

R. v. Abel, 2000 NWTSC 42

CR 03830

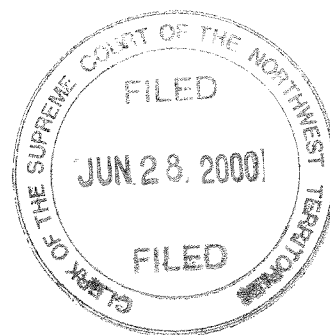
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

LEE BRUNO ABEL



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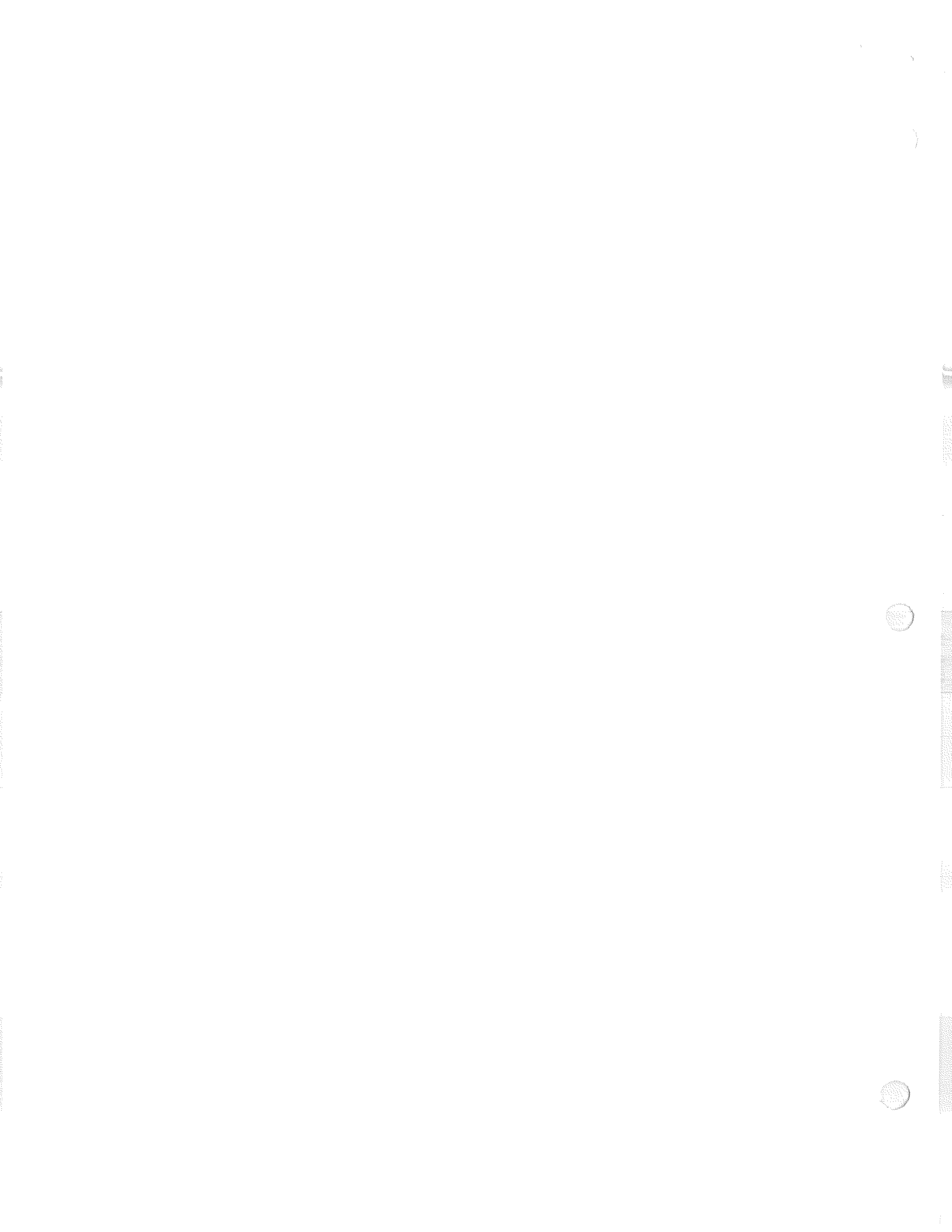
Transcript of the Oral Reasons for Sentence by The Honourable Justice J.E. Richard, at Yellowknife in the Northwest Territories, on Tuesday, June 6th A.D., 2000.

