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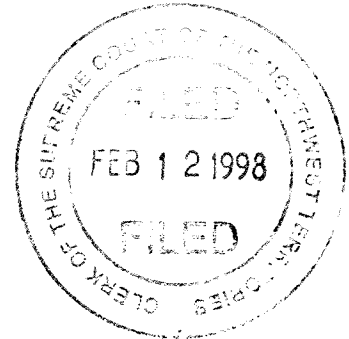
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

FRANCOIS DENAULT



Transcript of the Oral Reasons for Sentence of The Honourable Justice J.Z. Vertes, sitting in Yellowknife, in the Northwest Territories, on the 9th day of February, A.D. 1998.

APPEARANCES:

Mr. B. Allison:

Counsel for the Crown

Mr. V. Foldats:

Counsel for the Defence

1 THE COURT: In this case the accused has
2 entered a plea of guilty to a charge of robbery. The
3 charge arose from the armed robbery of the Range Lake
4 Gas Bar on December 16, 1992 here in Yellowknife.

5 The facts reveal that the accused and another
6 individual attended at the gas bar. Both of them were
7 armed with pistols, albeit I am told without
8 ammunition. Both of them were masked. One of them
9 stood guard outside while the other one went inside and
10 demanded the cash from the till. The amount stolen was
11 approximately \$887.

12 I am told that the investigation took a long time
13 for various reasons, but eventually the accused was
14 apprehended and he has today entered a plea of guilty
15 to the charge just prior to the commencement of his
16 scheduled jury trial on that and other charges.

17 Crown and defence have made a joint submission for
18 a term of imprisonment of two years together with a
19 firearm prohibition order. Ordinarily a charge such as
20 this would draw a sentence certainly higher than two
21 years. It is not inconceivable, even with the relative
22 young age of the accused and the passage of time since
23 the offence, for a sentence in the range of four to
24 five years to have been imposed for this crime.

25 I note, for the interest of Mr. Denault and
26 others, that if this crime had been committed now,
27 under the terms of the Criminal Code where a firearm is

1 used in the commission of a robbery, the maximum
2 potential penalty is life imprisonment; but there is
3 now a mandatory minimum penalty of four years
4 imprisonment.

5 In this particular case both counsel have
6 identified all of the relevant factors. There are
7 certainly a number of mitigating circumstances, primary
8 among them being the guilty plea. It is clear to me
9 that the accused is a young, intelligent man from a
10 good family. I am sure that he appreciates and
11 understands that only he can control his future and
12 that if he does not start to take control of his
13 future, then his future could be very bleak indeed.

14 I cannot say the accused was acting out of
15 character when he committed this offence. His record
16 belies that.

17 He has a record of seven convictions in youth
18 court between 1991 and 1992. He has 13 convictions in
19 adult court between 1993 and 1997; although I note, as
20 Crown counsel noted, that while this particular offence
21 for which I sentence him today may not be his first
22 adult sentence, it was his first adult crime. So I
23 keep that in mind.

24 In my opinion, the Court should be reluctant to
25 depart from a joint submission except where the joint
26 submission is grossly disproportionate to the range of
27 sentence that would be fit and appropriate. In this

1 particular case I think the joint submission has a
2 great deal of merit, especially considering the fact
3 that a guilty plea has been entered and a lengthy and
4 expensive trial has been avoided.

5 I note, as well, that the accused is currently
6 serving a three-year sentence and, therefore, I must
7 keep the total period of incarceration in mind in
8 considering the appropriateness of the joint
9 submission.

10 Would you stand, Mr. Denault? Mr. Denault, I
11 accept the joint submission from Crown and defence, I
12 think your counsel has done actually even more than
13 would ordinarily be expected in achieving this result.
14 I sentence you to a term of imprisonment of two years.
15 That term is to be served consecutively to your current
16 term of imprisonment.

17 It is my recommendation to the correctional
18 authorities that you be allowed to serve your term at
19 the Grande Cache facility in Alberta where you're
20 already serving your current term and, therefore, I
21 recommend that you be returned there to serve the
22 remainder of your term.

23 In addition, I will make a recommendation and a
24 request to the correctional authorities that they
25 reconsider the issue of your surgery. It seems to me
26 that it is pointless to have you wait until the end of
27 your lengthy sentence for that surgery to be done if

1 indeed there is a medical reason for that surgery to be
2 done now.

3 In addition, I impose a firearm prohibition order
4 under Section 100 of the Criminal Code. You will be
5 prohibited from having in your possession any firearms
6 or ammunition for a period of five years from the date
7 of your release, and I assume counsel can prepare the
8 appropriate order in that regard. You may sit down.
9 Is there anything else required?

10 MR. ALLISON: Just to deal with the other
11 counts, My Lord.

12 THE COURT: Very well, what is the Crown's
13 intention?

14 MR. ALLISON: I would suggest that a stay be
15 entered with respect to the remaining counts. I'll
16 prepare a formal document and file it with the clerk.

17 THE COURT: Very well.

18 MR. FOLDATS: And one final matter, My Lord.
19 There is one exhibit that we are concerned with, and I
20 would simply ask that the exhibits be returned to their
21 rightful owners.

22 MR. ALLISON: Yes, My Lord, that's not a
23 problem. One of them is a firearm and upon presentation
24 of either a proper Firearms Acquisition Certificate or
25 substantive proof that the person is exempt from the
26 provisions, then the firearms can be returned to their
27 proper owners as well.

1 THE COURT: Where are these exhibits now?

2 MR. ALLISON: I assume, Sir, they're at the
3 detachment.

4 THE COURT: All right, then any exhibits in
5 this case can be returned to their rightful owners at
6 the expiry of the appeal period.

7 MR. ALLISON: Thank you.

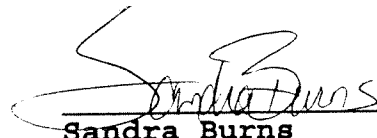
8 MR. FOLDATS: Thank you, My Lord.

9 THE COURT: Thank you, gentlemen. Madam
10 Clerk, we'll close court.

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



Sandra Burns
Court Reporter

