

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN,

- and -

STEVE JIM LAFFERTY

Trial held at Hay River, Northwest Territories
June 21, 1977

Plea: Guilty:

Sentence: Six Months

Judgment delivered orally June 27, 1977

Counsel on the Hearing:

Mr. B. Fontaine, for the Crown

Mr. J. E. Richard, for the accused
Steve Jim Lafferty

Reasons for Judgment of:

The Honourable Mr. Justice C. F. Tallis

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REASONS FOR JUDGMENT OF THE HONOURABLE
MR. JUSTICE C. F. TALLIS

The accused Steve Jim Lafferty pleaded guilty at the opening of the Criminal Jury Sittings at Hay River in the Northwest Territories on the 21st day of June, 1977 to the following counts in an indictment preferred against him:

- COUNT 1 on or about the 9th day of July, A.D. 1976, did knowingly make a false document to wit: a cheque dated July 9th 1976 for seventy-five dollars (\$75.00) payable to Steve Lafferty and signed Cecil Lafferty and T. Acey by forging the signatures of Cecil Lafferty and T. Acey thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.
- COUNT 3 on or about the 16th day of July, A.D. 1976, did knowingly make a false document to wit: a cheque dated the 16th day of July 1976 for seventy-five dollars (\$75.00) payable to Steve Lafferty and signed Cecil Lafferty and T. Acey thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.

- COUNT 5 on the 16th day of July, A.D. 1976, at or near Pine Point in the Northwest Territories, did knowingly make a false document to wit: a cheque dated July 16, 1976 for one hundred and fifty dollars (\$150.00) payable to Steve Lafferty and signed Cecil Lafferty and T. Acey, by forging their signatures thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.
- COUNT 7 on the 21st day of July, A.D. 1976 did knowingly make a false document to wit: a cheque dated 21st July 1976 for one hundred and fifty dollars (\$150.00) payable to Steve Lafferty and signed Cecil Lafferty and T. Acey, by forging the signatures of Cecil Lafferty and T. Acey thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.
- COUNT 9 on the 22nd day of July, A.D. 1976, did knowingly make a false document to wit: a cheque dated 22nd July 1976 for fifty dollars (\$50.00) payable to Edward Lawrence Beaulieu and signed Cecil Lafferty and T. Acey by forging the signatures of Cecil Lafferty and T. Acey thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.
- COUNT 10 on the 22nd day of July, A.D. 1976, did knowingly make a false document to wit: a cheque dated 22nd July 1976 for fifty five dollars (\$55.00) payable to Edward Lawrence Beaulieu and signed Cecil Lafferty and T. Acey, by forging the signatures of Cecil Lafferty and T. Acey thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.
- COUNT 11 on or about the 24th day of July, A.D. 1976, did knowingly make a false document to wit: a cheque dated 24th July 1976 for two hundred dollars (\$200.00) payable to Steve Lafferty and signed by Cecil Lafferty and T. Acey by forging the signatures of Cecil Lafferty and T. Acey thereon with intent that it be acted upon as genuine and did thereby commit forgery, contrary to Section 325 of the Criminal Code.

After hearing extensive submissions with respect to sentence and also having considered a pre-sentence report I am now going to pass sentence.

The determination of an appropriate and proper sentence for a criminal offence involves a careful and anxious consideration of the various factors to be considered. The position of a trial judge or Appellate Court is succinctly stated by Culliton C.J.S. in *Regina v. Morrisette et al*, 12 C.R.N.S. 392 at p. 393:

" There is no problem which causes both the trial Judge and members of this Court more anxious consideration than the determination of an appropriate and proper sentence for a criminal offence. Both trial and appellate judges must be ever mindful of the fact that the principal purpose of the criminal process, of which sentencing is an important element, is the protection of society.

From time to time, courts have reviewed the principles to be considered in the determination of proper sentences. This Court recently did so in *Regina v. Kissick* (1969), 70 W.W.R. 365. As has been stated many times, the factors to be considered are: (1) punishment; (2) deterrence; (3) protection of the public; and (4) the reformation and rehabilitation of the offender.

The real problem arises in deciding the factor to be emphasized in a particular case. Of necessity, the circumstances surrounding the commission of an offence differ in each case so that even for the same offence sentences may justifiably show a wide variation."

In addition to the principles outlined in the case of *R. v. Morrisette et al*, supra, I have also carefully reviewed

the principles of sentencing discussed in the following cases:

R. v. Wilmott (1967) 1 C.C.C. 171 at 177-179; *R. v. Hinch* 62 W.W.R. 205; *R. v. Iwaniw*; *R. v. Overton* (1959), 127 C.C.C. 40.

