

COPY

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

- and -

Irma Cardinal

Transcript of Reasons for Sentence delivered by
the Honourable Justice J. Vertes, sitting at
Inuvik, in the Northwest Territories, on the 3rd
day of May, A.D. 1999.

APPEARANCES:

Ms. J. Reid

For the Crown

Mr. J. Brydon

For the Defence



1 THE COURT: The accused, Irma Cardinal, has
2 entered a plea of guilty to a charge of aggravated
3 assault.

4 In the early morning hours of May 23rd, 1998,
5 the accused stabbed her common-law husband in the
6 chest. This came after a night of drinking, and
7 after they had argued about the care of their young
8 daughter. I was told that the victim had assaulted
9 the accused that night. This assertion was
10 accepted by the Crown and photographs of the
11 accused taken the next day provide some
12 confirmation of this. Fortunately, the victim was
13 treated quickly and was in hospital for only a few
14 hours. The accused notified the police of what she
15 had done shortly thereafter.

16 Ordinarily an act of violence within a family
17 relationship, one involving the use of a weapon
18 that causes actual bodily harm, would be viewed as
19 a very serious offence. The Criminal Code provides
20 a potential maximum penalty of 14 years
21 imprisonment for aggravated assault. In this case,
22 however, Crown and defence have put forth a joint
23 submission that an appropriate sentence would be a
24 conditional sentence, one whereby the accused would
25 not actually be incarcerated but allowed to stay in
26 the community.

27 The accused is 32 years old. She and the

1 victim are the parents of a three-year-old
2 daughter. I was told that she and the victim hope
3 to repair their relationship and are willing to
4 work together on that. This will not be easy since
5 I was also told that the relationship, one that has
6 lasted for seven years, has been repeatedly marked
7 by violence with the victim in this case being the
8 abusive aggressor. I did not hear from the victim,
9 but the Crown does not take issue with this
10 characterization of the relationship.

11 Defence counsel described for me a life
12 history of the accused as one punctuated by
13 alcoholism and violence. The accused has a record
14 of 16 criminal convictions between 1983 and 1992.
15 They also seem to be quite minor offences (judging
16 by the sentences imposed) but they also include
17 three convictions for assault. Ordinarily, when a
18 person who is convicted of a serious crime of
19 violence has been previously convicted of crimes of
20 violence, then one would expect that emphasis would
21 be placed on deterring that individual from any
22 such future crimes. This usually translates into a
23 sentence of imprisonment. In this case, however,
24 counsel have pointed out the significant
25 rehabilitative efforts on the part of the accused
26 since this offence. She has participated in
27 various programs, and I was given a number of

1 letters of support for her efforts. As Crown
2 counsel put it, there is much that can be gained by
3 continuing these efforts, and much that can be
4 jeopardized by a period of actual incarceration. I
5 agree.

6 The Court of Appeal tells us that ordinarily,
7 when sentencing someone for a crime where
8 deterrence is the prime consideration, a
9 conditional sentence would not be appropriate
10 except in exceptional cases. But the Criminal Code
11 also directs us, when imposing a sentence, to
12 consider all available sanctions other than
13 imprisonment that are reasonable in the
14 circumstances. We are also to pay particular
15 attention to the circumstances of aboriginal
16 offenders (such as the accused here). As the
17 Supreme Court of Canada recently told us, this
18 particular direction, calling for restraint in
19 sentencing, is remedial in nature whose purpose
20 must be given real force.

21 I place great weight on the joint submission
22 of counsel. It is one that they obviously gave a
23 great deal of thought to. I would be very hesitant
24 to disregard a joint submission in any case.

25 In this case, however, I think there is ample
26 justification to accept it. There are exceptional
27 circumstances here where the factor of personal

1 rehabilitation must be emphasized. I am satisfied
2 that a conditional sentence would not endanger the
3 safety of the community and would be consistent
4 with the principles and aims of sentencing.

5 I also place great weight on the guilty plea,
6 the accused's personal life circumstances, and the
7 circumstances that preceded the stabbing. These
8 are all mitigating factors which satisfy me that
9 the sentence can be kept within the range suitable
10 for a conditional sentence.

11 I hereby impose a conditional sentence of 18
12 months. The conditions of sentence are as
13 follows:

- 14
- 15 (1) You are to keep the peace and be of
16 good behavior;
 - 17 (2) you are to appear before the court when
18 required to do so;
 - 19 (3) you are to report to a sentence
20 supervisor within 48 hours and report
21 thereafter when required by the
22 supervisor to do so;
 - 23 (4) you are to remain within the
24 jurisdiction of the court unless
25 permission to go outside of the
26 Northwest Territories is obtained from
27 the court or your supervisor;

- 1 (5) you are to notify your supervisor of
2 any change of address;
- 3 (6) you are to participate in any treatment
4 or counselling program, including any
5 residential treatment program, as
6 directed by your supervisor;
- 7 (7) you are prohibited from having any
8 alcohol in your residence;
- 9 (8) you are prohibited from entering
10 or being in any establishment where
11 alcohol or liquor is served;
- 12 (9) you are to perform 120 hours
13 of community service work as directed
14 by your supervisor; and
- 15 (10) you are to maintain a curfew between the
16 hours of 10 p.m. and 6 a.m. every day
17 (except in cases of emergency).

18 Ms. Cardinal, those conditions are going to be
19 more onerous than they sound at this moment. Do
20 you understand the conditions?

21 THE ACCUSED: Yes.

22 THE COURT: I must inform you, Ms. Cardinal,
23 that if at any time your supervisor feels there is
24 need for a change in any of those conditions, then
25 your supervisor may apply to change any of those
26 conditions, and there may be a hearing about that.
27 In addition, if you breach any of those conditions,

1 including commit another offence during the period
2 of your sentence, then you could be charged, you
3 could be brought before the court, the conditional
4 sentence could be set aside, and you could be
5 required to actually serve the rest of your
6 conditional sentence behind bars. Do you
7 understand that?

8 THE ACCUSED: Yes.

9 THE COURT: A copy of the conditional
10 sentence order will be prepared, and you will have
11 an opportunity to review it with your counsel, Ms.
12 Cardinal.

13 With respect to Count 2, Ms. Reid?

14 MS. REID: Stayed, My Lord.

15 THE COURT: Very well, I expect that the
16 Crown will file a formal written stay of
17 proceedings in due course.

18 MS. REID: Yes, sir.

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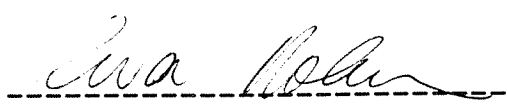
21 Certified pursuant to 723 of the
22 Supreme Court Rules

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Eva Robinson
Court Reporter

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