

CR 03631

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

JOHN JAMES WEDZIN

Transcript of the Oral Reasons for Sentence by The Honourable Justice T.P. O'Connor, at Yellowknife in the Northwest Territories, on September 21st A.D., 1998.

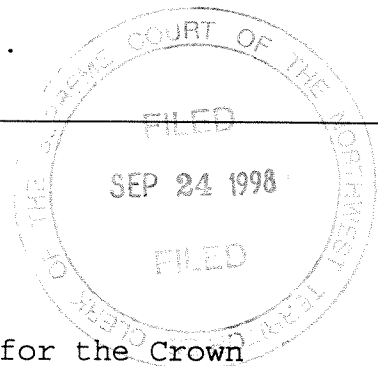
APPEARANCES:

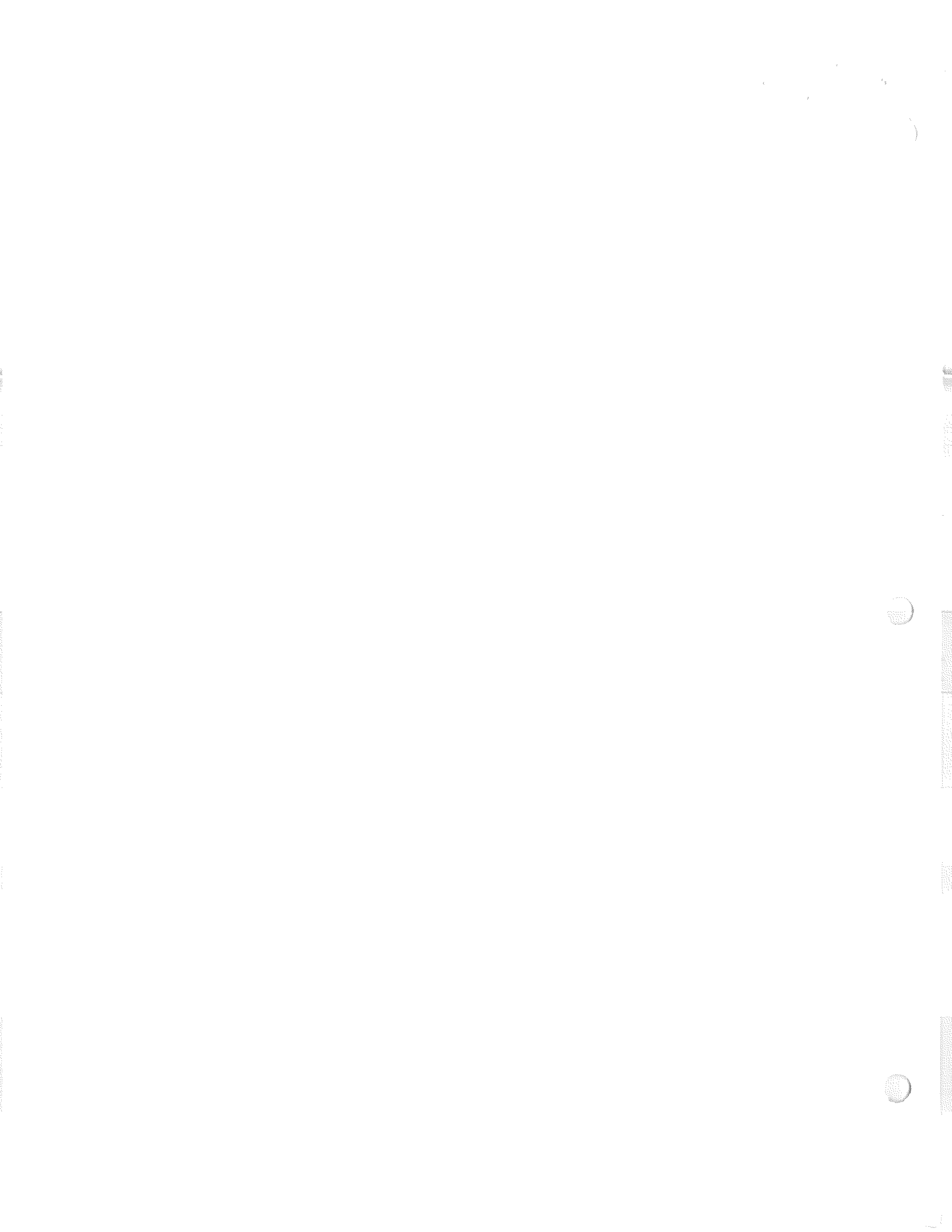
Mr. B. Allison:

