

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES
IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

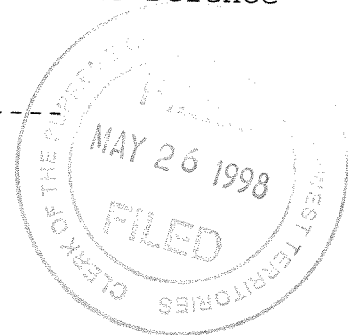
ROBERT FRANK GROSSETETE

Transcript of the Oral Reasons for Sentence delivered by
Justice V. A. Schuler, in Fort Simpson, in the Northwest
Territories, on the 12th day of May, A.D. 1998.

APPEARANCES:

MS. B. KOTHE:	On behalf of the Crown
MR. P. BOLO:	On behalf of the Defence

Charge under s. 267(1)(a) C.C.





1 THE COURT: With respect to sentencing of
2 Mr. Grossetete, sentencing is one of the most difficult
3 tasks that a judge has. The Court is always mindful of
4 the fact that there is more to a person than just the
5 crime that he's committed, and that there are always
6 factors that may explain, even if they don't justify, a
7 person's behaviour.

8 The paramount purpose of sentencing in the
9 criminal justice system is the protection of the
10 public. The objectives of sentencing are well known
11 and they're now set out in the Criminal Code. They
12 include that the punishment should reflect the gravity
13 of the crime and also that it should serve to deter the
14 accused and others from committing similar crimes.

15 I have already made my findings on the facts in
16 this case. It is fortunate that Ricky Tsetso was not
17 more seriously wounded by being hit with the ax. The
18 nurse's report indicates that he suffered a
19 12-centimetre long laceration that was 3 to 4
20 millimetres deep at its deepest. The nurse's report
21 says there was minimal bleeding and that Mr. Tsetso has
22 a full range of motion in his arm. Mr. Tsetso did say,
23 however, that it still bothers him, for example, when
24 he lifts things.

25 The behaviour that Mr. Grossetete displayed with
26 the ax obviously was dangerous behaviour. It could
27 have resulted in much more serious consequences. I

1 have to, of course, sentence Mr. Grossetete for what
2 did happen and not for what could have happened.

3 I have no doubt that alcohol and, in this case,
4 drugs were in part the cause of what happened. But I
5 use the word "cause" very carefully because
6 Mr. Grossetete knows, after 20 years of being in and
7 out of jail, how alcohol affects him. Mr. Grossetete
8 chooses to drink and he then has to bear the
9 consequences of that choice. I recognize that
10 Mr. Grossetete, as he said and as one of the witnesses
11 who testified on sentencing said, grew up affected by
12 alcohol and violence around him. I have certainly
13 heard many other young men in circumstances similar to
14 Mr. Grossetete say that when they talk about the effect
15 that their family background and their community
16 background has had on them. The sad thing, of course,
17 is that, in a way, Mr. Grossetete and others who drink
18 and who then become violent like him are simply
19 continuing the same thing. It's sad to think that
20 maybe in another 15 years a young boy who's maybe now
21 just 7, 8 years old, may come to court and this is the
22 kind of behaviour that he may be thinking of; in other
23 words, what Mr. Grossetete did when he says, Well, I
24 grew up in circumstances where there was a lot of
25 drinking and violence. It just seems that it keeps
26 going and going and it never stops until somebody
27 decides to stop drinking. People do decide to stop

1 drinking and I'm sure, Mr. Grossetete, that you can
2 decide to stop drinking. But you have to do it. I
3 can't make you do it and programs can't make you do
4 it. It's a choice that you have to make.

5 Mr. Grossetete is 30 years old. He is described
6 as a good worker by those who have worked with him.
7 He's described as having some talent as a carver. It's
8 said that he pretty much keeps to himself and that when
9 he's sober he's not a troublemaker.

