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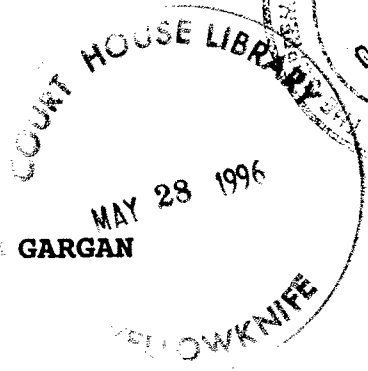
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

FRANK MAURICE GARGAN



Transcript of Reasons for Sentence delivered by The Honourable Mr. Justice J.Z. Vertes, sitting at Fort Providence, in the Northwest Territories, on Wednesday, October 11, A.D. 1995

APPEARANCES:

Mr. J.A. MacDonald: For the Crown

Mr. S.M Shabala: For the Defence

(Charges under Section 139(2) of the Criminal Code)

1 THE COURT: Frank Maurice Gargan has entered a plea
2 of guilty to a charge that on or between the 14th day
3 of April, 1994 and the 6th day of July, 1994, at Fort
4 Providence, he did wilfully attempt to obstruct the
5 course of justice by dissuading Lucas Minoza by corrupt
6 means from giving accurate evidence, contrary to
7 Section 139 of the Criminal Code.

8 What that charge really boils down to is that
9 Mr. Minoza and Mr. Gargan entered into an arrangement
10 whereby Mr. Gargan said he would pay Mr. Minoza for
11 Mr. Minoza's false testimony in criminal proceedings
12 against Mr. Gargan.

13 Apparently, Mr. Gargan was charged with an assault
14 that caused bodily harm to Lucas Minoza. That assault
15 allegedly occurred on April 14th, 1994. As a result of
16 that charge, Mr. Minoza initiated an arrangement
17 whereby he would testify falsely so that Mr. Gargan
18 could avoid conviction on the assault charge.

19 I am told that the agreement was that Mr. Gargan
20 would pay Mr. Minoza \$375, although, apparently, there
21 is no evidence that money ever changed hands, and
22 Mr. Gargan denies that any money was ever paid.
23 Mr. Gargan to this day denies committing the assault on
24 Mr. Minoza, and those proceedings were stayed.

25 I am told that at the preliminary hearing into the
26 original assault charge, Mr. Minoza claimed a lack of
27 recollection and intoxication. His evidence was

1 false. But, curiously, I am also told that Mr. Minoza
2 was never charged with anything arising out of this
3 arrangement. He was not charged with perjury. He was
4 not charged with attempting to obstruct justice. And
5 Mr. Gargan stands before the Court as one half of this
6 arrangement that apparently was initiated by
7 Mr. Minoza.

8 Crown suggests incarceration for a period of nine
9 to twelve months and the defence does not take any
10 serious objection to that range. Certainly, if one has
11 regard just to the type of offense and to the nature of
12 the offender (certainly, the history of the offender)
13 that range is quite an appropriate one.

14 Mr. Gargan is 43 years old and he has ten criminal
15 convictions between 1969 and 1993. Some of them are
16 very serious indeed - serious crimes of violence for
17 which he has been sentenced to lengthy periods of
18 incarceration. His last conviction was in February
19 1993 in which he was convicted on two counts of sexual
20 assault and sentenced to four months imprisonment on
21 each charge and probation for 18 months. Therefore, at
22 the time of the alleged assault and at the time of this
23 arrangement, he was on probation, which also is an
24 aggravating factor.

25 Obviously, an offense of this type is very serious
26 as it strikes at the very administration of justice.
27 The public at large should be able to count on the

1 proceedings of the courts to be above suspicion or
2 coercion or bribery. But I find it difficult to
3 contemplate the range suggested by Crown in view of the
4 fact that it was Mr. Minoza who initiated this
5 arrangement, Mr. Minoza who lied in court, and
6 Mr. Minoza who has walked away from this for some
7 reason without any adverse consequences whatsoever.
8 But I must have regard to the fact that this is a crime
9 that touches on the administration of justice and must
10 be dealt with seriously. I must also consider the
11 serious record of criminal convictions of this man. I
12 can only hope that by now, at his age, he would have
13 greater insight into his own actions and try and
14 finally walk a straight line, as it were, as opposed to
15 constantly coming back and forth into court.

16 I am sure, Mr. Gargan, you understand that the more
17 times you keep coming back into court, the harder it is
18 just going to get, even for little things now.

19 Stand up, Mr. Gargan.

20 I take into account the fact that you have entered
21 a plea of guilty to this charge. I also take into
22 account all that has been said both by your lawyer and
23 by the Crown counsel. I hereby impose a sentence of
24 nine months imprisonment. There will be no victim of
25 crime fine surcharge. You may have a seat.

26 Is there anything else that we need to do, Counsel,
27 with respect to this matter?

1 MR. MacDONALD: Nothing, sir.

2 MR. SHABALA: Nothing, My Lord.

3 (REASONS FOR SENTENCE CONCLUDED)

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

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Jane Romanowich
Court Reporter

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