

50 02 476  
jlr  
CR 02476

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

PETER EDWARD DRYGEESE

---

Transcript of a Reasons for Sentence Delivered by the Honourable Mr. Justice J. Z. Vertes, sitting at Yellowknife in the Northwest Territories, on Thursday, May 5th, A.D., 1994.

---

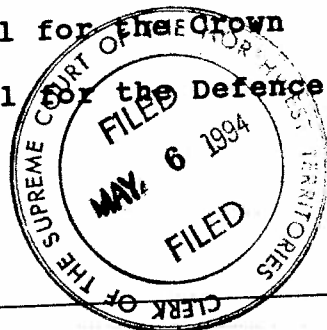
APPEARANCES:

MR. D. CLAXTON:

Counsel for the Crown

MR. P. BOLO:

Counsel for the Defence



1 THE COURT:

2 Peter Edward Drygeese has entered a  
3 plea of guilty to a charge of manslaughter arising  
4 from the death of Alphonse Simpson at Yellowknife on  
5 September 29, 1993. The facts are set out in an  
6 agreed statement of facts, and I need only summarize  
7 them.

8 On the evening of September 28th and in the early  
9 morning hours of September 29, 1993, the accused,  
10 together with the victim, who was 48 years of age, and  
11 at least two other persons were at a residence in the  
12 Old Town area of Yellowknife. All of the persons,  
13 including the victim and the accused, had been  
14 drinking.

15 During the night the accused assaulted the victim  
16 over a prolonged period of time. From the injuries  
17 eventually observed on the victim after his death, I  
18 have no doubt that the assault was a particularly  
19 vicious one. The accused hit the victim with his  
20 hands and his feet. The accused hit the victim using  
21 a golf club. The accused used the same golf club to  
22 burn parts of the victim's body after heating the golf  
23 club in a wood stove. This golf club, which was an  
24 iron, was present in the room as it was normally used  
25 as a fire poker for the wood stove.

26 During most of this beating the victim was laying  
27 on the floor. The accused was observed by two other  
persons in the residence to be beating on the victim

1 at different times, and both persons asked the accused  
2 to stop. However, the accused told them to go back to  
3 sleep.

4 The next day, even though the victim was laying in  
5 blood on the floor, the accused and the others left.  
6 Shortly afterwards, the accused returned to the  
7 residence with another person. There he drank more  
8 liquor and eventually passed out inside the residence.  
9 The other person left and eventually the body of the  
10 victim was discovered, and the accused was arrested.

11 The postmortem examination revealed severe and  
12 multiple head and internal injuries. It is agreed  
13 between the prosecution and the defence that at the  
14 time of the offence the accused was intoxicated to the  
15 extent that he was unable to form the intent to cause  
16 the death of the victim. The accused has no  
17 recollection of what occurred during the time period  
18 in question but he accepts these facts. And no  
19 explanation has been given as to what caused the  
20 accused to so viciously beat this man.

21 The accused is a 30 year old Dene, born and raised  
22 in the Yellowknife area. He has a minimal education.  
23 I was told by his sister who grew up with him that  
24 they were raised by their grandparents, that they grew  
25 up with a lot of drinking, and that may in fact be a  
26 primary reason why both of them were unable to pursue  
27 their schooling. I thank his sister for being here

1           today and for telling me what she can about her  
2           brother.

3           I am sure that the accused is a very skillful and  
4           good worker when he is out in the bush. I am told  
5           that most of the time he supports himself by trapping  
6           in the winter months and working as a fire fighter  
7           during the summer months. Indeed, living in the bush  
8           seems to be the only way of life that the accused has  
9           known.

10          But never the less, it is also obvious that for  
11          some reason on the evening of September 28th last  
12          year, he lost control of himself and even though  
13          others had tried to tell him to stop, even though the  
14          next day the victim was laying in the blood on the  
15          floor of this residence, the accused took no steps to  
16          either stop himself or to assist the victim.

17          The accused does have a criminal record, albeit it  
18          is a short one, but it is a somewhat relevant one. In  
19          May of 1991 he was convicted of assault with a weapon,  
20          and sentenced to four months imprisonment.

21          Unfortunately, neither counsel could provide me with  
22          details as to that conviction. In 1993, he was  
23          convicted of mischief and fined, but I am told that  
24          he in fact served the default time.

25          Sentencing is always the most difficult aspect of  
26          the criminal justice system. In every case in trying  
27          to determine what is an appropriate sentence, one must

1 take into account the circumstances of the offence and  
2 the circumstances of the offender. As should be  
3 familiar to most people who follow the workings of our  
4 justice system, the main objectives of any sentence  
5 should be protection to the public, deterrence to  
6 others, and reformation of the individual offender.  
7 But while the objectives are easy to state, how to  
8 achieve them in any particular case is always a  
9 dilemma.