10 He does have a criminal record going back 20
11 years. Obviously he was quite young when the record
12 first started accumulating. The first ten years,
13 approximately, are almost exclusively property offences
14 with some breach of undertaking, breach of court order
15 offences. And then after ten years the record becomes
16 one of violence. Mr. Grossetete has obviously a very
17 serious record for violence. He has at one point in
18 time, 1991, been sentenced to three years imprisonment
19 for assault with a weapon. I heard a little bit about
20 the circumstances of that assault. It appears that
21 after he was released from imprisonment for that
22 offence that he was then convicted of two assaults and
23 a mischief in 1995. I take it he was given a bit of a
24 break in that he was given a suspended sentence which,
25 however, was subsequently revoked, although the time
26 that he then got on the offences for which the
27 suspended sentence had been in effect wasn't very

1 lengthy. As I have said, the record is a lengthy one.
2 But I have to bear in mind that Mr. Grossetete has been
3 punished for the offences on his record and that I'm
4 not resentencing him at this time for what he's done in
5 the past.

6 The Crown has made reference to a dangerous
7 offender application should Mr. Grossetete come before
8 the court for a violent offence in the future.
9 Obviously that, Mr. Grossetete, is something that you
10 should spend a lot of time thinking about because if
11 you were to be declared a dangerous offender, one of
12 the options then is that the court sentences you to
13 indefinite imprisonment; in other words, a prison term
14 that has no definite end to it. It seems to me that
15 you're really on the brink here. As I have said, only
16 you can make the decisions about how you're going to
17 act in the future.

18 Because of the record, I have to be concerned
19 about individual deterrence; in other words, deterring
20 Mr. Grossetete from committing further offences. I
21 also have to be concerned about protection of the
22 public because there is a basis on which to say, from
23 the record, that in the past Mr. Grossetete has not
24 been out of jail for long when he's committed further
25 offences. So I have to be concerned about those
26 factors in this case.

27 I take into account that Mr. Grossetete waived the

1 preliminary hearing. I think it's a fair observation
2 that the trial was made as efficient as possible and
3 Mr. Grossetete certainly had the right to plead not
4 guilty. That's not to be held against him in any way.
5 So there has been some saving to the administration of
6 justice because of the way in which the matter
7 proceeded.

8 I don't know why Mr. Grossetete spent so much time
9 in remand. It's not clear to me why a case of this
10 nature would take 19 months to come to trial, but
11 obviously I have to take into account the fact that he
12 has spent now somewhere between 18 and 19 months on
13 remand. Although he's been able to take part in some
14 programs, remand generally is considered hard time. It
15 is also generally taken into account that one doesn't
16 earn any remission on remand time.

17 I did hear primarily in Mr. Grossetete's
18 cross-examination by the Crown that he hasn't, I
19 suppose, been a model prisoner during his remand time
20 and that there have been some problems. I don't find
21 it all that surprising that small things like what kind
22 of orange juice there is become big things when someone
23 is awaiting trial and perhaps doesn't have a lot of
24 other things to think about or to occupy their time.
25 As I say, obviously Mr. Grossetete wasn't a model
26 prisoner but I don't have any evidence of specific
27 infractions on his part in terms of disciplinary

1 infractions while on remand. So I don't see in this
2 case that there is really any reason to treat the
3 remand time all that much differently from the way I
4 have done in other cases. I am prepared to consider
5 that the remand time is equivalent approximately to
6 three years in this case.

7 Now, obviously Mr. Grossetete has on another
8 occasion been sentenced to three years in jail for a
9 similar offence. It seems to me that in this case, and
10 considering that there have been intervening offences
11 as well, the sentence I impose on him should be a
12 lengthier one. There is always a bit of a conundrum in
13 the sense that one way of protecting the public from
14 Mr. Grossetete is to simply say lock him up for as long
15 as possible because that way he can't hurt anybody. On
16 the other hand, he is still a fairly young man. I
17 don't see this as a case where I should simply lock him
18 up and throw away the key, to use an expression.

19 I am glad to hear that he has taken part in the
20 native healing program. I understand that it's a
21 relatively new program but it seems to me that there is
22 some hope for a person who takes part in something like
23 that and seems himself to show some enthusiasm about
24 it; as opposed to, for example, the kind of person who
25 sits on remand and refuses to do anything, refuses to
26 get involved or take part in anything at all.

27 So in all the circumstances and, in particular,

1 considering the amount of time that Mr. Grossetete has
2 spent on remand in this case, the sentence I'm going to
3 impose is obviously somewhat less than I would if he
4 hadn't had that remand time.

5 Mr. Grossetete, you did testify earlier, but I
6 should ask you if there is anything that you want to
7 say before I sentence you.

