption “Sieg Heil”.
- 18.6. The swastika.
- 18.7. The Odal rune, a symbol adopted by the Nazis responsible for selecting for racial purity among SS volunteers and planning births for future generations.
- 18.8. An inscription “RAHOWA”, which stands for “Racial Holy War”.
- 18.9. A tattoo of “No Mixing Race”.
- 18.10. The crest of the Ku Klux Klan.

- 18.11. The Aryan Nation tattoo.
- 18.12. The Confederate flag with a KKK knight.
- 18.13. A huge "AKIA" on his abdomen, which means: "A Klansman I Am".
- 18.14. A stylized KKK on his neck (which Presseault has since changed).

PRESSEAULT'S SITUATION

The pre-sentence report

[19] We learn from the pre-sentence report ("PSR"), dated November 16, 2006, that Presseault is 27 years old. He is the father of a two-year-old girl. He does not have custody and pays no child support. He is unemployed. He stated that he had no income and no financial obligations (PSR, page 1).

[20] Presseault is from a middle-class family. His father was a policeman and his mother an office worker. After his parents separated, Presseault left school in Secondary III, after his father had tried to send him to two private schools.

[21] He has a criminal record:

DATE	OFFENCES	SENTENCE
1995/12/19	(1) Breaking and entering (2) Possession of property obtained by crime (3) Conspiracy	Suspended sentence with two years' probation and 100 hours of community work to be done within six months
2000/01/06	(1) Extortion (2) Forcible confinement (3) Conspiracy	(1-3) 10 months for each count and two years' probation and mandatory prohibition order (s. 109 Cr. C.)
2000/04/20	Failure to comply with an undertaking (two counts)	\$200 fine for each count
2000/05/18	Obstructing a peace officer	\$150 fine
2006/10/25	(1) Possession of a prohibited or restricted firearm and ammunition (2) Uttering threats (3) Possession of a weapon during a prohibition order (4) Breaking and entering and committing (5) Possession of break-in instruments	(1-3) 60 days and two years' probation (4-5) Eight days for each count served concurrently and two years' probation

[22] In terms of schooling, Presseault completed Secondary V through adult education and received vocational training as a computer technician. He has never had

a stable job because, he says, the job market was not stable. First, [TRANSLATION] “because they didn’t want to unionize me” and later, with his specialized training, because there were too many competitors (PSR, page 3). A welfare recipient, he works under the table selling and installing computer products and testing video games.

[23] More relevant to the offence, on page 3 of the PSR, we learn that Presseault:

[TRANSLATION]

developed racist attitudes early, reports that he went through a “gang period” between 1992 and 1999. Most of his friends at the time were skinheads like him, and shared a common animosity toward the black community. Because of excesses related to his gang activities, the subject’s father asked him to leave the family home in 1997.

[24] Presseault justifies himself:

[TRANSLATION]

he was outraged by stories of “taxing” and rapes committed by blacks, and he didn’t like seeing them with young white girls. He also mentions that he was once the victim of a robbery committed by three young Haitians when he was young.

[25] Presseault admits having played a leadership role in his group and belonging to [TRANSLATION] “a Montreal cell of the Ku Klux Klan, an organization that interested him among other things for its good family values and its dedication to the community”. Presseault states that today he is indifferent to the racist ideology he used to defend (PSR, page 4). He wanted to [TRANSLATION] “definitively distance himself from violence and blatant racism, notably because he did not want his daughter growing up in such an environment” (PSR, page 5).

[26] Regarding the website, the PSR reveals that:

[TRANSLATION]

During an interview, Mr. Presseault stated that he did not think he was exposing himself to criminal prosecution. He also did not see any reason to stop, since in his opinion, his activities were not doing any harm to society. From his point of view, all there was on his website were music and some “humorous” drawings. Asked about the hate content of the songs on his site, he retorts that he was not the one who wrote them, and that “the world could think what it wanted”. Furthermore, he suggested that hate songs about white people sung by black people deserved a response (e.g., “freedom of expression is not one-sided”). As for the racist “caricatures” also found on his site, he refuses to see them as anything other than humorous, and thinks that “anyone would find them funny”. In sum, he regrets only one thing among the content of his site, and that is the tribute to Timothy McVeigh.

[27] Presseault says that he was annoyed by the search of his residence because he had to go out and replace all the computer equipment he needed. Needed for what? No one knows.

[28] As for the risk of re-offending, according to the PSR:

[TRANSLATION]

Having twice received probationary follow-up from our services, the subject complied properly with this measure, but his probation officer wrote in March 2003, when closing the file, that [TRANSLATION] "although he has not re-offended since December 1998, we are reserved in our prognosis since the subject has an antisocial background, is impulsive and has pro-Nazi values that may expose him to other problems".

