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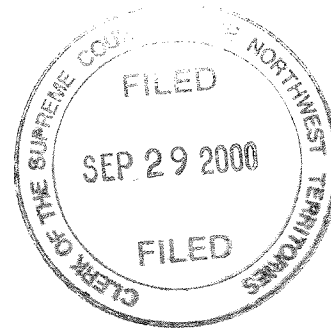
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

CAMILLA NITSIZA

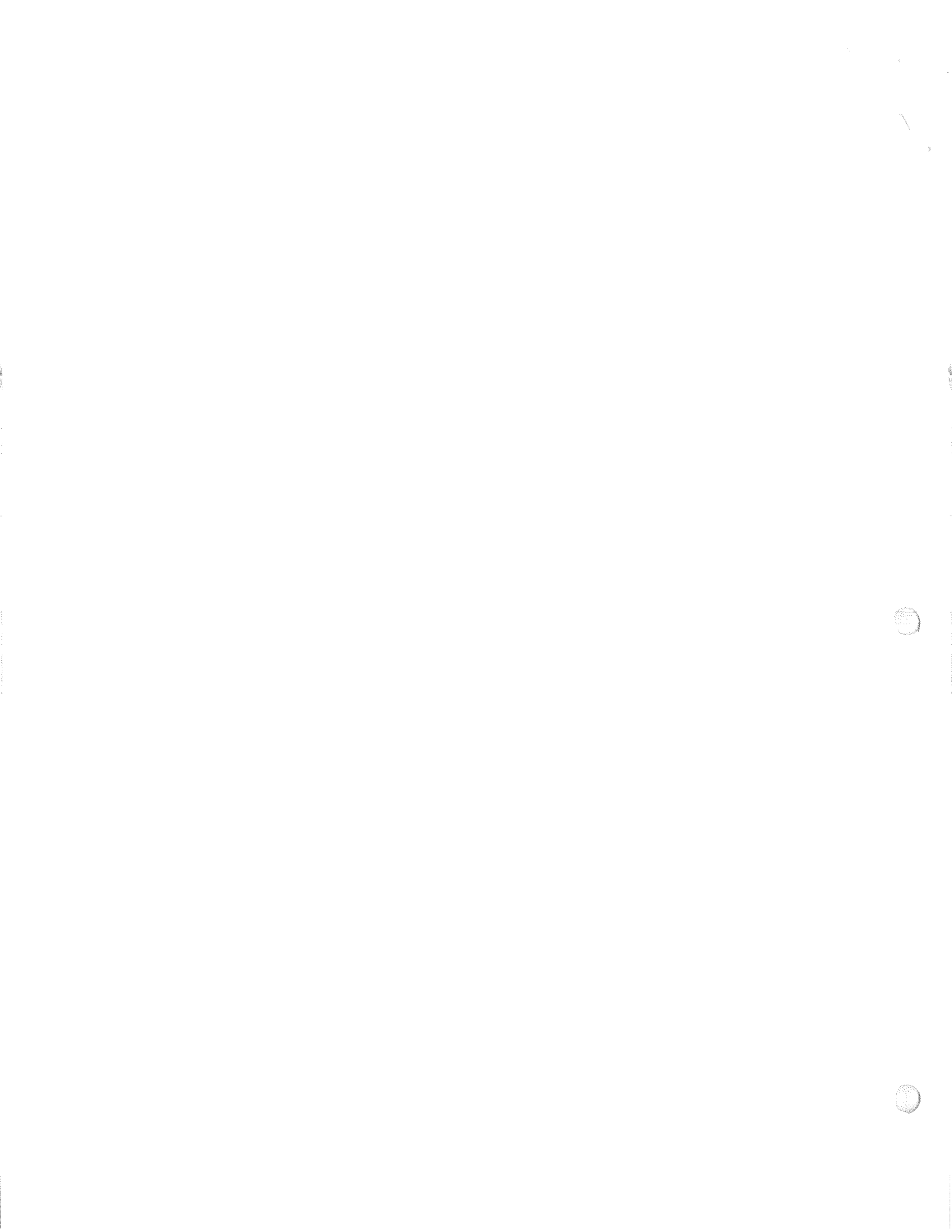


Transcript of the Reasons for Sentence delivered by The Honourable Justice V. A. Schuler, following a conviction entered after a judge and jury trial, in Yellowknife, in the Northwest Territories, on the 22nd day of September, A.D. 2000.

