

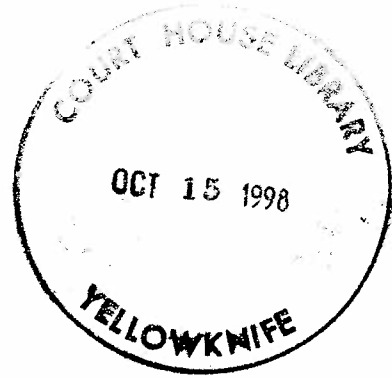
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

IRVIN GEORGE McPHERSON



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Transcript of a Decision delivered by The Honourable Justice  
J.Z. Vertes, sitting at Yellowknife, in the Northwest  
Territories, on Thursday, September 3, A.D. 1998.

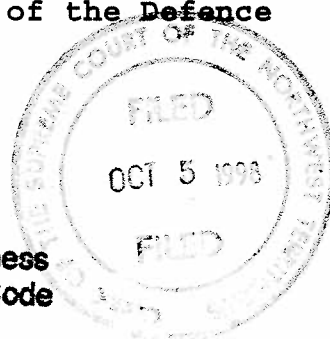
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APPEARANCES:

Mr. A. Regel: On behalf of the Crown

Mr. T. Boyd: On behalf of the Defence

Ban on Publication of Complainant / Witness  
Pursuant to Section 486 of the Criminal Code



1 THE COURT: Good afternoon, Counsel. I assume  
2 both of you have received copies of my Reasons for  
3 Decision.

4 MR. BOYD: Defence has, My Lord.

5 MR. REGEL: The Crown has as well, My Lord.

6 THE COURT: Just for purposes of the record,  
7 we are technically at the point where I must sentence  
8 Mr. McPherson for the conviction that was entered back  
9 on February 6th, 1997, for the offence of breaking and  
10 entering and committing sexual assault.

11 As my Reasons for Judgment point out, there was an  
12 application by the Crown to designate Mr. McPherson a  
13 dangerous offender. There was a six-day hearing in  
14 Fort Simpson. For the reasons set out in my Reasons  
15 for Judgment, I have concluded beyond a reasonable  
16 doubt that the evidence established a pattern of  
17 repetitive behaviour by Mr. McPherson which shows a  
18 failure to restrain his behaviour and a likelihood of  
19 his causing injury or severe psychological damage to  
20 others in the future. Therefore, I have found him to  
21 be a dangerous offender and I have concluded that there  
22 is no alternative but to impose a sentence of detention  
23 in a penitentiary for an indeterminate period in lieu  
24 of any other sentence that may be imposed.

25 I think that concludes the matter, gentlemen. I  
26 don't need to repeat verbatim my Reasons for Judgment.  
27 They are available and they will be published.

1 Mr. Regel, I received your message about your --  
2 question about your submissions that were filed on  
3 August 20th. I did not see those; they were not  
4 brought to my attention. I think the reasons why not  
5 have more to do with administrative difficulties than  
6 anything that is pertinent to this case. But,  
7 nevertheless, if you feel strongly about those points,  
8 you can take it up before the Court of Appeal, if there  
9 is one. But I don't think it is germane to the results  
10 of this case in any event.

11 Mr. Boyd, is there anything you need to deal  
12 with?

13 MR. BOYD: Not at this point, sir.

14 THE ACCUSED: Your Honour, can I speak?

15 THE COURT: Mr. Boyd, do you want to consult  
16 with Mr. McPherson for the moment?

17 MR. BOYD: My Lord, Mr. McPherson has  
18 requested that he be allowed to make some brief  
19 comments for the record.

20 THE COURT: All right.

21 THE ACCUSED: Clearly, the Crown was out to  
22 establish that I was a dangerous offender. So I want  
23 to set the record straight about my recollection about  
24 my arrest and trial.

25 On November 12th I was arrested at 12:30 by  
26 Constable Tsetso and Marlin Degrand. At the time I was  
27 arrested, they said I was arrested for suspicion of a

1 B and E, and I asked, Where did this take place? and  
2 they never told me. I asked to phone a lawyer, and  
3 that's when I phoned my sister to find out if she knew  
4 a lawyer that I can get a hold of. After that there,  
5 Constable Degrand took me into the breathalizer room  
6 and seized my clothing and boots, and at that time  
7 there I asked him to phone a lawyer before he does  
8 that, and he said, no, I can argue this in court.

9 I've been telling this to my lawyers right from  
10 the start there, about we have rights. The way I look  
11 at it, I don't have no rights. My rights were  
12 violated.

13 THE COURT: Is there anything else you wish to  
14 say?

15 THE ACCUSED: Yeah. And on November 15th, in  
16 J.P. court in Fort Simpson there, went for a show cause  
17 here, and Constable Degrand there, he was the Crown.  
18 He admits that there is a warrant for my arrest of -- a  
19 warrant for my arrest for my parole violation, and he  
20 said there's an accusation of a sexual assault, and  
21 it's on record that he said that we never acted on it.

22 You look at all this, all this stuff here, like  
23 this here and -- what's happening here? I've been  
24 railroaded right from the start.

25 And then this dangerous offender application here,  
26 the way I understood it is the Crown seeked it after I  
27 got convicted, and the law says that they're supposed

1 to seek it just before the trial, not after I get  
2 convicted.

3 THE COURT: Anything else?

4 THE ACCUSED: That's about all.

5 THE COURT: Thank you, Mr. McPherson. I'm not  
6 going to debate with you. I just want to repeat two  
7 things. One is what I said at the end of the hearing  
8 in Fort Simpson in July. It seems to me that you have  
9 received excellent representation both at your trial  
10 and at the hearing and that Mr. Boyd did everything  
11 possible on your behalf that could be done. That is  
12 the way it looks to me.

13 THE ACCUSED: Yeah.

14 THE COURT: The second thing I want to tell  
15 you is, and I'll paraphrase it, paraphrase the  
16 conclusion of my Reasons for Judgment: The Criminal  
17 Code mandates that there be a periodic review of your  
18 situation by the National Parole Board. My sentence  
19 does not necessarily mean that you are going to be  
20 spending the rest of your life behind bars.

21 Now, the National Parole Board has to, every few  
22 years, review your situation to decide whether you are  
23 eligible for parole and whether you should be paroled.  
24 Now, whether you are paroled or not will be, to a great  
25 extent, up to you.

26 I recommended in my Reasons for Judgment that the  
27 correctional authorities give very careful attention to


1 an assessment of your situation so that you are not  
2 simply warehoused in some penitentiary for the  
3 foreseeable future.

4 You remember at your hearing there was quite a bit  
5 of talk about some of the special programs that are  
6 being developed for native offenders. What I have  
7 recommended to the correctional authorities is that you  
8 be given an early assessment to see if you are suitable  
9 to any of those special programs and whether any of  
10 those special programs may assist you at this stage of  
11 your life and perhaps help you eventually to be  
12 paroled. So, to a great extent, it is up to you.

13 Thank you, gentlemen. This matter is over.  
14 Mr. McPherson can be removed.

15 .....

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

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21 Jane Romanowich  
22 Court Reporter  
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