[29] In fact, he was already involved in operating his site. The PSR points out that until Presseault seriously takes himself in hand in terms of an occupation, there is always a risk of his adopting deviant behaviour. Anger management is still a weak point for the offender. (PSR 6)

[30] In addition to the PSR, some of the material evidence is relevant, such as the inscription on the back of a business card pinned to Presseault's bulletin board in his apartment (S-7, photo 55):

We believe...

That the future is what we make it • That we have a racial responsibility for the racial quality of the coming generations of our people • That no multi-racial society is a healthy society • That if the White race is to survive we must unite our people on the basis of common blood, organize them within a progressive social order, and inspire them with a common set of ideals • That the time to begin is now.

For more information, write:

NATIONAL ALLIANCE • ...

[31] Police also found a photo of Presseault, in plain view on a piece of furniture, dressed in a KKK shirt with the Canadian flag, together with a member of this group, dressed in the KKK robe and hood and armed with a shotgun (S-7, photo 72). Finally, the Court notes that a baseball bat was hung beside the back door of Presseault's residence (S-8, photo 26).

[32] Describing this residence as the [TRANSLATION] "haven of a supremacist" appears to be an understatement; everything seems to be organized to prominently feature the values and activities accompanying membership in such a group.

[33] Presseault adduced some evidence in his defence, including letters promising him employment, the fact that his wife is prepared to see him again, and that overall, he says that he is prepared to move on. He did not contradict the information in the presentence report.

SECTION 319 Cr. C. AND ITS MANIFESTATIONS

[34] It is worth reproducing section 319 in its entirety to gain a better understanding of what it does and does not cover:

319. (1) Public incitation of hatred — Every one who, by communicating statements in any public place, incites hatred against an identifiable group where such incitement is likely to lead to a breach of the peace is guilty of ...

(2) Wilful promotion of hatred — Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of:

(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or

(b) an offence punishable on summary conviction.

(3) Defences — No person shall be convicted of an offence under subsection (2):

(a) if he establishes that the statements communicated were true;

(b) if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text;

(c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or

(d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

[35] It is not an offence to think, or even communicate, ideas of hatred, provided that this is done in a private conversation. A person therefore cannot be punished for that.

[36] The Supreme Court of Canada recently commented on this section of the *Criminal Code* in *Mugesera*:

Section 319 creates two distinct offences in relation to the incitement of hatred against an identifiable group....

“Promotes” means actively supports or instigates. More than mere encouragement is required: *R. v. Keegstra* [1990] 3 S.C.R. 697. Within the meaning of s. 319, “hatred” connotes “emotion of an intense and extreme nature that is clearly associated with vilification and detestation”: *Keegstra*, at p. 777. Only the most intense forms of dislike fall within the ambit of this offence.

The offence does not require proof that the communication caused actual hatred....

In determining whether the communication expressed hatred, the court looks at the understanding of a reasonable person in the context ...

... the guilty mind required by subs. (1) is something less than intentional promotion of hatred. On the other hand, the use of the word “wilfully” in subs. (2) suggests that the offence is made out only if the accused had as a conscious purpose the promotion of hatred against the identifiable group, or if he or she foresaw that the promotion of hatred against that group was certain to result and nevertheless communicated the statements. Although the causal connection need not be proven, the speaker must desire that the message stir up hatred.²

[37] It is clear that these words describe a crime whose manifestations can only be abhorrent, as in the case involving Presseault. Nonetheless, as horrible as these words may be, they constitute nothing more than the offence for which Parliament limited imprisonment to a term not exceeding two years.

[38] This maximum sentence may be surprising because, once the evidence for this crime has been adduced and the defences rejected, it has all the makings of a serious and pernicious crime that undermines the very basis of our democratic way of life. In this light, the sentence prescribed by statute may seem to be paradoxical. The Court may not, however, disregard Parliament’s intention to impose a relatively light maximum sentence, which constitutes benchmark for establishing the objective gravity of the offence.

[39] The Crown has submitted various decisions, some concerning identical offences and others related offences. *R. v. Lelas*,³ *R. v. Ingram*,⁴ *R. v. El-Merhebi*⁵ and *R. v. Soles*⁶ concern crimes with an additional dimension of hate. The maximum sentence for the underlying crimes was more than two years, however. Clearly some passages are still relevant, especially with respect to the unanimous condemnation of racist crimes.

² *Mugesera v. Canada (Minister of Citizenship and Immigration)*, [2005] 2 S.C.R. 100 at paras. 100-104.

³ (1990) 58 C.C.C. (3d) 568 (ONCA) (Vandalism at a synagogue and a Jewish school, an offence liable to imprisonment for a term not exceeding 10 years).

⁴ (1977) 35 C.C.C. (2d) (ONCA) (Assault motivated by hate, an offence liable to imprisonment for a term not exceeding five years).

