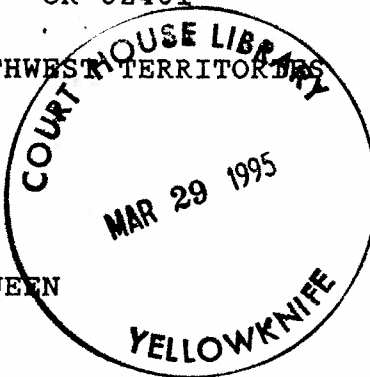


CR 02401

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

CANADA
NORTHWEST TERRITORIES }
BETWEEN:



HER MAJESTY THE QUEEN

- and -

SAM AMARUALIK

Transcript of Sentencing by His Lordship
Justice J.E. Richard on April 14, 1994,
at the Town of IQALUIT, Northwest Territories

C O U N S E L:

R. REIMER, Esq., Counsel for the Crown
D. BRICE-BENNETT, Esq., Counsel for the accused

APRIL 14, 1994

SENTENCING: Justice J.E. Richard

5 Sam Amarualik, a 29 year old Inuk from Resolute Bay, is before the Court this afternoon to be sentenced for serious criminal offences committed by him last July in his home community, when he went on a drunken rampage and endangered the lives of a number of residents of the community, including two police officers.

10 His criminal conduct in July of 1993 is simply the latest incident in a continuing pattern of criminal behaviour by this young man over the past ten or twelve years. I am told that his criminal behaviour has invariably been related to alcohol consumption and that he has a marked aggressive personality while intoxicated, as
15 opposed to a docile personality while sober.

20 He has an appalling record of approximately 40 criminal convictions, including five assaults and six incidents involving the unlawful use of weapons. He has been sent to jail on eight separate occasions, several times for substantial periods ranging up to 18 months.

25 On July 11, 1993, he returned to his home community of Resolute Bay in an intoxicated condition after attending a ball tournament in another community. At 4:50 a.m. the police were called out to investigate a

disturbance involving this offender. When first seen by the police, the offender was striking the front door of a residence with a baseball bat. When the offender saw the police vehicle, he then approached the police vehicle, swinging the baseball bat and threatening to kill the police officer. Although the police officer tried to avoid the offender, the offender did at one point swing the baseball bat through the window of the police vehicle, narrowly missing Corporal Bancroft. The corporal returned to the detachment to seek the attendance and the assistance of the other police officer. The corporal then heard gun shots.

Over the next hour or so, the two police officers sought out Mr. Amarualik as he wandered through the community firing a rifle. At various times the officers were required to take cover as Mr. Amarualik was firing at them. One of the officers was injured when a bullet fragment lodged in his leg. Other bullets narrowly missed the heads of the two police officers. In addition, the offender discharged the rifle into a couple of residences, narrowly missing the occupants. Finally, with the assistance of one of the brothers of Mr. Amarualik, the officers were able to subdue and arrest Mr. Amarualik.

Having heard the narrative of the events as read by the Crown Prosecutor during the sentencing hearing,

one immediately realizes that it is almost a miracle that no one was killed or seriously injured during this incident, and that includes the offender himself, because the police were required at times to return his gun fire.

5 Although Mr. Amarualik has no memory of the event, he accepts the police account of what happened. When he goes to bed each night, I hope that he gives some thought to the fact that he could very easily, very easily have caused the death of these two officers or some of his own relatives or neighbours. This event occurred at a time 10 when Mr. Amarualik was subject to a specific court order prohibiting him from being in possession of a firearm.

 Mr. Amarualik has pleaded guilty to the following offences. Firstly, the aggravated assault of 15 Constable Dan Gaudet, or endangering the life of Constable Gaudet, contrary to Section 268 of the Criminal Code. Secondly, the aggravated assault of Corporal Leslie Bancroft, or endangering the life of Corporal Bancroft, 20 contrary to Section 268 of the Criminal Code. Thirdly, committing mischief by causing damage to property, namely, four separate residential homes in Resolute Bay, as well as a police vehicle, contrary to Section 430 of the Criminal Code. And finally, to having a firearm in his possession while prohibited from doing so by a court order, contrary 25 to Section 100 of the Criminal Code.

Aggravated assault carries a maximum sentence of 14 years imprisonment in a federal penitentiary in southern Canada. The mischief, or damage to property offence, carries a maximum penalty of ten years imprisonment, and the maximum penalty for breaching the firearms prohibition order is also ten years imprisonment. In addition to these possible sentences of imprisonment, I am required by law to make a further Section 100 firearms prohibition order for a further period of ten years.

