

R. v. Boucher, 2003 NWTSC 2

S-1-CR2002000081

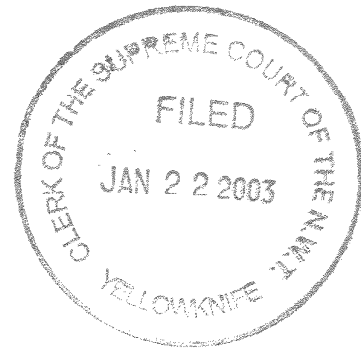
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

RONALD ARTHUR BOUCHER



Transcript of the Oral Reasons for Sentence by The Honourable Justice V.A. Schuler, at Yellowknife in the Northwest Territories, on January 13th A.D., 2003.

APPEARANCES:

| | |
|----------------|-------------------------|
| Mr. A. Fox: | Counsel for the Crown |
| Mr. J. Brydon: | Counsel for the Accused |

Charge under s. 267(a), s. 85(1)(a) *Criminal Code*

1 THE COURT: In the matter of Ronald Arthur
2 Boucher, Mr. Boucher has pleaded guilty and has been
3 convicted of charges under Section 267(a), assault
4 with a weapon, and 85(1)(a), use of a firearm in the
5 commission of an indictable offence.

6 Briefly the facts are that while out in his
7 boat with some friends, Mr. Boucher came upon the
8 complainant, who was in another boat, travelling
9 slowly due to mechanical difficulties. The
10 complainant had, some two months previous, finished
11 serving a sentence for beating up Mr. Boucher's son.
12 Mr. Boucher told others in his boat that he was
13 going to "scare" the complainant, and he chambered a
14 round in his rifle and pointed in the complainant's
15 direction and fired.

16 There is some dispute about exactly how close
17 the bullet came to the complainant but it did not
18 hit his boat and the complainant says that
19 Mr. Boucher appeared to point away from him just
20 before firing.

21 Mr. Boucher is described as an accomplished
22 marksman from which I infer that he felt that he
23 could control the gun and the bullet and as stated
24 in the Agreed Statement of Facts, if he had intended
25 to hit the complainant he could have done so.

26 After the shot, Mr. Boucher circled the
27 complainant's boat in his, pointed the rifle at him

1 again for 10 to 15 seconds, and uttered threats to
2 the complainant. He then left the area.

3 Another boat came along and towed the
4 complainant's boat to shore where the RCMP were
5 called. The complainant, understandably, was very
6 scared and extremely upset to the point that, as he
7 described it at the preliminary hearing, he was
8 having trouble breathing.

9 Mr. Boucher spent four months in remand before
10 being released in October.

11 He has a Grade 8 education and is 48 years old.
12 He has trapped and hunted since approximately age
13 13. He is a widower with two adult children. During
14 the winters, he obtains employment in construction,
15 labor, and wood cutting and during the summer he
16 guides. He hunts and traps to provide for himself,
17 his family, and elders in the community of Fort
18 Resolution. He is a member of the Canadian Rangers.

19 His only previous criminal conviction was 25
20 years ago and is unrelated so I will consider him as
21 a first-time offender for purposes of this case.

22 I take into account the fact that he has
23 pleaded guilty and also that he has spent the four
24 months on remand for which I credit eight.

25 I also take into account that Mr. Boucher is an
26 aboriginal person and that, as described, he is
27 accustomed to life in the bush. Of course, being

1 accustomed to life in the bush and being well
2 acquainted with firearms, there is no question that
3 Mr. Boucher should have known and should know how
4 dangerous they are and that people who use them have
5 to show a high degree of responsibility.

6 Based on his background, I have no reason to
7 think that Mr. Boucher is not a responsible
8 individual. Unfortunately on this occasion, he acted
9 very irresponsibly and dangerously because no matter
10 how good a shot he is, the consequences could have
11 been much worse.

12 No matter what the complainant had done to
13 Mr. Boucher's son, to, in effect, take the law into
14 his own hands by trying to add to the sentence that
15 the complainant had served, by scaring him in this
16 fashion, is not acceptable and, as I have said,
17 could have had terrible consequences beyond just the
18 emotional harm this obviously caused to the
19 complainant.

20 I'm sure that Mr. Boucher realizes that what he
21 did was not just dangerous, it was a very very
22 foolish thing to have done. As a hunter,
23 particularly as a Canadian Ranger, Mr. Boucher, you
24 set an example for others and using guns to scare
25 people doesn't, I'm sure you realize, set the right
26 example. And I think that's one thing that you
27 should keep in mind. I think that's one of the very

1 tragic things, when firearms are used improperly, is
2 the issue of the example that it sets for others.

3 I can't help but think recently of a case, and
4 it has nothing to do with Mr. Boucher's case but
5 certainly it has been in the news recently, a case
6 in Ontario where a 6-year-old shot and killed her
7 7-year-old brother with a firearm that they found in
8 their home. Now, obviously that's got nothing to do
9 with the facts of your case but as I say, when
10 adults, when responsible people use firearms
11 improperly, one of the tragic consequences may be
12 that others see that and decide to imitate it, and
13 that's something that you should keep in mind in the
14 future in terms of your own conduct around firearms,
15 that you may be, even if not intentionally, leading
16 others to do what you do or to imitate what you do.
17 I'm sure that you realize the foolishness and the
18 dangerousness of what you did and I accept from your
19 guilty plea, and also the apology that you made here
20 in Court, that you are sorry for what you did.

