

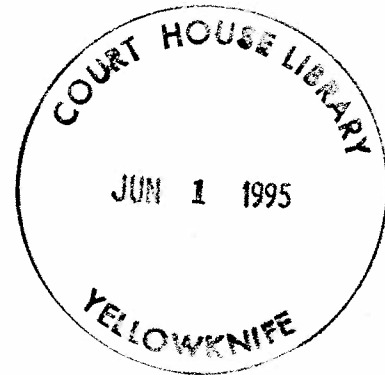
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Supreme
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- v -

CHARLES TIMOTHY GAUDET

Transcript of the Oral Reasons for Sentence of The Honourable Mr. Justice J.Z. Vertes, in Yellowknife, in the Northwest Territories, on the 22nd day of August, A.D., 1994.

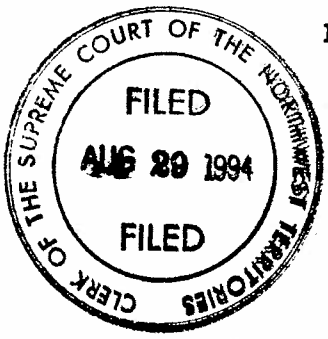
APPEARANCES:

Mr. L. Rose:

For the Crown

Mr. G. McLaren:

For the Defense



1 THE COURT: In this case, Charles Timothy Gaudet
2 was convicted on July 5th of this year after trial
3 before me on three counts in an indictment filed
4 earlier this year. I will not go into the details of
5 the offences, but will only highlight some features of
6 each count.

7 All of the charges arose from a domestic
8 relationship between Mr. Gaudet and the victim of each
9 crime, Arlene Carmichael. The two of them are the
10 parents of a young child.

11 It was unclear to me from the trial as to what
12 future plans, if any, Mr. Gaudet had in mind for
13 continuation of this family relationship, but I think
14 it was clear that Ms. Carmichael exhibited some fear
15 and concerns over Mr. Gaudet's behavior and, as a
16 result in November, she unilaterally decided to send
17 their child back to Inuvik where she had family
18 members. I think it was also clear that there was no
19 prospect of an ongoing permanent relationship in the
20 future as a family unit.

21 I recognize from the evidence and I acknowledge
22 that Mr. Gaudet feels very close to his child and was
23 concerned about this unilateral decision by Ms.
24 Carmichael. He was upset about that. He became so
25 upset about it that on November 18, 1993 he confronted
26 her and threatened her. Threatened her, to my mind,
27 seriously enough so as to amount to a criminal charge.

1 That was the substance of Count 1.

2 Counts 2 and 3 arise out of an incident that
3 carried on for some time on December 3, 1993 when the
4 accused and Ms. Carmichael, who were still living
5 together at the time, had been out and they had come
6 back to their home. They got into an argument over
7 who was more considerate of the other and this
8 argument escalated into pushing and shoving and
9 escalated even more into an assault by Mr. Gaudet on
10 Ms. Carmichael, an assault that was evidenced by
11 bruising on Ms. Carmichael's neck area. That was
12 clearly shown in photographs submitted as evidence
13 during the course of the trial. And, finally, this
14 whole sequence of events was such that Mr. Gaudet
15 restrained free movement of Ms. Carmichael
16 sufficiently so as to warrant, in my view, a
17 conviction as well on a charge of confinement without
18 lawful authority.

19 So Mr. Gaudet now faces sentencing on these three
20 charges; uttering a threat, unlawful confinement, and
21 assault.

22 The unfortunate circumstances here are that Mr.
23 Gaudet stands before the Court as a first offender. He
24 is 41 years of age, a mature man, a highly
25 accomplished man who has significant educational
26 achievements, significant work achievements, a man who
27 is regarded by friends and family as a very

1 responsible individual, one who takes care of other
2 members of his family and worries about them. He
3 comes from a very successful and strong large extended
4 family and all of these factors are in his favour.
5 And this is the tragedy of this situation because now
6 it falls upon this Court to try and determine what
7 would be an appropriate sentence now that a man of
8 this good background has been convicted of these
9 serious crimes.

10 He has the benefit of a very supportive and
11 complimentary pre-sentence report and I thank Mr. Don
12 Hunter for it, for the thoroughness of that report.
13 It too speaks very highly of the accused as an
14 individual.

15 And so his counsel says to me that these actions
16 were out of character for the accused and, therefore,
17 incarceration should be avoided. Yes, to some extent
18 they have been out of character but they have also
19 been repetitive.

20 The first count, the one of uttering a threat,
21 took place several weeks before the other two counts.
22 Of course he wasn't charged with the first count until
23 after the police were called in after the other two
24 incidents, but it certainly shows, to my mind,
25 something that Mr. Rose mentioned in his submissions
26 that there is a pattern, a certain pattern, a pattern
27 of control, if nothing else, a pattern of oppression

1 perhaps fueled by his frustration, perhaps fueled by
2 other stresses and strains that Mr. Gaudet was under
3 at the time, but the problem is that he took this out
4 on a person who was living in the same home as he was,
5 a person with whom he was having a relationship at the
6 time, the mother of his young child and he reacted not
7 just inappropriately, but he reacted violently and
8 criminally.

9 The fact that his actions were out of character
10 raises the dilemma that the Courts face with these
11 types of crimes. We have been told repeatedly that
12 for many years the Courts have not given significant
13 importance or treated with sufficient seriousness
14 these types of domestic-related acts of violence
15 because they usually are committed by people who are
16 not a danger to the general public. These are crimes
17 where it's dangerous only to the people who are living
18 in their own homes and the Courts have been rightly
19 criticized, I think, over the years for being far too
20 lenient for these types of crimes because just as here
21 we hear the same comments: their actions were out of
22 character, they were actions that were inappropriate,
23 they were actions where the accused shows remorse
24 after the fact.