The Court's sentence in each case must strive to achieve the purpose of the criminal law process, and that is the protection of the public. It is clear from what I have said about Mr. Amarualik's past behaviour and the circumstances of what happened on July 11th, that it is necessary to incarcerate Mr. Amarualik in a correctional facility for a substantial period of time in order to protect the public from him. I'm also satisfied that a substantial period of incarceration is necessary to specifically deter Mr. Amarualik from similar conduct in the future, that is, simply, from consuming alcohol knowing that it is likely to result in violent, aggressive and anti-social behaviour by him.

The circumstances of this case are remarkably similar to the circumstances of R. v. Camphaug, a case in Rankin Inlet many years ago. Mr. Camphaug also

5 went on a shooting rampage while intoxicated and also
endangered the lives of police officers and civilians. He
too had a related criminal record and he too had eight or
nine months of pretrial custody awaiting his trial. A jury
convicted him of several offences, the substantive ones
involving the pointing and discharging of a firearm. In
February 1979, Mr. Justice Tallis sentenced him to two and
a half years in a federal penitentiary in addition to the
time that he had already spent in custody.

10 The offender here, Mr. Amarualik, has been
in custody since the time of his arrest on July 11th, some
nine months ago. As sentencing judge, I have received a
joint submission of the Crown Prosecutor, Mr. Reimer, and
the defense counsel, Mr. Brice-Bennett, to the effect that
15 the offender, Mr. Amarualik, should receive a sentence of
imprisonment for a further period of three years. After
much consideration I have decided to accept this joint
submission. In doing so, I am mindful of the fact that Mr.
Amarualik has already been in custody on a remand basis for
20 nine months, which is a not insignificant period of time.
I also take into account the fact that upon his release,
Mr. Amarualik will be subject to a ten-year firearms
prohibition order, which, even though he is not a
professional or full-time hunter, will constitute a real
25 hardship for him as a significant interference with his

pursuit of traditional Inuit activity on the land. I have also decided, after much consideration, that this is a case where I should exercise my discretion to invoke the provisions of Section 741.2 of the Criminal Code by ordering that Mr. Amarualik's eligibility for parole be delayed beyond the usual time, and I do so for the reasons that I've mentioned, that is, because of this offender's character and background, the circumstances of this particular case and for the objectives of specific deterrence and for the protection of the public.

Please stand now, Mr. Amarualik. Mr. Amarualik, for the crimes that you have committed, the Court imposes sentences as follows. On count one, for the aggravated assault of Dan Gaudet, that you serve a term of imprisonment of three years. On count two, for the aggravated assault of Leslie Bancroft, that you serve a term of imprisonment of three years concurrent to the sentence on count one. On count number five, mischief or damage to property, that you serve a term of imprisonment of one year concurrent to the other sentences. And on count six, possession of a firearm contrary to court order, a term of imprisonment of one year concurrent to the other sentences.

In addition, as I'm required by law to do so, I hereby order, pursuant to Section 100 of the Criminal

Code of Canada that you are prohibited from having in your possession any firearm or ammunition or explosive substance for a period of time commencing on today's date and expiring on a date ten years after your release from these sentences. And pursuant to Section 741.2 of the Criminal Code, I further order that you must serve at least one half of your sentence before you may be released on full parole. I'm going to direct the clerk of the court to endorse the warrant of committal, Mr. Amarualik, that takes you to the correctional facility, with this Court's recommendation that you be permitted to serve your sentence in a facility within the Northwest Territories.

Now, Mr. Amarualik, before we close, you've heard that I have received a joint submission from these two lawyers about the sentence that you should receive. Now, your lawyer, Mr. Brice-Bennett, has done a good job in representing you on this case and the Crown Prosecutor here, Mr. Reimer, has been very fair in taking the position that he has in your case. Mr. Brice-Bennett has told me that some of the officials at the correctional center are already favourably impressed by you as an inmate, and so it appears to me that there are a number of people who are trying to help you, but now it is up to you to take all of the necessary steps to help yourself, because you're the key person if you're going to turn your life around. And I

hope that when you start serving your sentence, that you will have the resolve to be a different person on the day that you're released, and I wish you good luck in that. You may sit down now.

5 Now, is there anything further on this case, Counsel?

MR. REIMER: No, my Lord.

MR. BRICE-BENNETT: No, my Lord.

THE COURT: Fine, thank you.

10 MR. REIMER: I don't know whether in the Territories you require an order with respect to the disposition of exhibits entered at the preliminary inquiry.

THE COURT: There may be some exhibits in this case. Is there?

15 MR. REIMER: There were exhibits at the preliminary inquiry, sir.

20 THE COURT: They will be in our possession now. So, the usual order will go for the disposition of the exhibits upon the expiration of the appeal period. Counsel can just submit a consent order to the clerk in due course.

Certified Pursuant to Practice Direction #20
dated December 28, 1987.

L Belsito

Laurie Belsito, CSR, RPR