8 THE ACCUSED: Yeah, I'd like to say --

9 THE COURT: Could you just stand up, please?

10 THE ACCUSED: Well, you know, like I have done, you
11 know, even though, you know, the Crown Prosecutor may
12 say I did a little bit of hard time but it wasn't
13 always all that hard, hard time, and honestly it is
14 hard to do time in a segregated area. It's very hard
15 on a person when you're allowed out an hour per day.
16 Just part of how I feel. I feel I do, you know, I
17 recognize, I understand very well where you're coming
18 from and I understand my situation very well. I don't
19 consider myself to be, you know, stupid and may be
20 blind at times.

21 I don't really drink that much. Whenever I drink
22 I go get in trouble but I didn't realize that was the
23 last time. It doesn't matter if you drink every day
24 that you have a problem. When you get in trouble and
25 it is wrong. And I accept that fact already and done a
26 lot of soul-searching, a lot of thinking. I've gone
27 through my whole entire life and 19 months alone. And

1 I am very grateful that I had come out of my black out,
2 you know. And I, you know, on my own already, stand
3 right here, take ownership and responsibility for
4 this. I'm not afraid too because that's the way I am.
5 I'm very sorry it had to happen that way, you know. My
6 whole entire life I just don't know if I should be
7 sorry for it or feel sorry for myself or it's just the
8 way it was.

9 Things are changing today, I notice that now. A
10 lot of good things are happening. There is a lot of
11 awareness. A lot of people these days are aware, you
12 know. The younger kids these days are not -- are
13 different those days than it was when I was a kid. The
14 Native people are growing up. The amount of alcohol,
15 pretty raised us through hell but we survived. Just
16 coming out of the aftermath of it or whatever. It's
17 too bad that, you know, like it had to be that way but
18 that's the way it was and learn by my mistakes.

19 And I'm really sorry for what happened, like I
20 said, and I do seem to have found myself in the little
21 cell there in Yellowknife this time around. And after
22 all these years, 29, 30, in remand, I found myself
23 after those months and found out who I really was,
24 which was before I had no idea who I really was. I
25 have looked through my family history through church
26 services every Sunday and I'm just finding out the
27 background because I don't know who I was. I didn't

1 know who I was for a lot of years. These days I'm just
2 finding out now that I was related to Ricky and I
3 didn't know that. I'm related to a lot of people in
4 this town. I had no idea because nobody told me that
5 when I was growing up.

6 You know, alcohol and, you know, you know, and
7 it's a shame. Looking farther back into not just my
8 family history but Dene history from, you know, way
9 back, you know, trying to study and understand this
10 problem, you know, of alcoholism and where it come
11 from. And, you know, I have gone far back. I have
12 done a lot of reading books and I have gone far back to
13 the 1800s, you know, when the churches started coming
14 around here and did a little study, more studies on
15 residential schools and trying to figure out where the
16 problem came from, you know, my parents drinking, what,
17 you know. I don't even know if my parents -- I don't
18 even know how old my mom is. You know, I'm 30 years
19 old, I should know that. I don't even know how old my
20 dad is. You know, I should know these things. I don't
21 know nothing about them.

22 It's, you know, that's what alcohol does to you
23 and it's a lot of grief in my life. And a lot of hard
24 times where I had to pick myself up and try again,
25 seems like that's all I've been doing and I'm just
26 really tired of it.

27 A lot of talent in writing, you know, and as well

1 as carving, one more grade, get my Grade 12. Like, I'd
2 like to do some more writing in the future. I had some
3 writing I just wrote there in cells there all those
4 years and I wish I could show you them. And the other
5 writings, I've been published in the newspaper, you
6 know, Decho Drum here. And while I was waiting for
7 trial just to, you know, and I really do like writing
8 and I'd like to carry that on more. I'd like to take
9 some correspondence on that and further my education
10 and take more programs because, you know, most of all,
11 you know, you know, being alone most of my life and
12 stuff like that, just keeping to myself is sort of like
13 walking around, you know. Like I do care, I care a
14 lot.

