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Shack shooter gets 4 1/2 years

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The Hamilton Spectator

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A gun smuggler with 43 previous firearms-related convictions has been sentenced to four and a half years in jail for shooting up a native smoke shack with a military assault rifle.

There were 11 people standing near the Hawk Shop and two people inside when Donald VanEvery, 49, sprayed the building outside of Caledonia with at least a dozen rounds of machine-gun fire on May 17, 2007.

Todd Porter, who was inside the shop, was hit in the upper arm and was the only person injured in the shooting.

In handing down the sentence yesterday, Ontario Justice Joe Nadel noted that VanEvery had 74 previous criminal convictions, including 43 gun offences, and had already served 13 years in jail for previous offences.

"You can't or you refuse to control your temper," Nadel told VanEvery, who remained silent during his sentencing hearing.

He added that VanEvery had refused to abide by a previous firearms prohibition and that his actions had been "astoundingly irresponsible" in discharging his rifle into an occupied building.

VanEvery, who has done 17 months of pre-trial custody, had previously pleaded guilty to uttering death threats and pointing a firearm at Collin Sandy, possessing a firearm while he was prohibited from doing so and criminal negligence causing bodily harm.

As part of his sentence yesterday, VanEvery was banned from possessing firearms, explosives or ammunition for the rest of his life and ordered to provide a DNA sample for the national DNA bank.

Defence lawyer Greg Leslie said the incident stemmed from an ongoing dispute between his client and a non-native man called Jay Warren.

He described Warren as a person known "to carry weapons and threaten people."

He said Warren had approached VanEvery a few months before the shooting and asked for his assistance in starting a smoke shop on the reserve.

But VanEvery refused to help because, as a non-native, Warren wasn't allowed to operate a business in Six Nations territory.

He eventually opened a smoke shop with Six Nations resident Collin Sandy, however.

Leslie said VanEvery and his family had complained to the Six Nations police about Warren for causing problems and operating an illegal business. But no action was taken.

On the day of the incident, Leslie told Nadel, Warren and his partner had surrounded VanEvery's house and threatened him and his family.

After the threats, Leslie said his client got the assault rifle and went looking for the other men. He tracked Sandy down outside of Caledonia and threatened him at gunpoint before proceeding to the Hawk Shop where he discharged a whole magazine of bullets into the building.

Leslie said his client was contrite when he heard somebody had been injured because he never intended to kill anybody. He surrendered without incident to police later in the day.

As part of the plea agreement, 13 counts of attempted murder were dropped.

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In February 1999, VanEvery was sentenced to four and half years in jail after he was arrested for selling illegal weapons, including semi-automatic pistols and rifles. He admitted to smuggling some of them into Canada.

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