Counsel for the Crown

Mr. V. Foldats:

Counsel for the Accused





1 THE COURT: I might say that when the Crown
2 first mentioned the joint submission of 12 months, I
3 had some pause for concern that it was perhaps not
4 appropriate for the offence before the Court given the
5 sexual assault component. I see that as perhaps the
6 more serious element of the offence although the Crown
7 has characterized it as an aggravating factor to a
8 break and enter and a break and enter, as has been
9 explained to you, Mr. Wedzin, is an extremely serious
10 offence for which the maximum penalty, break and enter
11 of a private residence that is, is life imprisonment.
12 So it gives you an idea of how seriously Parliament
13 views that kind of activity.

14 You have pleaded guilty to the offence before the
15 Court, you have confirmed the facts as indicated by the
16 Crown although I understand from your counsel that you
17 may not remember clearly some of the facts of that
18 evening due to the consumption of alcohol. Alcohol of
19 course is not a defence to the offence before the Court
20 and could not have been viewed as such. However I am
21 permitted in sentencing to take the excessive
22 consumption of alcohol into account in the sentencing
23 process.

24 I have listened carefully to your background as
25 put to the Court by your counsel and understand from my
26 brief tenure up here on a couple of previous occasions
27 that the story I heard is not, unfortunately, unusual,

1 that it is a typical situation among many native
2 families in the smaller communities.

3 Fortunately for you, sir, you have some very good
4 positives for you. That is your artistic ability. I
5 hope you are sincere in your desire to do everything
6 that you can to carry on with that activity and to make
7 that a part of your life in the future, to try and put
8 behind you the obvious aberrant conduct that you have
9 been carrying on for so many years since you were a
10 young offender.

11 The record is considerable, however as I read it
12 he has not on any occasion in the past served a
13 duration of sentence that is being recommended by both
14 counsel today.

15 Given all that the Crown attorney has said on your
16 behalf, and he has been very fair, as you will
17 recognize, in the way that he has characterized the
18 offence and the way that he has given you credit for
19 the plea of guilty and for your having relieved the
20 victim of this offence of having to attend in court and
21 give evidence. This is often very traumatic, as you
22 understand, especially for sexual assault victims who
23 have to re-live the events of that evening. Although
24 this was not a particularly severe sexual assault, any
25 sexual assault is serious and very often, most often,
26 traumatic to the victim of that sexual assault.

27 So I can say to you, sir, that although I had

1 initial reservations about the 12 months being
2 recommended by both counsel, I am going to sentence you
3 to a term of 12 months in custody.

4 I think that you should be very grateful to both
5 the counsel involved who have very sensitively put the
6 case before me and in particular your counsel who has
7 put the unfortunate circumstances -- some of the
8 unfortunate circumstances of your background before the
9 Court and which assists me therefore in agreeing with
10 the sentence that has been recommended by both of
11 them. So accordingly, sir, you will be sentenced on
12 this offence to a term of 12 months incarceration
13 consecutive to the term that you are now serving, being
14 three months commencing in August. I assume that you
15 will be eligible for parole in a short period of time.
16 Do you know your parole date on the other one?

17 THE ACCUSED: My release date? Is that my
18 release on the other charge?

19 THE COURT: Yes.

20 THE ACCUSED: That's --

21 MR. FOLDATS: -- October, sir.

22 THE COURT: Then the 12 months of course will
23 start at the time that you would have otherwise been
24 released on the previous offence, do you understand
25 that?

26 THE ACCUSED: (nods in the affirmative).

27 THE COURT: And perhaps you will not serve the

1 12 months if you are doing well in custody and behave
2 yourself, do you understand that too, because you have
3 been through the system before.

4 THE ACCUSED: Yeah.

5 THE COURT: I take into account, sir, in
6 sentencing you to 12 months the fact that you should
7 get some credit for the two months that you have been
8 held in custody after your arrest on this offence and
9 until you were convicted of the assault charge and
10 began serving your sentence on that offence. So that
11 is of assistance in agreeing to the 12-month sentence.

