

32 ON 45 031 P
CR 03087

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

WADE CLAYTON GUNVILLE



Transcript of the Sentencing of the trial held before The Honourable Madame Justice V. A. Schuler and jury, sitting in Yellowknife, in the Northwest Territories, on the 14th day of March, A.D. 1996.

APPEARANCES:

MR. B. SCHMALTZ:

Counsel for the Crown

MR. M. TRIGGS:

Counsel for the Defence

1 THE COURT: Well, in this case, I obviously
2 have accepted the jury's verdict that Mr. Gunville is
3 guilty of assault on Connie Claffey, and the evidence
4 from Connie Claffey in that regard was of a serious
5 assault.

6 She testified that he had held his hand at her
7 throat, that he was holding her arms and digging his
8 fingers into her arms, and she also testified about him
9 hitting her in the face, and even on his own evidence,
10 the blow to the side of her face, which left a large
11 bruise was obviously a serious and a forceful blow.

12 It is well-established that in cases of this
13 nature, by which I mean cases of spousal assault, which
14 is such a problem in society, it is well-established,
15 as I say, that protection of the public is the overall
16 objective of sentencing for that offense as it is for
17 any offense. It is also well-established that any
18 sentence I impose must emphasize the principles of
19 deterrence, both deterrence of Mr. Gunville, himself,
20 and of other individuals from this type of behavior and
21 also denunciation to show that society denounces this
22 type of behavior.

23 The Court of Appeal in this jurisdiction has, in
24 the past two years, substantially increased sentences
25 that were imposed in lower courts for offenses of
26 spousal assault. Fortunately, this is not a case where
27 a weapon was used or where there were lasting injuries

1 to the complainant or where the assault took place over
2 a prolonged period of time, although, clearly, this was
3 not one incident. This was a number of incidents, and
4 it did last some time during the evening.

5 I have to keep in mind, however, that the jury
6 clearly found that there was no bodily harm resulting
7 from the assault. Nevertheless, it was, as I say, a
8 serious assault.

9 I have no doubt, based on the evidence I heard,
10 that the relationship between these two people, Mr.
11 Gunville and Ms. Claffey, was, I guess, what I would
12 have to call dysfunctional, that there were a lot of
13 problems in the relationship, but I am not here today
14 to sentence Ms. Claffey or to, in any way, judge her
15 behavior. I am here to sentence Mr. Gunville.

16 Mr. Gunville has, I have noticed, been upset
17 through these proceedings, but Mr. Gunville also has
18 exhibited this type of behavior in the past and has
19 been in court on five different assault charges albeit
20 only one of those for spousal assault. But on each
21 occasion but one, he has been given a fine, and I would
22 say, therefore, has been treated fairly leniently. On
23 the prior spousal assault, he was given a suspended
24 sentence, and from what I heard about the facts of that
25 case, he was obviously treated quite leniently.

26 I would agree with Crown counsel that this offense
27 merits a term of incarceration. I have to take into

1 account the amount of time that Mr. Gunville has spent
2 in remand on this charge. I am told that it is two and
3 a half months that he spent in remand. Remand time is
4 commonly considered to be hard time and, therefore, is
5 usually given credit for more than the actual time
6 spent in remand, and that credit is applied against the
7 sentence imposed.

8 I take into account what defense counsel has said
9 about Mr. Gunville's own family background, and I would
10 only note that unfortunately it seems to be quite
11 common that people with a violent family background, in
12 turn, engage in violence, but on the other hand, there
13 are people who come from a violent family background
14 who manage, in some way, to put that behind themselves
15 and don't engage in violence.

16 I don't think, Mr. Gunville, that you can blame
17 your family background for any behavior that you engage
18 in. Somehow you have to get over that, and you have to
19 abide by the rules of society. No one else can do that
20 for you. You have to do that yourself.

21 Taking in account all of the circumstances, taking
22 into account, as well, the remand time, I am going to
23 impose a sentence in this case of five months in jail.
24 I will also order that there be a period of probation
25 of one year. One of the conditions of that probation
26 order will be that Mr. Gunville have no contact
27 directly or indirectly with Connie Claffey.

1 Now, Mr. Gunville, you may not like that
2 condition, but you are going to have to abide by it.

3 THE ACCUSED: Can I just say something, please?

4 THE COURT: All right. You can say
5 something.

6 THE ACCUSED: Last night when Connie and I
7 talked here, she said she loved me, and she was missing
8 me, and she made a phone call over to YCC to make an
9 appointment to come and visit me.

10 THE COURT: Well, she is not going to be
11 able to do that, Mr. Gunville, because I am making the
12 order that you not have any contact with her. Now, if
13 there is good reason in the future to change that
14 order, then an application can be made to change it,
15 but I am going to make the order that there be no
16 contact, and I am doing that based on what Ms. Schmaltz
17 has told me Ms. Claffey has indicated to her. I am
18 also going to direct that a term of the probation order
19 be that you receive counselling. I am going to suggest
20 that ought to be counselling for anger management, but
21 it will be up to Social Services to decide what kind of
22 counselling is most appropriate. I am also going to
23 direct that you receive counselling with respect to the
24 consumption of alcohol, if Social Services determines
25 that that is appropriate. There will also be the
26 standard condition that you keep the peace and be of
27 good behavior.

1 Is there anything further counsel?
2 MS. SCHMALTZ: Just -- My Lady, is the victim of
3 crime surcharge waived?
4 THE COURT: Yes, it will be waived.
5 MS. SCHMALTZ: Nothing further then.
6 MR. TRIGGS: Nothing further from defense, My
7 Lady.
8 THE COURT: Thank you very much, counsel for
9 your presentation of the case.

10 -----
11
12 **Certified Pursuant to Practice Direction**
13 **#20 dated December 28, 1987**

14 *Rae Gajadhar*
15 _____
16 **Rae Gajadhar**
17 **Court Reporter**

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27