10 In manslaughter cases especially, it is difficult  
11 to lay down any overriding guidelines. Manslaughter  
12 is not murder. Manslaughter is the unintended killing  
13 of another human being. Manslaughter is an offence  
14 which embraces conduct ranging all the way from near  
15 accident to near murder. There is therefore a  
16 flexible range of punishment available to the  
17 sentencing court.

18 This is recognized by Parliament in that the  
19 Criminal Code gives virtually an unlimited range of  
20 options to the sentencing court in manslaughter cases.  
21 But it is a crime that results in the death of another  
22 human being. It is blameworthy conduct of a most  
23 serious kind, and for that the offender must be  
24 punished.

25 But because manslaughter does embrace such a wide  
26 range of conduct, the court has to make in every case  
27 and, particular to every case, an assessment of the

1 proper degree of moral fault attaching to the offence  
2 and to the offender.

3 In this case it should be obvious from the agreed  
4 facts that there is a high degree of moral fault  
5 attaching to this offence. This was a prolonged  
6 vicious attack. As Crown counsel points out, by the  
7 range and type of injuries noted on the victim, it is  
8 quite likely that the victim suffered over a prolonged  
9 period of time. It is particularly aggravating to me  
10 that the accused did not stop when he was asked to  
11 stop by others. And as I have already said, was  
12 callous enough to simply leave the residence the  
13 following day and then come back even with the victim  
14 still lying there and drink more liquor until he  
15 passed out.

16 So in my mind the degree of moral fault of the  
17 offender is also high. And therefore this case  
18 obviously calls for a significant period of  
19 incarceration.

20 But I do take into account the fact that the  
21 accused has entered a guilty plea. I attach  
22 significant mitigating weight to it. I think it is a  
23 genuine sign of his acceptance of responsibility, and  
24 I accept that he does feel sorry for what has  
25 occurred, even though he may be unable to explain it  
26 to himself.

27 I also take into account the fact that he has

1 served a little over seven months in pre-trial  
2 custody, and I give him credit over and above that  
3 straight seven months due to the fact that it is  
4 remand time.

5 Will you please stand, Mr. Drygeese. Mr.  
6 Drygeese, I hope that over the course of the next few  
7 years you will be able to sort out in your own mind  
8 and in your heart why you did what you did. And I  
9 hope in doing so you will be able to try and determine  
10 how you are going to live your life from here on in  
11 because you are still a young man and you are going to  
12 be released from prison after a period of time, and  
13 you will still have most of your life ahead of you,  
14 and there is still a chance for you to live an  
15 upstanding life, and to regain the respect of not only  
16 your family but others and perhaps yourself.

17 It is the sentence of this court that you serve  
18 a term of imprisonment of six years. You may sit  
19 down.

20 With respect to a Section 100 order, considering  
21 the circumstances of the case, and considering what I  
22 have heard about the personal history of the accused,  
23 his way of life, and indeed, as I said, the fact that  
24 living off the land is really the only way of of life  
25 that he is familiar with, I decline to impose a  
26 prohibition order. Under the circumstances, there  
27 will be no victim of crime fine surcharge. Is there

1 anything else, Counsel?

2 MR. BOLO: No, My Lord.

3 MR. CLAXTON: No, thank you.

4 THE COURT: All right. I should state, Counsel,  
5 that a copy of the transcript of my remarks on  
6 sentencing will be sent to the correctional  
7 authorities automatically. In terms of where Mr.  
8 Drygeese should serve his period of incarceration,  
9 while I recognize that there are certain advantages to  
10 him serving it here in the north because it is close  
11 to his family and he would be more likely to be in a  
12 familiar milieu, I think the correctional authorities  
13 would be in the best position to assess where would be  
14 the most appropriate placement for Mr. Drygeese,  
15 especially considering his rudimentary education and  
16 work skills. There may be other places where it would  
17 be best for him in terms of upgrading his education  
18 and life skills and other things so as to perhaps  
19 better equip him for the day when he is released. So  
20 I prefer to leave that in the hands of the  
21 correctional authorities.

22 MR. BOLO: Thank you, My Lord.

23 MR. CLAXTON: Thank you.

24 THE COURT: I want to thank both of you gentlemen  
25 for your submissions, and if there is nothing else, we  
26 will close court.

27 **(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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

L. Young  
Laurie Ann Young  
Court Reporter