⁵ [2005] R.J.Q. 671 (C.Q.) (Arson at a Jewish school, an offence liable to imprisonment for a term not exceeding 14 years).

⁶ [1998] O.J. No. 5061 (ONCJ, Gen. Div.) (Vandalism at a Jewish cemetery for 43 counts of improperly interfering with human remains, a crime liable to imprisonment for a term not exceeding five years, and one count of mischief, an offence liable to imprisonment not exceeding 10 years).

[40] The Crown has submitted a few decisions that are more akin to our fact situation, including *R. v. Mueller (aka Sentana-Ries)*,⁷ which more closely resembles the *Presseault* case. Mueller operated an Internet site and promoted hatred against Jewish people, blaming them for creating AIDS in order to kill and have better control over the world. The judge took s. 718.2(a)(i) *Cr. C.* into account. Mueller, who did not have a criminal record, did not show any remorse. He firmly believed in what he wrote on his site and he posed a risk of re-offending. The judge sentenced him to 16-month term of imprisonment with three years' probation.

[41] In *R. v. Nicholson*,⁸ the Court upheld a joint suggestion for a one-year term of imprisonment to be served in the community, taking into account pre-sentencing custody equal to nine months, followed by two years' probation. Nicholson, age 43, was an influential member of the KKK but was grappling with depression and had expressed remorse and apologized.

[42] More recently, a certain Harding was sentenced to three months' imprisonment to be served in the community, followed by two years' probation, for having published and distributed pamphlets on a small scale and for having communicated telephone hate messages regarding Muslims. An appeal of the sentence was dismissed.⁹

[43] Froebrich was also sentenced to three months' imprisonment to be served in the community, followed by two years' probation, for having taken part in a racist demonstration in which Froebrich's role was not clear. Nonetheless, it should be pointed out that he had apologized and was repentant.¹⁰

[44] In 1988, the Ontario Court of Appeal allowed an appeal of the sentence of Andrews and Smith, two officers of the Nationalist Party of Canada, a party founded on white supremacy values. As part of its operations, the organization issued a number of hate publications. The Court reduced the sentence to three months' imprisonment and three years' probation.¹¹

[45] Section 319 has had few applications in Canada and the case law is not abundant. It is also difficult to weigh such remarks on a scale of gravity. Nonetheless, as repugnant as it may be, an offence under s. 319(2) *Cr. C.* does not automatically presuppose any type of sentence, and even less a term of imprisonment.

[46] What distinguishes the offence is essentially how the expression of hatred is manifested. The sentence must therefore be based on the extent of its manifestation

⁷ *R. v. Reinhard Gustav Mueller (aka Reni Sentana-Ries)* (1 September 2006) No. 040910531Q2, Court of Queen's Bench of Alberta (Edmonton Registry), Clarke J.

⁸ *R. v. Nicholson*, 2002 CarswellBC 3592 (BCPC)

⁹ *R. v. Harding* [1998] O.J. No. 2603 (ONCJ, Prov. Div.), aff'd [2001] O.J. No. 325 (ON S.C.), aff'd [2001] O.J. No. 4953 (ONCA) on other grounds.

¹⁰ *R. v. Froebrich*, [1999] O.J. No. 1556 (ONCJ, Prov. Div.)

¹¹ *R. v. Andrews et al.*, (1988) 43 C.C.C. (3d) 193 (ONCA) aff'd on other grounds [1990] 3 S.C.R. 870.

and the individual behind it. In short, as stated in 718.1 *Cr. C.*, the sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[47] Thus, by definition, the expression is always one that is wilful and hateful and that targets identifiable groups with the conscious purpose of promoting hatred. According to case law, however, without drawing up an exhaustive list, the expression of hate may:

- 47.1. be spontaneous, as in a sudden gathering, or a premeditated and deliberate expression of hate, even organized for the widest possible dissemination,
- 47.2. be the work of an isolated individual who has a poor grasp of social reality or the work of a member of a racist group,
- 47.3. be the work of a disturbed individual at a particular time in his or her life or the work of an individual with deeply rooted racist values,
- 47.4. be the work of a first offender in this type of offence or the work of a re-offender,
- 47.5. be publicly disseminated to a limited audience or in contrast, target a large audience,
- 47.6. be hateful, but with more or less subtle overtones of violence,
- 47.7. target a single or several identifiable groups,
- 47.8. be built on sincere albeit mistaken beliefs, more akin to religious or political opinions than the brutal expression of violence toward an identifiable group.

Sentencing objectives

[48] It is common knowledge that sentencing is an individualized process and that judges have broad discretionary power. Over the years, the case law has set out the guidelines for this power and Parliament has codified a large number of these principles.

[49] Section 718 *Cr. C.* states the objectives of sentencing: (a) to denounce unlawful conduct; (b) to deter offenders and other persons from committing offences; (c) to separate offenders from society, where necessary; (d) to assist in rehabilitating offenders; (e) to provide reparations for harm done to victims or to the community; (f) to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community.