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APPEARANCES:

Ms. S. Kendall: Counsel for the Crown  
Mr. J. Posynick: Counsel for the Accused

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Charge under s. 267(a) Criminal Code of Canada



1 THE COURT: Mr. Lee Bruno Abel has been  
2 convicted by a jury of the criminal offence of  
3 assault with a weapon contrary to Section 267 of the  
4 *Criminal Code*. This offence is punishable by up to  
5 ten years in a federal penitentiary.

6 I am told that this offender, Mr. Abel, is 29  
7 years of age and that he is a lifelong resident of  
8 Yellowknife. I am also told, and I am satisfied,  
9 that he indeed did have a sad and dysfunctional  
10 upbringing. He has apparently a Grade 8 formal  
11 education and has had, over the years, seasonal  
12 employment in the mining business and in the  
13 construction industry.

14 Mr. Abel is not a stranger to the courtroom and  
15 his criminal record, although dated and limited, can  
16 be summarized as follows: 1989, theft conviction  
17 and failing to attend court. Later in 1989,  
18 possession of stolen property, theft, and over 80.  
19 1991, common assault upon a female acquaintance and  
20 also fail to comply with a probation order. 1993,  
21 another theft conviction and another common assault  
22 conviction.

23 At the time of the commission of his crime for  
24 which he is being sentenced today, the offender was  
25 living in a common-law relationship with Mary Rose  
26 Koyina, a woman of 42 years of age, in a home in  
27 N'dilo. That relationship had existed for a matter

1 of months.

2 On the day in question in September 1999, there  
3 was a drinking party happening at Mr. Abel's home in  
4 N'dilo. I am satisfied from the trial evidence that  
5 both victim and offender were intoxicated to a  
6 degree.

7 After Mr. Abel told all of the other visitors  
8 to leave the house, Mr. Abel and Ms. Koyina got into  
9 an argument. Mr. Abel accused Ms. Koyina of  
10 "fooling around" on him. He took a knife and  
11 started waving it in her face, threatening to  
12 disfigure her so that she would not be attractive to  
13 other men. Ms. Koyina raised her hands to protect  
14 her face and in the course of this, she received a  
15 knife slash to her wrist.

16 I am also satisfied by the trial evidence that  
17 in the course of the domestic dispute, he kicked her  
18 and he struck her on the face.

19 Ms. Koyina was bleeding from the knife wound  
20 and left the house on her own and went to the  
21 hospital for treatment for her wound. The police  
22 were called to the hospital and one of the police  
23 officers spoke to her in the emergency department at  
24 the hospital. The officer noted her injuries and  
25 then left as she was awaiting medical treatment.  
26 Although the wound was cleaned by nurses, apparently  
27 Ms. Koyina left the hospital voluntarily because of

1 her impatience and the wound was not sutured.

2 Two days later, the police located Ms. Koyina  
3 and took her to the detachment for an interview.  
4 The interview was videotaped and in that interview  
5 she told the police the details of Mr. Abel's  
6 assault on her with the knife. Mr. Abel was later  
7 arrested and charged.

8 At trial, Ms. Koyina recanted her statement to  
9 the police and instead told the jury a preposterous  
10 story of how she came to get the wound accidentally  
11 in Mr. Abel's home. In addition to her trial story,  
12 the jury saw and heard the videotaped statement to  
13 the police and, of course, believed the earlier  
14 version and convicted Mr. Abel.

15 In my view, this is a very serious case of  
16 domestic violence and the sentence imposed must  
17 reflect that. It is not a case where the passing of  
18 sentence should be suspended or the offender merely  
19 placed under the terms of a probation order.

