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THE COURT:

I must say I am very impressed with the efforts of both of you, Counsel. In preparing for the application, I was struck by one thing, that in the event that there would have been a conviction and in the event that the sentence imposed would be incarceration, it could have resulted in a punishment that would be tantamount to cruel and unusual punishment to have Mr. S confined to, say, a penitentiary without friends, without possibility of communicating. Your resolution, your joint submission, is an imminently sensible one, it is an appropriate one, and taking into consideration the provisions of the Criminal Code recently passed concerning sentencing and the factors that have to be considered, I am satisfied it is clearly an appropriate sentence.

One never must forget the offender and the position that the offender is being placed in by a custodial sentence. One must never treat the offender other than as an individual, and the individual factors or the factors that apply to that individual must be kept foremost in the mind of the judge, together, of course, with the other principles if there is not severe conflict with them. In this case, a custodial sentence would be a very severe sentence with respect to Mr. S .

I therefore suspend the passing of sentence. I direct that he comply with the conditions described in

1 the probation order for three years. In addition to  
2 the usual conditions to keep the peace and to be of  
3 good behaviour, he will report within seven days to the  
4 adult probation officer here in Baker Lake.

5 Thereafter, he will report as often as required but at  
6 least once a month. There will be some restriction on  
7 his liberty in that there will be a curfew. Is it  
8 reasonable that it be 9 p.m.? Or should it be later if  
9 he is working, say, at the Northern Store?

10 MR. BOYD: If I could have a moment, Sir.

11 THE COURT: Yes.

12 MR. BOYD: Nine is satisfactory.

13 THE COURT: There will be a curfew from 9 p.m.  
14 until 6 a.m. the following day. This provision will  
15 remain in force for the first year of this probation  
16 order. The accused will do 240 hours of community  
17 service, and he'll complete that within 18 months. He  
18 will have no contact with S unless it is initiated  
19 by her, initiated voluntarily by her. I also direct  
20 that Mr. S participate and complete a recognized  
21 sign language training course which may, or which will  
22 be, hopefully, available for him here at Baker Lake.

23 With respect to the abstaining from alcohol, that  
24 is a condition that is often ordered, and if one has a  
25 proclivity to drink alcohol, it is a condition that  
26 really cannot be enforced and it's a condition that is  
27 too often breached. I don't think I will make that

1 condition. It doesn't seem to me that alcohol was the  
2 cause of this particular case or the result in this  
3 particular case. But I would suggest that if he does  
4 use alcohol, that he use it in moderation.

5 He will continue to live in Baker Lake unless  
6 given permission to move to another area or to another  
7 jurisdiction by the probation officer. He, of course,  
8 will notify the probation officer of any change of  
9 address so that contact can be maintained with him.

10 A copy of this order will be given to him and  
11 explained to him. If possible, it should be -- an  
12 attempt should be made to try to explain the terms to  
13 him and the problems that he would encounter if he  
14 breached it, which would be that he could be brought  
15 back before me and sentenced to a sentence that the law  
16 provides, which is a maximum of 14 years imprisonment.  
17 Or he could be charged with breach of probation and  
18 sentenced to imprisonment for up to six months.

19 I believe those are all the conditions. There  
20 will be no victim fine surcharge.

21 THE COURT CLERK: Thank you, My Lord.

22 MR. BOYD: Thank you, My Lord.

23 THE COURT: We will adjourn, then, and await  
24 the jury. I commend counsel for their excellent work  
25 in this particular case and I commend you, sir, for  
26 your efforts in communicating with the accused.

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Certified Pursuant to Rule 723  
of the Rules of Court



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Jane Romanowich  
Court Reporter