The Manitoba Court of Appeal in *R. v. Iwaniw*; *R. v. Overton* (supra) specifically referred to the following factors that are to be considered in determining an appropriate sentence:

"First: the degree of premeditation involved;

Second: the circumstances surrounding the actual commission of the offence; i.e. the manner in which it was committed, the amount of violence involved, the employment of an offensive weapon, and, the degree of active participation by each offender;

Third: the gravity of the crime committed, in regard to which the maximum punishment provided by statute is an indication;

Fourth: the attitude of the offender after the commission of the crime, as this serves to indicate the degree of criminality involved and throws some light on the character of the participant;

Fifth: the previous criminal record, if any, of the offender;

Sixth: the age, mode of life, character and personality of the offender;

Seventh: any recommendation of the trial Judge, any pre-sentence or probation official's report, or any mitigating or other circumstances properly brought to the attention of this Court."

In this particular case the accused has no previous convictions for this type of offence. He does have a previous conviction in 1971 for driving a motor vehicle while his ability was impaired by alcohol and a further conviction in 1973 with respect

to an offence under Section 387 of the Criminal Code of Canada. He is 25 years of age and is living common law. He has one child who is three months of age. He is a resident of Fort Resolution and has completed his Grade 12 and taken additional vocational training in electronics at the Vocational School in Fort Smith in the Northwest Territories.

During the spring of 1976 the accused obtained a position as a Counsellor with an Outreach project that was sponsored by the Department of Manpower. Because of his education which is above the level of most residents in Fort Resolution, he was selected for this position and earned in the neighborhood of \$200.00 per week. As a Counsellor it was his responsibility to assist members of his own community in securing employment, filling out Old Age Pension forms, Unemployment Insurance Claims and various other matters. He was also charged with the responsibility of preparing cheques to cover accounts payable. However these accounts payable had to be submitted to the Settlement Council for approval and once this approval was granted the signing officers for the cheques were Cecil Lafferty and Timothy Acey.

During the month of July 1976 Timothy Acey and Cecil Lafferty advised the Royal Canadian Mounted Police that their names had been forged on certain cheques drawn on the Fort Resolution Settlement account. An investigation was immediately launched and as a result of this investigation it was determined that the

accused had forged and uttered a number of cheques which are the subject matter of the counts in the indictment before me. It will be observed that the accused's illegal course of activities took place over the period July 9th to July 24th.

I have briefly summarized the facts because in this particular case the accused was placed in a position of trust. I have no doubt that he was given this responsible position because people in the community who had far less education considered him as one who could assist them with the various problems that arose from day to day. Unfortunately this trust was misplaced and in my opinion it is a factor that must be taken into account in imposing sentence. Under the circumstances I must impose a sentence that will take into account the various factors that I have previously referred to and in this particular case I must give some consideration to the position of trust that the accused occupied. I fully realize that in this particular case the accused is a young man and hopefully he will have learned his lesson as a result of the difficulty that he now finds himself in. If this offence did not involve a breach of trust I would have been inclined to perhaps grant the accused a suspended sentence. However I feel that persons in his position should be put on notice that if they break their trust to the members of their own community they can expect to receive punishment for having done so.

In this particular case the accused has pleaded guilty and candidly admitted his involvement in this illegal activity.

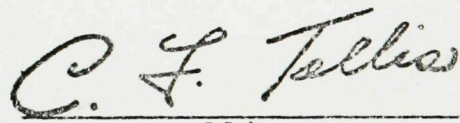
He has not made restitution but has placed approximately \$400.00 in his Counsel's trust account with instructions that it be applied by way of restitution. In considering the question of breach of trust as one of the circumstances in this particular case I have referred to the following cases: *R. v. Gruson* (1963) 1 C.C.C. 240; *R. v. Foran* (1970) 1 C.C.C. 336; *R. v. Cunningham* (1964) 34 C.R. 40.

Learned Counsel for the Crown frankly conceded that the circumstances of this case are less serious than in *R. v. Wyness* on which I passed judgment this morning.

Having considered the circumstances of this offence and applying the principles of sentencing to the present case I therefore sentence the accused Steve Jim Lafferty to a term of six months imprisonment on Count No. 1 in the indictment and six months imprisonment to run concurrent on each of the other counts and in addition thereto I direct that the accused comply with the following conditions in a Probation Order for a period of one year from the date of expiration of the sentences that I have imposed:

- (a) The accused shall keep the peace and be of good behaviour and shall appear before the Court when required to do so by the Court.
- (b) The accused shall make restitution of the amount involved in each of the offences to which he has pleaded guilty with the sum of \$400.00 to be forthwith paid out on a pro rata basis.
- (c) The accused shall abstain from the excessive consumption of alcohol.

Dated at Yellowknife, Northwest Territories this 27th day of June, 1977.



C. F. Tallis, J.S.C.