

Barbara Kay: Two months in jail for a being crass and insensitive

[National Post](#) - Tuesday March 27th, 2012

I don't tweet. At one time I was tempted to start, because one feels like a bit of a dinosaur if one doesn't. But at this moment I am happy to be an electronic Brontosaurus. Much safer, as I have been known to utter spontaneous remarks under the influence of irritation or polemical truculence that I have come to regret later. Twitter is all about spontaneity. And I didn't want to end up issuing apologies for a careless insult. Or, in a new spanner in the hate-speech works, go to jail for it.

Liam Stacey, a 21-year old university student from Wales, about to take his final exams in biology, with ambitions to become a forensic scientist, can probably kiss his graduation and career goodbye, all because of rash, racism-flavoured tweets he posted. If that isn't bad enough, he is contemplating his essentially ruined life in the confines of a jail cell, which he has been sentenced to occupy for 56 days.

Stacey posted his first offending tweet on March 17, shortly after Bolton Wanderers footballer (soccer player) Fabrice Muamba collapsed during his team's FA Cup quarter-final tie against Tottenham Hotspur. The athlete was found to have suffered a cardiac arrest, and it at first appeared Muamba had died.

Stacey tweeted: "LOL, F—Muamba. He's dead." When challenged by hostile twitter blowback, Stacey followed ~~the~~ comment up with escalating, racist tweets. Ultimately his hateful comments were reported to the police, who arrested him, handcuffs and all. He sobbed throughout his hearing, admitted to incitement to racial hatred in having referred to some of his critics as "wogs" and for having told others to "go pick some cotton," and apologized profusely for what he claimed were uncharacteristic thoughts expressed under the influence of alcohol

In sentencing him, the judge said, "It was racist abuse via a social networking site instigated as a result of a vile and abhorrent comment about a young footballer who was fighting for his life ... Your comments aggravated this situation." Although the judge acknowledged that Stacey was drunk when he committed the offense, he concluded, "I have no choice but to impose an immediate custodial sentence to reflect the public outrage at what you have done."

"Have no choice"? What nonsense. He could have ordered the young man to do community service for 50 hours, or write letters of apology to Muamba's family. That would have been a proportionate consequence. What the judge is effectively saying is that he is throwing a young person with no criminal record into prison for two months, not for the remarks themselves, but because they were made when the object of the remarks was in physical crisis. That is unfair, unjust and a very scary precedent.

We can all agree that Stacey's outburst was offensive. We can all agree that their offensiveness was psychologically compounded by the vulnerability of the target and the heightened sensitivities of his family and friends at the time. But this jail sentence crosses a very bright line, and sets a horrifyingly oppressive precedent in a so-called democracy.

Giving offense in speech is now not just politically incorrect; not just something that demands a public apology; not just something that results in a firing or, as in this case, expulsion from an institution. Now giving offence is an actual crime for which only incarceration will do as a punishment. Imagine the chill on discourse this represents.

We have been through our own tortured human rights commission debates on what is or isn't hate speech, and what should be done about offensive speech even if it does look like hate. But compared to this judge's understanding of what is a reasonable consequence of offending others through speech, our human rights commissions seem benign.

And yet they are not. It is just a question of degree. Both the decision of this judge, and those of our human rights commissions, who have harassed journalists, Christians and comedians for merely offending the sensibilities of others represent a totalitarian impulse that must be nipped — not in the bud, for we are way beyond that — but at least before there are too many blooms to cut.

