

IN THE COURT OF APPEAL FOR THE NORTHWEST TERRITORIES

B E T W E E N :

JERRY EDWARD PIERROT

Applicant

- and -

HER MAJESTY THE QUEEN

Respondent

Application for an Order pursuant to s.607(2) of the *Criminal Code* of Canada, to extend the time for notice of application for leave to appeal and Notice of Appeal against sentence. Granted.

Heard at Yellowknife, N.W.T., 8 June 1984.

Judgment filed: 12 June 1984.

Reasons for Judgment of
The Honourable Mr. Justice T. David Marshall

Of Counsel for the Applicant: Ms. V. Schuler
total

charge counsel for the Respondent: G.M. Bickert, Esq.

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REASONS FOR JUDGMENT

This is an application for an order pursuant to the provisions of s.607(2) of the *Criminal Code* of Canada extending the time for notice of application for leave to appeal and notice of appeal against sentence.

The accused was sentenced by Judge R. Halifax of the Territorial Court on October 31, 1983, on 2 charges, break and enter, and theft offences, occurring on October 8, and October 17, respectively. The sentence was 18 months in total; concurrent sentences were given for 2 additional charges of breach of probation arising out of the same facts.

In his affidavit, the accused, Jerry Pierrot, swears that he did not know he could appeal. He was represented by counsel at his sentencing.

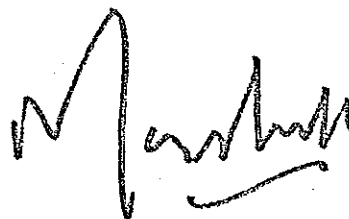
The Crown on the application took an unusual position. It seems that one Crown Attorney had agreed to consent to the extension of time asked for. However, on further reflection, Crown counsel before the Court quite candidly conceded that they, the Crown Attorneys, now had second thoughts. For that reason, a brief of cases was presented with affidavit evidence.

The affidavit was that of an employee of the Yellowknife Correctional Centre. He swore that he had admitted the accused on other occasions and that when admitted inmates are given a booklet, "Guide for Inmates". However, he does not know if the accused got a copy of the Guide on this admission. Court workers, he swears, are available on request to discuss legal matters and classification officers discuss their cases with them. It seems from his affidavit that the accused would have known of his rights as regards appeals.

No argument was made as to the merits of the appeal-- indeed little argument was made. For purposes of this motion, I need not dwell on the authorities I have reviewed, which in an ordinary case would give guidance. These are: *R. v. Martin* (No. 2) 4 C.C.C. (2d) 276; *R. v. Scheller et al.* (No. 2) 32 C.C.C. (2d) 286; *R. v. Mitchell*, 51 W.W.R. 639; *R. v. Antoine*, 6 C.C.C. (2d) 162; and *R. v. Hetsberger*, 47 C.C.C. (2d) 154.

But this is not an ordinary case. The Crown has undertaken to consent; in reliance on this undertaking the counsel for the accused may well not have prepared to do battle as it were.

Under these circumstances and in this particular case, in my view, justice requires that the motion be granted. The motion is thus hereby granted.

A handwritten signature in black ink, appearing to read 'T. David Marshall', written in a cursive style.

T. David Marshall
J.S.C.

Yellowknife, N.W.T.

8 June 1984

Counsel for the Applicant: Ms. V. Schuler

Counsel for the Respondent: G.M. Bickert, Esq.

C.A. 532

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REASONS FOR JUDGMENT OF THE
HONOURABLE MR. JUSTICE T. DAVID MARSHALL

