

IN THE COURT OF APPEAL FOR  
THE NORTHWEST TERRITORIES

PROBATION ORDER  
DISCHARGE  
FORGERY

Court:

The Honourable Mr. Justice Clement  
The Honourable Mr. Justice Prowse  
The Honourable Mr. Justice Moir

BETWEEN:

HER MAJESTY THE QUEEN,

Respondent,

- and -

PETER OVAYUAK,

Appellant.

JUDGMENT OF THE COURT

BY THE HONOURABLE MR. JUSTICE CLEMENT

The appellant Ovayyak pled guilty to a charge of uttering a forged cheque for \$744.66. He was sentenced by Tallis, J. to imprisonment for a term of two years less one day, and a probation order for two years to take effect upon his release. We have to consider the fitness of this sentence.

The cheque was drawn by Keen Industries payable to its employee James Ruben, a friend of the appellant. Ovayyak entered the premises of a mutual friend, saw a suitcase that had been left there by Ruben, opened it and on seeing the cheque he stole it. He then forged the name of Ruben by way of

endorsement and cashed it at a local store in Inuvik. The appellant is 29 years of age and has a record of related offences extending back to 1966. There has been no restitution.

The appeal book disclosed that in sentencing, Tallis, J. gave full and detailed consideration to all of the circumstances and took into account properly the applicable principles of sentencing. We are all of the opinion that there is no ground for disturbing the term of imprisonment which he imposed.

The imposition of the probation order for two years was intended in furtherance of rehabilitation in respect to alcohol. It was not drawn to the attention of the learned Trial Judge that when Ovayuak comes to be released by operation of *The Parole Act* he will be under mandatory supervision for the full remainder of the term of the sentence. This provides more rigorous supervision than does a probation order, and a greater incentive to rehabilitation. In all of the circumstances disclosed in the argument we do not think that a probation order would accomplish more than mandatory supervision, and we accordingly discharge the probation order. In other respects the appeal is dismissed.

P.L.C.

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J.A.

DATED at Edmonton, Alberta,  
this 8th day of September, 1976.

Counsel:

O.J.T. Troy, Esq., Q.C.  
for the crown

J.E. Richard, Esq.  
for the appellant