

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

GLEN RUBEN

Transcript of the Oral Reasons for Sentence of The
Honourable Justice V.A. Schuler, sitting in Inuvik, in the
Northwest Territories, on the 20th day of January, A.D.
1999.

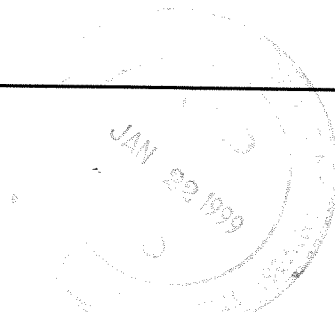
APPEARANCES:

Ms. J. Reid:

Counsel for the Crown

Mr. A. Fox:

Counsel for the Defence



1 THE COURT: Well, there will be a conviction in
2 this case on Count 2 of the Indictment, the assault
3 causing bodily harm on Garret Ruben.

4 I won't repeat the facts other than to say that
5 it's interesting in a way. It seems that certainly
6 in Southern Canada there is a lot of concern about
7 what are called "home invasion" offences where
8 essentially people barge into the home of older
9 people and sometimes beat them up and often take.

10 THE COURT: Money often in very small amounts.

11 Now I'm not -- this isn't the classic home
12 invasion case that one hears about from the south,
13 but here are a couple of people, a man 63 years old
14 who is in his home with his wife and his guests and
15 some young men barge in and there is some kind of a
16 melee or a fracas and when the wife tries to call the
17 police to get some help, she's prevented from doing
18 so and, in fact, the telephone line is broken and Mr.
19 Garret is punched in the face, kicked all over his
20 body and suffers, as I've heard, two black eyes, a
21 swollen face, and a cut to the extent that he had to
22 have stitches.

23 This kind of offence, it's shocking when it's
24 anyone who is treated this way in their own home, but
25 in my view it's especially shocking when it's someone
26 63 years old and I would suspect is probably
27 considered one of the elders in the community. I'm

1 not treating that as an aggravating factor because
2 that wasn't put to me as a fact, but I just make note
3 of that.

4 Really no reason is given for the assault on Mr.
5 Ruben other than things got out of hand after some
6 kind of an attempt to resolve a problem over a hat.
7 It is a serious offence however.

8 I bear in mind that I am sentencing Mr. Ruben on
9 a charge of assault causing bodily harm only, that
10 I'm not sentencing him for break and enter although
11 the surrounding facts are essentially that he did
12 barge into the house. There is no suggestion that he
13 had any right to be there or that he was wanted
14 there.

15 Mr. Ruben at the age of now 23 has quite a
16 lengthy record. I take into account that the only
17 conviction that's related in terms of a personal
18 injury type of offence, that being the causing death
19 by criminal negligence, occurred in 1988 when he was
20 12 years old and with the passage of time I don't put
21 really any emphasis on that particular conviction.

22 However since then, 1989, there have been three
23 convictions for break and enter and theft; in 1990
24 and 1992 also convictions for break and enter and
25 theft; 1996 two charges of break and enter and theft
26 and open custody; and in the latest case in 1996 when
27 I take it Mr. Ruben would have been an adult, there

1 was custody or a term of custody imposed as well.

2 Now, it's said that this offence is out of
3 character for Mr. Ruben and I accept that he's not a
4 person who is assaultive or aggressive with other
5 people but it is of concern that he has, at a fairly
6 young age, accumulated a criminal record. Part of it
7 being a youth record, in fact a large part of it
8 being a youth record, but I do have to take that into
9 account.

10 I take into account what has been said about him
11 apologizing to Mr. Ruben and his wife, although I
12 have to say that considering that the offence
13 occurred in November of 1997, an apology in early
14 1999 just before court is somewhat less weighty than
15 had it come at an early date.

16 I do take into account that Mr. Ruben has
17 pleaded guilty to the charge and that, in my view, is
18 an indication that he is taking responsibility for
19 what he did and that he is accepting his role in this
20 and, of course, it also saves the Rubens and anyone
21 else who was involved from having to testify which
22 I'm sure is the saving of some stress to them. So I
23 do take into account the fact that there has been a
24 guilty plea and that is to Mr. Ruben's credit.

25 The fact that there is an alcohol problem
26 doesn't really play a role in the sense that Mr.
27 Ruben, if you have an alcohol problem, then it is up

1 to you to deal with it. Don't wait for the Court to
2 tell you to do something about it because all you'll
3 do is accumulate more and more of a criminal record.

4 I take into account that Mr. Ruben's judgment
5 may have been affected to some extent by alcohol, but
6 unfortunately, that's simply all too common and it's
7 certainly not a mitigating factor.

8 Stand up please, Mr. Ruben? In all the
9 circumstances, Mr. Ruben, I sentence you to serve a
10 term of incarceration of eight months and I will
11 recommend that the warrant -- I will have the warrant
12 endorsed with the recommendation that you be given
13 access to alcohol counselling and treatment. You can
14 sit down.

15 On Count 1 then, counsel?

16 MS. REID: It's to be withdrawn please, My Lady.

17 THE COURT: Do you want to withdraw it or since
18 there has been a not guilty plea call no evidence on
19 it?

20 MS. REID: I'm prepared to call no evidence on
21 it, My Lady.

22 THE COURT: All right, that count will be
23 dismissed then.

24 MR. FOX: Thank you, My Lady.

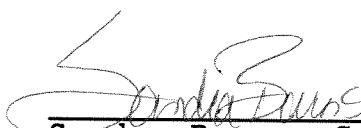
25 THE COURT: Is there anything further on this
26 matter, counsel?

27 MR. FOX: No, My Lady.

1 THE COURT: All right, thank you very much counsel
2 and we'll close court then.

3 (PROCEEDINGS CONCLUDED)

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

7 
8 Sandra Burns, C.S.R. (A)
9 Court Reporter