12 Counsel, is there any recommendation for
13 probation?

14 MR. ALLISON: My Lord, I had considered it in
15 respect of the question of substance abuse as evident
16 from the antecedents of the offender but it was not a
17 matter agreed between my friend and I and I was content
18 to leave it to the Court to consider whether that would
19 be a benefit to his reformation.

20 THE COURT: I of course am not fully familiar
21 with the programs and what would take place on a term
22 of probation up here. Is it likely if he is placed on
23 probation that he would get to actually work with a
24 probation officer which is often not the case where I
25 come from with the case loads that they have. Can it
26 be of positive assistance to him, because if it can I
27 will order it. Mr. Foldats?

1 MR. FOLDATS: The concern, My Lord, expressed by
2 Mr. Wedzin is that he is back and forth between
3 Yellowknife and Rae-Edzo and Alberta as I related with
4 respect to these other matters so it may be it might be
5 ineffective. In other words, it may be just some paper
6 and nothing of benefit comes from it.

7 The more important issue, I suppose, for
8 Mr. Wedzin is that any changes regarding substance
9 abuse have to come from within. He has been on
10 probation before, sir. It may be that incarceration is
11 what is needed if he is going to change, he will have
12 to find his own tools.

13 THE COURT: Just as a matter of interest to me,
14 are there programs in the Yellowknife Correctional
15 Center for substance abuse?

16 MR. FOLDATS: Yes, they do, sir. They have a
17 program that allows the offender to spend his last
18 month or so at Northern Addiction Services. It is a
19 new facility of perhaps a few years vintage near to
20 Yellowknife and it is supposed to be a good one so
21 there could be a recommendation that he receive
22 counselling while in custody.

23 THE COURT: Mr. Wedzin, would you like me to do
24 that, to recommend that you do receive some
25 counselling? Would you be voluntarily taking it?

26 THE ACCUSED: Yeah.

27 THE COURT: Would you avail yourself of that

1 program if I recommended that it be made available to
2 you?

3 THE ACCUSED: Yeah, but I don't think they will
4 let me do my time in Y.C.C.

5 THE COURT: You won't be doing your time in
6 Y.C.C.?

7 THE ACCUSED: No. They send me to Hay River
8 because the victim's father is working at the Y.C.C. as
9 a guard.

10 MR. ALLISON: Yes, My Lord, I know that the
11 present sentence is being served at the South Mackenzie
12 Correctional Center. I wasn't aware of the reason but
13 I have no doubt that the accused speaks properly in
14 that regard.

15 THE COURT: That's normally for shorter terms,
16 sentences, isn't it?

17 MR. ALLISON: Well, it can be but I think there
18 is a conflict because of the staff person familiar with
19 the circumstance so he has been moved to another
20 facility and I suspect that that will remain true for
21 the sentence imposed today.

22 MR. FOLDATS: Mr. Wedzin advises that there is
23 indeed a facility in Hay River as well so the
24 recommendation would be appropriate.

25 THE COURT: The Indictment in total reads as
26 follows: The accused reelected trial by Judge alone.
27 The accused pleaded guilty to the count before the

1 Court. The accused accepts the facts as read by the
2 Crown. The accused is found guilty and a conviction
3 registered. The accused is sentenced 12 months in
4 custody. Recommendation that the accused receive
5 substance abuse counselling while in custody. Is that
6 everything, counsel?

7 MR. ALLISON: Yes.

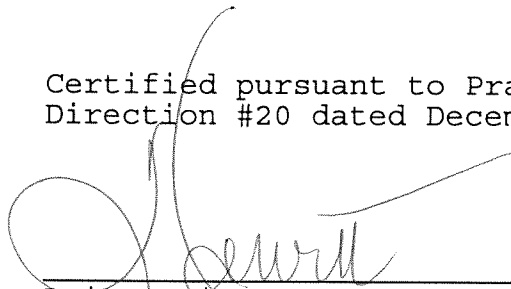
8 MR. FOLDATS: I believe that's all for this case,
9 My Lord. Thank you very much. We can deal with
10 Mr. Drybones at this point.

11 THE COURT: All right.

12 **(AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)**

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



Lois Hewitt,
Court Reporter

