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IN THE TERRITORIAL COURT OF THE 'NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

CHARLES TIMOTHY GAUDET

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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.

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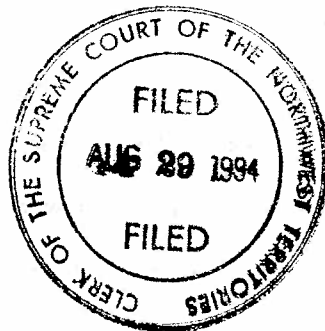
APPEARANCES:

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.

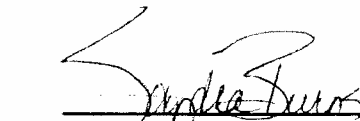
22 THE COURT: I'm sure there won't be either, you  
23 may have a seat. Is there anything else, counsel? Do  
24 we need an order with respect to exhibits?

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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11  
12 Certified Pursuant to Practice Direction #20  
13 dated December 28, 1987.

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16 Sandra Burns  
17 Court Reporter  
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