15 But growing up in a place where you're not
16 supposed to care or you don't know how to care or
17 feeling for yourself or anything like that, that you
18 have to learn on these things from your own self. I
19 don't believe any kids these days should have to go
20 through that, you know, especially if they're
21 aboriginal, you know. There is always a problem. And
22 in those jails, you know, like YCC, you can look
23 around. There is a lot of young kids in that place and
24 I spend my time talking to them. They're all mixed up
25 and all that. And I see myself in them, you know, and
26 I do feel a lot for them and I believe, you know, I get
27 a lot of respect just from talking about it. I do

1 things different than, than the way -- than the way it
2 was the first time I stepped into that jail. The first
3 time I stepped into that jail was just negativity. You
4 don't do this. These days it's different. Just tell
5 them, you know, tell them how it is. I speak from my
6 heart all the time because I'm starting. Before I
7 couldn't do that. It's just like right now these days
8 after I have taken those two programs I have gotten in
9 touch with my feelings and learned that it was okay,
10 you know, to feel things. Which is before it was the
11 thought of being afraid is the amount of shame I get
12 from that, it's just, you know, enough to kill me. But
13 I didn't know it was okay to be afraid, to feel any
14 fear for, you know, things like that. Just been 30
15 years of hell. Who knows, maybe I could live another
16 30 years. On the road to change for myself, not for
17 anybody else, 'cause I want to have a good life, you
18 know. I want to take part in all the good things that
19 are happening here in the Northwest Territories, like
20 all the jobs, and I want to write and I want to
21 experience all that, you know.

22 I have stayed sober for about almost two years
23 before I started drinking again, from going to AA
24 meetings here in town. Which that time I worked with
25 because of Floyd and a few others, we all, in those two
26 years, stayed sober. Most happiest years of my life I
27 can remember. I want to get back into that feeling.

1 THE COURT: Thank you, Mr. Grossetete. Thank
2 you.

3 As I said earlier, and I think you recognize from
4 what you have said, obviously there are a lot of people
5 in your situation. But I'm sure you do not want the
6 younger kids that you've talked about growing up the
7 same way, but only you can change that. Only you can
8 change the kind of example you set for them. So
9 obviously you see that, you have some insight into
10 that. It seems to me that you should think about that
11 and consider not just for yourself, obviously you want
12 a change, but also the kind of example you're setting
13 for the kids coming up after you.

14 The sentence that I impose, considering all of the
15 circumstances, and I hope that on Mr. Grossetete's
16 record it will be reflected that this sentence takes
17 into account the remand time, is a sentence of two
18 years less a day incarceration.

19 I'm going to have the warrant endorsed with the
20 recommendation that Mr. Grossetete be permitted to
21 attend the native healing program as often as possible
22 - obviously, that's up to the correctional
23 authorities - and that he also be provided with anger
24 management counselling within that program or
25 separately.

26 Now, I didn't hear from you, Mr. Bolo, but a
27 firearm prohibition is not in issue?

1 MR. BOLO: It's not, My Lady.

2 THE COURT: There will be a firearm prohibition,
3 an order prohibiting Mr. Grossetete from possessing or
4 owing any firearms, ammunition or explosives commencing
5 today and expiring ten years from his release of
6 imprisonment.

7 Does your client have any items of that nature?

8 MR. BOLO: He doesn't.

9 THE COURT: We'll say that any such items are to
10 be surrendered forthwith to the RCMP. The victim of
11 crime surcharge will be waived.

12 Now, I'll just say, Mr. Grossetete, I think you
13 should appreciate that the sentence I have given you is
14 less than you might otherwise have expected because of
15 the remand time. I am encouraged to hear that you've
16 become involved in the native healing program and it's
17 my wish and my intention with the endorsement on the
18 warrant that you take that again certainly before
19 you're released from jail. My observations from
20 hearing you speak is that perhaps it has helped you
21 have some insight into your situation. You're at that
22 age where things can either get really bad from here -
23 as you've heard the Crown is thinking of bringing a
24 dangerous offender application if you are before the
25 court again - or, in effect, start acting your age and
26 start acting on the things that you've said to me today
27 about what you believe and how you feel about your

1 future. So I hope that you will work on those things
2 and that you will make a change.

3 Thank you very much, counsel.

4 Actually, I guess there should be an order with
5 respect to the exhibits.

6 MS. KOTHE: Yes.

7 THE COURT: Do you want them kept in the custody
8 of the RCMP?

9 MS. KOTHE: If could just have a moment. Yes.

10 THE COURT: They can be returned to the RCMP
11 pending the expiration of the appeal period. At the
12 expiration of the appeal period or determination of any
13 appeal, they can be either destroyed or returned to
14 their lawful owners.

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

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Annette Wright
Court Reporter

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