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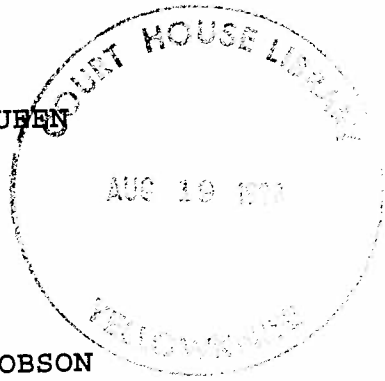
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

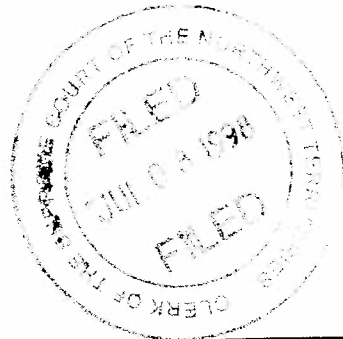
GILBERT WILSON JACOBSON



Transcript of the Oral Reasons for Sentence of The Honourable Justice J.E. Richard, sitting in Yellowknife, in the Northwest Territories, on the 25th day of June, A.D. 1998.

APPEARANCES:

Mr. L. Cadieux: Counsel for the Crown
Mr. P. Bolo: Counsel for the Defence



1 THE COURT: Now, Mr. Jacobson has pleaded guilty to
2 a serious crime of domestic violence and it is now the
3 Court's responsibility to impose a fit and appropriate
4 sentence for his crime.

5 Domestic violence has been a very disruptive
6 social problem in northern communities in recent
7 years. Invariably it occurs, as it did here, when a
8 man is intoxicated from alcohol consumption and he
9 administers a physical beating upon his spouse or
10 former spouse for no lawful reason or rational reason.
11 Men that conduct themselves in this fashion like this
12 offender, Gilbert Jacobson, suffer from an illness.
13 That illness is either alcoholism and or a mental
14 illness that causes them to want to exercise physical
15 or mental control over their spouse or a former
16 spouse.

17 Our society expects offenders such as Gilbert
18 Jacobson to take steps to deal with their illness. The
19 community can only do so much to help an offender.
20 After a while, such as in this case of Gilbert Jacobson
21 who is 40 years of age, it is the offender himself who
22 must take responsibility for his own personal
23 rehabilitation.

24 Society looks to the Court to ensure that
25 society's members are protected from violent offenders
26 such as Gilbert Jacobson.

27 In the context of this case and other cases of

1 domestic violence, the Court must not abdicate that
2 responsibility but must fulfill its responsibility by
3 imposing a fit and appropriate sentence in accordance
4 with the accepted principles of sentencing. The
5 fundamental objective of the sentencing process is to
6 promote respect for the law and to provide for a
7 peaceful and safe community in which people live
8 whether that community is Tuktoyaktuk, Yellowknife, or
9 Timbuktu.

10 A sentence that is imposed in cases of domestic
11 violence must, of course, reflect society's
12 denunciation or condemnation of the behavior as conduct
13 that is simply unacceptable to the community. The
14 sentence must be stern enough or harsh enough so as to
15 deter the offender from similar conduct in the future.
16 But most importantly, in my view, in a case of domestic
17 violence such as the one before the Court today, the
18 sentence must be one which will result in the offender
19 being removed from or separated from his community or
20 usual environment simply for the protection of people
21 in that community or environment and to allow the
22 offender a time and place and opportunity to
23 rehabilitate himself.

24 In the present case we have a 40-year-old offender
25 who has lived all of his life in the community of
26 Tuktoyaktuk. He has apparently been able to secure
27 seasonal employment on a regular basis over the years.

1 He also is a traditional hunter and harvests country
2 food for himself and his family and for elders in the
3 community who are unable themselves to hunt for country
4 food.

5 Mr. Jacobson, I am told, lived common-law for 20
6 years with the victim in this case. This couple, I am
7 told, have four children ranging in ages from 2 to 19.
8 The offender and the victim separated in May 1997, four
9 months before the offence which gives rise to today's
10 court appearance.