APPEARANCES:

MS. S. KENDALL:	On behalf of the Crown
MS. A. DAVIES:	On behalf of the Defence

Charge under s. 139(2) C.C.



1 THE COURT: I will not go over all the
2 circumstances of the case. Ms. Nitsiza was convicted
3 yesterday by a jury of the offence of willfully
4 attempting to obstruct justice by attempting to
5 dissuade Roger Drybone from giving evidence.

6 The evidence before the jury was that Roger
7 Drybone and Narcisse Naedzo were waiting to testify at
8 the preliminary hearing of Tony Chocolate. Ms.
9 Nitsiza had a romantic relationship with Mr. Chocolate
10 at the time. When she came into the waiting area to
11 attend court as an observer, she sat down near
12 Mr. Drybone, her nephew, and said some words to him.
13 I note that the words were said in Dogrib. That is
14 what the witnesses testified to. Mr. Drybone said
15 that the words - and I suppose I should more
16 particularly say that the translator translated what
17 Ms. Nitsiza had said to him - were "Don't speak about
18 anything", "Don't talk about anything in the
19 courtroom". Mr. Naedzo, who speaks both English and
20 Dogrib, says that the words were "Say you don't
21 remember anything", "Say you don't know anything".

22 As I said to the jury it was open to them to
23 convict on either version and I do not think there is
24 really any significant difference between those two
25 versions. Clearly what was said was an indication to
26 Mr. Drybone that his aunt, Ms. Nitsiza, wanted him not
27 to say what he knew about the Tony Chocolate matter.

1 Obviously the jury rejected Ms. Nitsiza's evidence and
2 was satisfied beyond a reasonable doubt that she had,
3 in fact, said those words and that she did so with the
4 intention of trying to discourage Mr. Drybone from
5 giving evidence.

6 Ms. Kendall makes a good point about the concern
7 that the court should have about this type of offence
8 here in the Northwest Territories. It certainly
9 occurred to me as I sat listening in this trial that
10 even here in the capital city of the Northwest
11 Territories we have a court house that does not even
12 have a proper waiting room for witnesses where they
13 could wait without being subject to either being
14 spoken to, or getting looks from, or simply having to
15 deal with anyone who might have an interest in the
16 case. That obviously is not Ms. Nitsiza's fault; that
17 is simply a reality. Hopefully some day that reality
18 will be addressed in some way so that witnesses who,
19 after all, are vulnerable will not be subject to
20 anything like that, or at least some steps can be
21 taken to make sure that they are not subject to people
22 who might attempt to influence them when they are at
23 the court house about to give their testimony.

24 I agree with Ms. Davies that the evidence was not
25 consistent as to whether Mr. Drybone was actually on
26 his way into the courtroom or whether he was simply
27 sitting there waiting to go into the courtroom. I am

1 not sure that it matters all that much. Certainly Ms.
2 Nitsiza knew that he was there to testify in court,
3 and it seems to me that is the important thing. In my
4 view, it is aggravating that an approach was made
5 right outside the courtroom door and that she said
6 what she said right outside the courtroom door. It
7 certainly indicates a complete disregard both for the
8 vulnerability of the witness and the judicial system.