20 Although Mr. Abel today sincerely says that he  
21 is sorry, I am compelled to state that this is a  
22 change from my close observations of him during the  
23 trial. One wonders what kind of man could sit there  
24 a few feet away from the witness box and show no  
25 concern whatsoever, so far as I could tell from my  
26 observations of him, sit there a few feet away from  
27 the victim Ms. Koyina as she so obviously perjured

1           herself, putting herself in serious legal jeopardy,  
2           presumably for Mr. Abel's sole benefit. I conclude  
3           that it is only an individual who is indeed ill and  
4           in need of treatment who could be like that.

5           By his own admission, Mr. Abel has a serious  
6           problem with alcohol abuse. In addition, in my  
7           layman's view, he is in denial of reality and he  
8           needs counselling and treatment. In my view, his  
9           period of incarceration must be such as would enable  
10          him to receive some long-term treatment otherwise he  
11          is bound to reoffend just as surely as night follows  
12          day.

13          Here in the courts, we see the pattern all too  
14          often, and I am speaking here particularly of  
15          spousal violence. Ms. Koyina, other women, the  
16          public, need to be protected from an offender such  
17          as Mr. Abel until he seeks and receives treatment.

18          I do note this offender has served seven months  
19          of pre-trial custody and I do take that into account  
20          in the determination of the sentence. I also  
21          acknowledge that Mr. Abel is an aboriginal person  
22          and I take his personal circumstances in that regard  
23          into consideration.

24          I repeat that I am not satisfied that this is  
25          an appropriate case for a noncustodial sentence for,  
26          in my view, to impose a probation order only would  
27          be inconsistent with the fundamental purpose and the

1 principles of sentencing and in this regard, I shall  
2 simply quote a portion of Section 718 of the  
3 *Criminal Code* prescribed by Parliament.

4 It reads,

5 The fundamental purpose of  
6 sentencing is to contribute to  
7 respect for the law and to the  
8 maintenance of a just, peaceful,  
9 and safe society by imposing  
10 just sanctions that have one or  
11 more of the following  
12 objectives: to denounce  
13 unlawful conduct, to deter the  
14 offender and other persons from  
15 committing offences, to separate  
16 offenders from society where  
17 necessary, to assist in  
18 rehabilitating offenders, and to  
19 promote a sense of  
20 responsibility in offenders and  
21 an acknowledgment of the harm  
22 done to victims and to the  
23 community.

24 A meaningful period of incarceration, further  
25 incarceration, is required for the reasons that I  
26 have mentioned.

27 Would you please stand now, Mr. Abel.

1           Lee Bruno Abel, for the crime that you have  
2 committed, committing an assault on Mary Rose Koyina  
3 with a knife contrary to Section 267 of the *Criminal*  
4 *Code*, it is the sentence of this Court that you be  
5 imprisoned for a period of 12 months.

6           In addition, as I am required by law to do so,  
7 I make a ten year firearm prohibition order pursuant  
8 to Section 109(1) of the *Criminal Code*.

9           In the circumstances of Mr. Abel, there will be  
10 no Victim Fine surcharge.

11           You can sit down, sir.

12           Is there anything further on this case,  
13 counsel?

14 MS. KENDALL:                   No, thank you, My Lord.

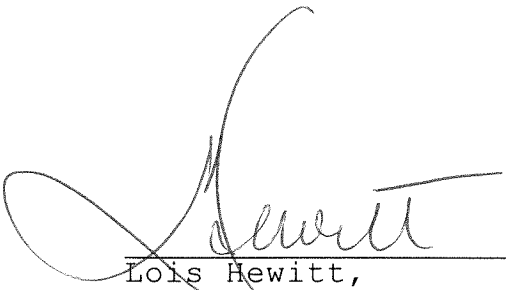
15 MR. POSYNIK:                   No, thank you, My Lord.

16 THE COURT:                    Fine, we will close court until 9  
17 a.m.

18 **(ADJOURNMENT)**

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

20                                   Certified pursuant to Rule 723  
21 of the Supreme Court Rules.

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24   
25 \_\_\_\_\_  
26 Lois Hewitt,  
27 Court Reporter