11 This offender, Gilbert Jacobson, has a list of
12 Criminal Code convictions including four convictions
13 for assault. Two of those assaults were assaults on
14 his spouse, that is the same victim as in this present
15 case. Those earlier assaults occurred in 1988 and
16 1989. Mr. Jacobson was also convicted in 1989 for
17 uttering a death threat against his spouse. His most
18 recent conviction for a crime of violence was in
19 October 1996 when he was convicted of assault causing
20 bodily harm and sentenced to 45 days in jail. The
21 crime for which he is being sentenced today occurred on
22 September 5, 1997.

23 The circumstances of the crime are appalling and
24 shameful. Mr. Jacobson, in an intoxicated condition,
25 went to the victim's home and gained entrance without
26 permission and even though the house was locked. The
27 victim was sleeping and awoke to find Mr. Jacobson

1 assaulting her including kicking at her. Clumps of her
2 hair were pulled completely out and she received
3 injuries to her face resulting in her face being
4 swollen. Apparently Mr. Jacobson only desisted when
5 another adult arrived on the scene.

6 It is an aggravating feature of this crime that
7 this was a brutal and an unprovoked assault on his
8 long-time spouse. It is also an aggravating feature
9 that in committing the crime he broke into the victim's
10 home. The final aggravating feature is, of course, the
11 offender's previous history of similar criminal
12 behavior.

13 On the mitigating side, I take note of the fact
14 that Mr. Jacobson has pleaded guilty to the charge
15 though I find it difficult to give very much credit for
16 that as one would have thought that if Mr. Jacobson was
17 truly remorseful for what he did, if he was truly
18 taking responsibility for his unlawful and shameful
19 behavior, he would have acknowledged his guilt or
20 responsibility a long time ago, say within a few weeks
21 or within a month of committing the crime rather than
22 waiting nine months or until a jury trial was scheduled
23 at his request in his home community of Tuktoyaktuk.

24 Taking all of these factors and circumstances into
25 consideration, I am of the view that a meaningful
26 period of incarceration is required far from the
27 community of Tuktoyaktuk.

1 I am satisfied that the principles of sentencing
2 as applied to this offender and this offence would
3 normally require a period of incarceration of a minimum
4 duration of 18 months. However, I do note that the
5 Crown here seeks a sentence of 14 months plus
6 probation.

7 Let me address the situation of probation simply
8 and briefly by stating that I do not see any
9 practicality or efficacy whatsoever in placing this
10 40-year-old offender with his history of breaches of
11 the law under a probation order.

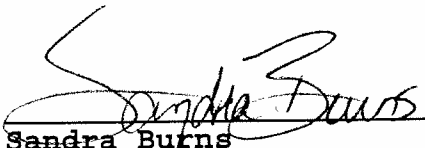
12 I turn now to the request for consideration for a
13 conditional sentence. I am not satisfied that the
14 serving of Mr. Jacobson's sentence in the community
15 would not endanger the safety of that community. And
16 further, in my view, imposing a conditional sentence
17 would be inconsistent with the principles of sentencing
18 particularly denunciation, deterrence, the need to
19 separate certain offenders from society and the
20 promotion of a sense of responsibility in the
21 offender.

22 Next I turn to the offender's application to be
23 exempted from the imposition of the Section 100
24 firearms prohibition order. I am satisfied that the
25 circumstances here are such that it would not be
26 appropriate to make the Section 100 order and also that
27 it is not desirable in the interests of safety that the

1 order be made. In granting the exemption I have taken
2 into consideration the factors listed in Subsection 1.2
3 of Section 100 of the Criminal Code.

4 Please stand now, Mr. Jacobson. Mr. Jacobson, for
5 the crime that you have committed, assault causing
6 bodily harm contrary to Section 267 of the Criminal
7 Code, it is the sentence of this Court that you serve a
8 term of imprisonment of 14 months. And in the
9 circumstances there will be no victim fine surcharge.
10 Thank you, sir, you may sit down.

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13 Certified Pursuant to Practice Direction
14 #20 dated December 28, 1987

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17 Sandra Burns
18 Court Reporter
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