9 I agree as well that in small communities this
10 type of behaviour is something that the court has to
11 be concerned about. From travelling in the
12 communities, it is very clear, as indeed in this case
13 where the people who were involved in this case were
14 from Rae, people are related to each other. We are
15 dealing with small communities. That adds extra
16 vulnerability for witnesses who cannot really get away
17 from someone who might try to influence them in some
18 way. All of those things are of concern. The
19 sentence that is imposed has to address those concerns
20 and has to be a signal to people that if they do
21 attempt to influence a witness by telling them not to
22 testify, by discouraging them from testifying or by
23 telling them how to testify, that all of those things
24 will be dealt with significant consequences.

25 Now in this particular case I have before me Ms.
26 Nitsiza, who is 43 years old. Defence counsel has
27 outlined her background. She has not been in trouble

1 with the law before. She does not have a criminal
2 record. She has raised a family. From what I have
3 heard, she has looked after her responsibilities,
4 family responsibilities. She has had good employment.
5 She is described in the letter from the Dogrib
6 Community Services Board as an honest and good role
7 model in the community. Unfortunately, on this
8 occasion, she obviously was not a good role model
9 either to her young nephew or to anyone else who would
10 hear about her doing what she did. It is very
11 unfortunate that in those circumstances, and by that I
12 mean that someone with that background, now comes
13 before me and I have to sentence her for what is a
14 very serious offence.

15 I take into account the principles of sentencing.
16 I take into account that Ms. Nitsiza, certainly by way
17 of her background, gives no indication that she is in
18 any way a danger to the community. I certainly hope
19 that she has learned from this experience and that
20 this behaviour will never be repeated. It does strike
21 at the very essence of the judicial system.

22 I would just add to what I have already said that
23 those of us who are in court day after day realize how
24 difficult it is for people to testify in court and
25 realize how uncomfortable people can be, how nervous
26 they can be about it. That is simply in the ordinary
27 course; that is quite apart from anyone else trying to

1 put pressure on them.

2 In terms of the cases that have been submitted,
3 every case has to be dealt with on its own facts.
4 Many of the cases that Crown counsel has submitted
5 (for example, the *Carneiro* case and the *Gargan* case)
6 involved money or promises of money or attempts to
7 give money and certainly there was nothing like that
8 in this particular case. There were not any threats;
9 there was simply this statement made that Mr. Drybone
10 should not say anything.

11 From my review of the cases, I think that, in
12 terms of a range of sentence, the range submitted by
13 Ms. Davies certainly seems to fit the facts of this
14 case more closely, particularly because of what I have
15 just mentioned: the lack of any threats or offers of
16 money, the fact that Ms. Nitsiza does not have a
17 criminal record and that she apparently has had a good
18 background.

19 Ms. Davies asks that I consider a conditional
20 sentence in this case, a sentence that would be served
21 in the community. What is proposed in terms of
22 conditions is not particularly unusual. In my view,
23 they are not conditions that are particularly onerous
24 either. Notwithstanding that Ms. Nitsiza would
25 herself, and in terms of what I might call the
26 "technical circumstances" of the offence, fall within
27 Section 742.1, I do not think a conditional sentence

1 is appropriate for this offence. In my view, there
2 has to be a signal sent that anyone who engages in
3 this type of activity is going to be dealt with in a
4 serious manner and I do not, while I think the range
5 is more appropriate, I do not think a conditional
6 sentence would send that message.

7 Stand up, please, Ms. Nitsiza.

8 Ms. Nitsiza, having taken into account everything
9 that has been said, and although I have said this is a
10 serious offence, when I look at some of the other
11 examples of this type of offence, it is not as serious
12 as some others that have occurred. In all the
13 circumstances, I sentence you to 30 days in jail. I
14 certainly hope that you will not ever do anything like
15 this again.

16 That is my sentence. You may sit down.

17 In the circumstances, I will waive the victim of
18 crime surcharge.

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22 Certified pursuant to Practice
23 Direction #20 dated December 18,
24 1987.

25 Annette Wright
26 Annette Wright, RPR, CSR(A)
27 Court Reporter