25 So it seems to me we're in a dilemma whereby if we
26 do not recognize the seriousness of this type of
27 conduct, recognize that it goes beyond the privacy of

1 the home, recognize that it goes beyond just these two
2 individuals but has an impact on society in general,
3 then we fall back into the mindset of a few years ago
4 where we tend to minimize these types of crimes simply
5 because they do occur within a private sphere.

6 I'm told that he is remorseful and regrets his
7 conduct. That may be so now, but that was not evident
8 at the trial of this action where he stood in the
9 witness box and denied his conduct, denials that were
10 rejected by me, so I can put very little weight on
11 that point. But I think it is to his credit that
12 since these acts and since his conviction he has
13 sought counselling on his own, that perhaps he has
14 come to a greater recognition of his responsibility
15 and of the dangerous conduct in which he engaged as
16 reflected through the pre-sentence report.

17 As Crown counsel says, the overriding principle is
18 one of general deterrence and for that reason, because
19 of the seriousness of the actions themselves, and
20 because of their repetitive nature, I am of the view
21 that I must consider some term of incarceration.

22 Defence counsel has submitted that if I do, then I
23 should give consideration to imposing a sentence that
24 allows Mr. Gaudet to serve his term on an intermittent
25 basis. Certainly all of the evidence indicates that
26 he is a hard-working industrious man who has held
27 positions of serious responsibility and I am told that

1 he has ongoing commitments.

2 For that reason, I have decided to impose a
3 cumulative sentence that under the circumstances is,
4 in my view, the absolute minimum that could possibly
5 be imposed, but this will be one that I hope brings
6 home to Mr. Gaudet the seriousness of his conduct and
7 will deter him from any such future conduct and will
8 also give effect to the principle of general
9 deterrence so that others know that they cannot resort
10 to violence within a domestic situation to solve any
11 problem no matter what other stresses or strains they
12 may be under.

13 But, in addition, I will couple it with an
14 extended period of probation so as to impose some
15 continuing control on Mr. Gaudet's conduct and to
16 hopefully strengthen the protection for Ms. Carmichael
17 in the future should it be required, although I may
18 say I'm optimistic that by this experience Mr. Gaudet
19 has learned as well, being the mature man that he is,
20 that he has to keep his emotions and actions under
21 control at all times.

22 Will you please stand up, Mr. Gaudet? With
23 respect to Count 1, that's the charge of uttering a
24 threat, I sentence you to serve a term of 30 days
25 imprisonment. With respect to Count 2, it's a charge
26 of unlawful confinement, I sentence you to serve a
27 term of 30 days, that is to be served consecutively.

1 With respect to Count 3, I sentence you to serve a
2 term of 30 days also to be served consecutively. That
3 is a term of 90 days, Mr. Gaudet.

4 And as requested by your counsel, I'm going to
5 order that you be allowed to serve that intermittently
6 on weekends. Your sentence will commence, you'll
7 start serving your sentence this Friday, August 26th,
8 1994 and I direct that you report and present yourself
9 to the officer in charge at the Yellowknife
10 Correctional Center no later than 6 p.m. that day, and
11 the first weekend will end in the morning of Monday,
12 August 29th, at which time you will be released by the
13 officials of the Yellowknife Correctional Center and
14 you will report in the same manner at the same times
15 every weekend until your sentence is served. Do you
16 understand that, sir?

17 THE ACCUSED: Yes, I do.

18 THE COURT: Now, during the time that you are
19 serving your sentence and starting from today and
20 ending at a time one year after you finish serving
21 your sentence, so in other words, all the time that
22 you are serving these weekends and for a period of one
23 year after you finish serving the time, you will be on
24 probation and the terms of that probation will be that
25 you are to keep the peace and be of good behavior. You
26 are to report forthwith to the probation office here
27 in Yellowknife and to continue to report to your

1 probation officer as directed by him or her. You are
2 to take such counselling sessions or other programs
3 that your probation officer directs. And you are to
4 have no contact directly or indirectly with Arlene
5 Carmichael with one exception, that is that if a court
6 of competent jurisdiction makes a determination as to
7 some custody, access, and maintenance arrangements
8 with respect to your child, then any contact that you
9 do have will be up to that Court to determine at that
10 time. So the non-contact I will defer to any
11 subsequent order should there be one made in terms of
12 access and maintenance for the child.

13 Now, Mr. Gaudet, I'm sure you know but just so
14 that there is no mistake about it, if at any time you
15 do not abide by any of these conditions, if at any
16 time during the course of your probation you commit
17 any other offence, then you can be brought back and
18 you can be charged for that and the terms of this
19 probation, they can be changed and the terms can be
20 altered. Do you understand that, sir?

21 THE ACCUSED: Yeah, there won't be any problems.

22 THE COURT: I'm sure there won't be either, you
23 may have a seat. Is there anything else, counsel? Do
24 we need an order with respect to exhibits?

25 THE CLERK: Yes, My Lord, we do.

26 THE COURT: I can't recall what exhibits there
27 were.

1 MR. ROSE: I believe there were just the
2 photographs, My Lord.

3 THE COURT: Well, if it's just the photographs
4 then they can stay on the file.

5 MR. ROSE: Sure.

6 THE COURT: Is there anything else, counsel?

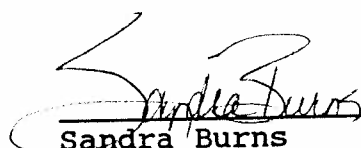
7 MR. MCLAREN: No, My Lord.

8 THE COURT: Well thank you, gentlemen, we will
9 close court.

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


Sandra Burns
Court Reporter