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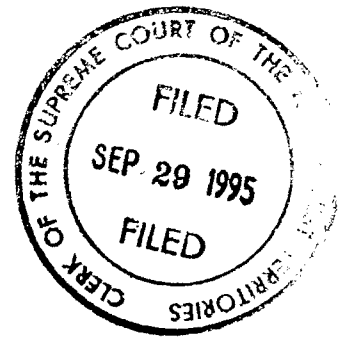
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs -

GEORGE BETSAKA




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Transcript of the Reasons for Sentence of The Honourable  
 Mr. Justice J.Z. Vertes, sitting at Fort Simpson, in the  
 Northwest Territories, on September 14h, A.D., 1995.

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APPEARANCES:

MS. U. ARVANETES	Counsel for the Crown
MR. H. LATIMER	Counsel for the Accused

1 THE COURT: The accused has been convicted by a  
2 jury on a charge of aggravated assault.

3 On October 6, 1993, the accused was visiting at  
4 his sister's home in Fort Liard. He was drinking. His  
5 sister wanted to keep him out of the house because she  
6 and her children were trying to sleep. He was out on  
7 a balcony pounding on a door to get in. She went  
8 outside. They got into a fight. The accused pushed  
9 his sister causing her to fall off the balcony landing  
10 six feet below on the hard ground. The fall broke a  
11 vertbrae in the victim's back. She is now a complete  
12 paraplegic and confined to a wheelchair for the rest  
13 of her life. It's fair to say that her whole life has  
14 been devastated by this turn of events.

15 The crime of aggravated assault carries a  
16 potential maximum penalty of 14 years imprisonment.  
17 But there is a wide range of conduct that could lead  
18 to this offence being committed. The mental elements  
19 of the offence are the general intent to commit an  
20 assault and objective foreseeability of a risk of  
21 harm. The offence therefore could be committed by a  
22 deliberate pre-meditated act of violence with full  
23 intent to commit the harm caused. That would be at a  
24 high category of culpability. At a lower end would be  
25 the commission of what would ordinarily be a simple  
26 assault, but, due to recklessness on the part of the  
27 accused, wholly unintended but serious consequences

1           ensue. That is more like the case before me now.

2           The accused was drunk, he was reckless, and he  
3 was out of control. But I have no doubt that he never  
4 intended to cause the tragic consequences of his act.  
5 I am satisfied that he did not intend to cause any  
6 harm to his sister. But, while I must not place undue  
7 emphasis on these unintended consequences, I remind  
8 myself that Parliament, by setting the potential  
9 maximum penalty at 14 years, has decreed that more  
10 serious consequences must attract more serious  
11 penalties.

12           The accused is 45 years old. He lives in the  
13 small community of Nahanni Butte. He has a good  
14 reputation. But, he also has a record of criminal  
15 convictions. He has been convicted of seven offences  
16 since 1977. Among those are two offences that are  
17 related to this type of conduct. In 1989 he was  
18 convicted of assault causing bodily harm, and in 1994  
19 he was convicted of common assault. I am also told  
20 that he has a long standing problem with the abuse of  
21 alcohol; his counsel describes him as an alcoholic.  
22 Obviously alcohol played a big factor in this event. I  
23 am sure that if the accused had not been drinking that  
24 night, his sister would still be able to walk. But  
25 what these two facts say to me, the fact that the  
26 accused has had a long standing problem with alcohol  
27 abuse and the fact that he has been convicted of

1 related offences previously, is that this conduct for  
2 which he now stands convicted does not stand wholly on  
3 character. It is not something that was totally  
4 unforeseen.

5 The accused is a mature man and I am sure over  
6 the years he has been made aware of how he acts when  
7 he drinks. So for that reason I cannot say that this  
8 is an offence that is almost accidental, or an offence  
9 that is totally out of character for the accused. The  
10 only thing that makes this offence different are the  
11 tragic consequences that ensued and that his sister  
12 will now have to live with for the rest of her life.

13 Taking all the relevant factors into account, I  
14 feel I have no alternative but to impose a  
15 penitentiary sentence in this case, although having  
16 regard to what I said earlier, the lack of any intent  
17 on the part of the accused to cause harm to his  
18 sister, I believe I can keep it at the lowest possible  
19 range.

20 Stand up, Mr. Betsaka. Mr. Betsaka, I am sure  
21 that you are sorry for what happened to your sister.

22 THE ACCUSED: Yes, Your Honour.

23 THE COURT: I am sure that if you could turn back  
24 the hands of time that you would do everything in your  
25 power to do so.

26 THE ACCUSED: Yes, Your Honour.

27 THE COURT: But I am also sure that you know that

1 the only reason your sister is confined to a  
2 wheelchair is because you got drunk and because you  
3 got reckless. While you are going to be serving some  
4 time in prison, you will be released at some point in  
5 the future, but your sister will never be released  
6 from the prison of that wheelchair. And that is, I  
7 think, what you will have to live with and that is  
8 probably a bigger punishment than anything I can  
9 impose.

10 It is the sentence of this Court that you serve a  
11 period of imprisonment of three years. Under the  
12 circumstances, considering where the accused lives, I  
13 do not think it would be appropriate to make any order  
14 under Section 100 nor a victim of crime surcharge in  
15 this case. Have a seat, Mr. Betsaka.

16 I will endorse the warrant of committal with the  
17 recommendation that Mr. Betsaka serve his sentence, if  
18 possible, in a facility here in the Northwest  
19 Territories.

20 MR. LATIMER: Thank you, My Lord.

21 THE COURT: And also that he be considered at an  
22 early opportunity for counseling and treatment  
23 programmes for alcohol addiction. Is there anything  
24 else we need to deal with?

25 MS. ARVANETES: That is everything, sir.

26 THE COURT: Thank you counsel. Before we close I  
27 want to thank everybody involved in this case for

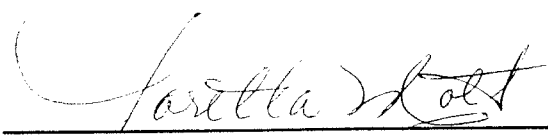
1           their cooperation and efforts in making things go so  
2           smoothly.

3           We will close court.

4           (AT WHICH TIME THIS MATTER WAS CONLCUED)

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



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Loretta Mott,  
Court Reporter