21 Stand, please, Mr. Boucher.

22 The sentence that I impose on you is, with
23 respect to the charge under Section 267(a), one day
24 in jail. With respect to the charge under
25 Section 85(1)(a), taking into account the remand
26 time, I'm going to impose the minimum which would be
27 four months consecutive. And I'm also, on the

1 Section 267 charge, going to place you on probation
2 for a period of one year.

3 The standard condition, that you keep the peace
4 and be of good behaviour, will apply but the main
5 reason that I'm putting you on probation and,
6 counsel, if you want to assist me with the wording
7 of this condition, is because I want you to take a
8 firearm safety course and to arrange that through
9 Renewable Resources. So perhaps the best way to do
10 that is to say that you will report to a probation
11 officer within five days of your release for the
12 purposes of making arrangements to attend the
13 firearm safety course, and I'm assuming, I hope that
14 I'm not assuming too much, that that could be done
15 through Renewable Resources or the RCMP. I don't
16 know who exactly would be the right entity but it
17 seems to me that Renewable Resources do have firearm
18 safety courses so they would likely be the ones to
19 do that and that should be arranged through your
20 probation officer.

21 You can sit down, Mr. Boucher.

22 With respect to the DNA order, there has been
23 no basis put forward why that order should not be
24 made so I will make that order.

25 Under Section 110 of the *Criminal Code*, I must
26 also make a firearm prohibition order which I will
27 do in the standard terms. That order will commence

1 today and will expire ten years from your release
2 from imprisonment.

3 Now, I have considered the question of granting
4 the authorization under Section 113 of the *Criminal*
5 *Code* and considering the lack of any record, any
6 related record, considering your lifestyle, and
7 despite the fact that this is a firearm offence, and
8 because what has been said convinces me that you are
9 generally a responsible person who should be given a
10 chance to continue to pursue the lifestyle that you
11 have pursued, and because I'm satisfied that you
12 will act responsibly and that the safety of other
13 people will not be compromised, I do accept that you
14 need a firearm to hunt or trap for sustenance or
15 employment and accordingly I will make the order
16 under Section 113 authorizing a chief firearms
17 officer or the registrar to issue an authorization
18 license or registration certificate to you for
19 sustenance or employment purposes. So they will be
20 able to issue a license for you to have a firearm
21 for those purposes.

22 Now, counsel, is there anything with respect to
23 the probation condition that I have perhaps
24 overlooked or may not work well?

25 MR. FOX: The only thing that I can think
26 of is that, just from personal experience taking a
27 firearm safety course, it's not that easily arranged

1 sometimes. I'm not sure what is being done or what
2 is actually available. But presumably as long as
3 Mr. Boucher takes all reasonable steps to comply
4 with that order, if there are no courses that he can
5 take reasonably, then perhaps that could be brought
6 back to Court. But one of the frustrations with the
7 current system is that there is not a lot of
8 resources available for taking firearm safety
9 courses. There is one outfit in Yellowknife that
10 provides them for a fee but it is a privately run
11 organization. I'm not sure what, if anything, RWED
12 has to offer.

13 MR. BRYDON: Mr. Boucher tells me that
14 Renewable Resources does offer a course in firearm
15 safety. It may not be the one which is necessary
16 for the acquisition -- or what used to be an FAC, it
17 is now an acquisition and possession license. But
18 there are them offered through Renewable Resources
19 he tells me.

20 THE Court: Well, I would certainly be
21 satisfied, if it is something that is offered by
22 Renewable Resources, even if it is not perhaps the
23 course that he might have to take for certain
24 purposes, if they have a course I think it never
25 hurts to be reminded of firearm safety so I would be
26 satisfied with that. Did you have something else to
27 suggest?

1 MR. FOX: It just occurs to me, and I'm not
2 sure what Mr. Boucher's status is in terms of
3 whether he has a new possession acquisition license
4 or one of the old firearm acquisition certificates,
5 because now, under the current regime, he would need
6 to take a course in order to get a possession
7 acquisition license and presumably under the Section
8 113 authorization, he is going to have to apply for
9 one of those licenses and in doing that, he is going
10 to have to take a course unless he has already taken
11 one in the past.

12 THE Court: Well, if he has to take one for
13 that reason, I guess we don't know exactly when that
14 would be, but the probation is a year so my
15 intention is that it be taken within the year of the
16 probation.

17 What I will do is direct that the probation
18 officer file confirmation with the Court that he has
19 taken a firearm safety course and that a copy of
20 that confirmation be provided to Crown and defence
21 and then if either of you feel there is a need to
22 bring the matter back, you can do that. It seems to
23 me that is probably the best way to do it under the
24 circumstances.

25 So, in other words, the intention is,
26 Mr. Boucher, that during that year when you are on
27 probation that that is when you will take the

1 course. And hopefully that can be arranged through
2 probation and the local firearm officer in Fort
3 Resolution or wherever that may best be arranged.

4 Now, I will just sign this DNA order.

5 Is there anything else then, counsel, that I
6 should address?

7 MR. BRYDON: I think that you have to consider
8 the Victims of Crime surcharge.

9 THE Court: Yes, that will be waived in the
10 circumstances. Anything further?

11 MR. FOX: Nothing further from the Crown.

12 THE Court: Mr. Brydon?

13 MR. BRYDON: Nothing further.

14 THE Court: All right, Mr. Boucher, I hope
15 that you have learned from this situation. It's
16 always sad to see someone at your age to be in Court
17 when really you have had a clean record. I certainly
18 hope that we won't see you back in Court again. We
19 will close Court.

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

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

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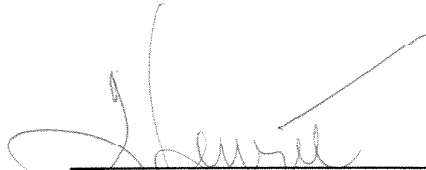
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Lois Hewitt,
Court Reporter