[50] Lastly, section 718.2 *Cr. C.* stipulates that a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and that an offence motivated by bias, prejudice or hate comprises aggravating circumstances (s. 718.2(a)(i) *Cr. C.*). In addition, the Court

should not consider depriving an offender of liberty if less restrictive sanctions may be appropriate in the circumstances (s. 718.2(d) *Cr. C.*).

Application

[51] There is no doubt that Presseault committed the offence with which he is charged and that this offence was premeditated and deliberate. His base remarks are despicable, evil, and nauseating. The channel through which he disseminated his message, the Internet, can do extensive damage as it is able to reach a large audience, probably including members of the groups targeted by his remarks. Apart from the large number of times a song was downloaded, however, there are no figures to measure the number of persons reached more specifically. This factor should therefore be taken into consideration, but its gravity has been mitigated.

[52] The evidence shows beyond a shadow of a doubt that Presseault has deep-seated racist beliefs and that his world revolves around them. The harm that he has done to his own body to leave a lasting impression of his beliefs clearly shows that he has unresolved issues and is filled with racist feelings and hate. He was a member of the Montreal cell of the KKK, and even though he denies any continued affiliation, he still had his photo on a piece of furniture in his home when it was searched.

[53] Presseault also has a criminal record. Although his convictions are not in the same area, his record nonetheless shows that he readily engaged in violent behaviour toward other people, resulting in jail sentences. The promotion of hatred presupposes definite violent behaviour. The Court is not reassured by the baseball bat hanging near a door in his home as if it were an extinguisher. In April 2006, he pleaded guilty to procuring a firearm and having threatened the sentencing judge in this case. There is nothing in the evidence to show that this violence, which seems to be a “reflex” for Presseault, a way of thinking, decreased in the last nine months.

[54] In view of the seriousness of the crime, Presseault’s profile, and the sentencing objectives, the Court finds that a term of imprisonment is necessary. Since it must be a term of less than two years, the Court must consider the possibility of having this sentence served in the community.

[55] First, the Court points out that it clearly cannot punish Presseault for his beliefs, and nothing in these reasons should be construed as such. Neither can the Court punish him again for the crimes committed in April 2006. The Court, however, considers these to be important elements to assess the objectives of rehabilitation, promotion of a sense of responsibility in offenders, specific deterrence, and the assessment of the risk of re-offending to be discussed are important elements.

[56] With regard to the safety of the community, there seems to be a serious risk of re-offending. It should be recalled that in 2006, in addition to acquiring a firearm, he again purchased his computer equipment after the police search, and did not explain

why. Presseault refuses to change his ways, minimizes his crime and makes no apologies. In addition, despite very late evidence of a possible job with a video game firm and his father's sudden involvement, Presseault does not really have a solid rehabilitation plan. Although this is not a requisite for a term of imprisonment to be served in the community, a concrete and genuine rehabilitation plan may sometimes contribute to the desired balance between the punitive and restorative objectives of the measure.

[57] The Court finds that the safety of the public would be jeopardized by allowing Presseault to serve his sentence in the community. Moreover, in the present case, the objective of denunciation is important; furthermore, the Court cannot disregard the importance of the objective of specific deterrence in order to make Presseault understand the unacceptable nature of his crime.

CONCLUSION

[58] For these reasons, the Court sentences you, Mr. Presseault, to six (6) months' detention as of this date.

[59] You will subsequently be on three years' probation accompanied with the following conditions:

1. Keep the peace and be of good behaviour;
2. Appear before the Court when required to do so by the Court;
3. Report to a probation officer within 48 hours after the end of the term of imprisonment and, thereafter, according to the terms directed by the probation officer;
4. Notify the probation officer of any change of name, and also promptly notify him or her of any change of employment or occupation;
5. Within 48 hours of your release, notify the probation officer and clerk of the Court in writing of your home address;
6. Remain at your home address, and give prior notice to the probation officer and the Court of any change of address;
7. Not have contact with people who express racism or hatred, including any demonstration or meeting of an identifiable racist organization;
8. Not have in your possession or use any apparatus allowing you to communicate over or access the Internet;
9. Not possess or carry, in any capacity, any offensive or restricted weapon, or imitation thereof, including any starting gun or pellet gun, firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited

ammunition, or explosive substance, knife (except for a legitimate purpose, at your home and in restaurants) or other bladed weapon.

You will have 12 months to pay the surcharge.

MARTIN VAUCLAIR, J.C.Q.

Mtre Thierry Nadon
Crown Prosecutor

Mtre Gilles Fontaine
Ménard et Associés
Counsel for the accused

Dates of hearing: June 12, 2006, November 16, 2006, and November 30, 2006