

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

BRIAN JEROME

Transcript of the Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, sitting in Yellowknife, in the Northwest Territories, on the 5th day of December, A.D. 2002.

APPEARANCES:

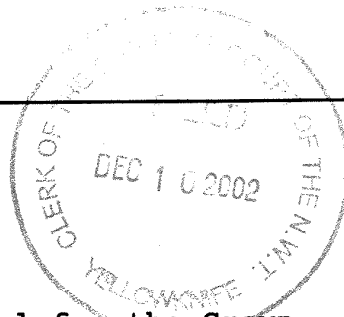
Mr. A. Slatkoff:

Counsel for the Crown

Mr. C. Rehn:

Counsel for the Defendant

(Charge under s. 266 of the Criminal Code of Canada)



1 THE COURT: Brian Jerome has entered a plea
2 of guilty to a charge of common assault. It is
3 somewhat unusual to have such charges appear in this
4 court instead of being disposed of by the Territorial
5 Court; but, nevertheless, I gather that the original
6 charge was far more serious and the Indictment was
7 laid for common assault as a result of the evidence
8 adduced at the preliminary hearing.

9 The fact that he has entered a plea of guilty is
10 highly mitigating, in my view. Significant credit
11 should be given to him if for nothing else than for
12 acknowledging his responsibility and, of course, as
13 well for saving not just the system the time and
14 expense of a trial but also saving the victim from
15 having to further testify against her common-law
16 husband, not to mention the fact that he is the father
17 of her soon-to-be-born child.

18 Ordinarily, considering the circumstances of this
19 offence, one would not expect a significant sentence,
20 but that has to be balanced against what has been
21 presented to me as a history of serious criminal
22 conduct by this individual. His record reveals 54
23 criminal convictions from 1980 to 2000. Many of them
24 are very serious. He has served time in the federal
25 penitentiary. He has been convicted of serious crimes
26 of violence. Indeed, he has been convicted of all
27 sorts of crimes.

1 I am told he is 38 years old. I am told that he
2 was a ward of the government since the age of five.
3 He was a resident at the Grollier Hall residential
4 school. He was obviously a victim of some of the
5 abuse at that school, because I am told that he
6 received funds as part of a settlement. What specific
7 impact these factors have had on him and, in turn,
8 what effect, in a causal sense, those factors had in
9 bringing him continually before the justice system is
10 something that is certainly beyond the means of this
11 court to explore in-depth in any meaningful sense. It
12 should be self-evident, however, that many of those
13 factors in his early years had a highly formative
14 effect on him and led to certainly his initial
15 involvement with the criminal justice system. I am
16 ready to accept that point. But it seems to me that
17 by the age of 38, and with this man's exposure to the
18 criminal justice system and to lengthy periods of
19 incarceration, to periods of time in various
20 facilities that have as their objective rehabilitative
21 purposes, whether it is Ranch Ehrlo in Saskatchewan or
22 other facilities, that there had been plenty of
23 opportunities for this man to try to come to grips
24 with his difficulties, whatever they may be; and,
25 frankly, by the age of 38, he has to look at himself
26 and take responsibility for his life.

27 So on the one hand we have an offence that on the

1 scale of crimes is not overly serious. There are
2 apparently no lasting affects. On the other hand, we
3 have an offender who has exhibited for over 20 years a
4 consistent pattern of criminal behaviour and violent
5 criminal behaviour. The need here is to balance these
6 two factors off in some meaningful sense.

7 The victim has written a letter in which she
8 makes a plea that Mr. Jerome be sent home. She wants
9 to be with him, she wants him home for the birth of
10 his child, and she says that once the child is born
11 and once he is released, they will be relocating back
12 to their home community. I assume that's Inuvik.

13 I have to take seriously the expressions of the
14 victim, obviously. But I must say in all frankness,
15 the sentiments of the victim in any case are not the
16 guiding factors on a sentencing. There are principles
17 of sentencing far greater than merely the interests of
18 the victim that have to be addressed.

19 In this case, the victim has come forward and
20 asked for leniency. For whatever reason, and I cannot
21 read her mind or heart, she wants him back. But here
22 she has asked for leniency. In so many other cases,
23 the victims seek the most severe punishment possible
24 on the perpetrators of crimes against them. If we
25 accede to the victim's wishes in one case, surely
26 logic would say that we should accede to the victim's
27 wishes in every case; but that would not be a system

1 that is either just, fair, or logical.

2 Considering this accused's background, I think
3 there is no alternative but to impose a further period
4 of incarceration, with my strong hope that with the
5 apparent support of his common-law spouse and with,
6 apparently, the opportunity to take part in the
7 healing program at the Somba K'e Healing Lodge, that
8 Mr. Jerome will start to take control of his life and
9 finally break his pattern of constant incarceration.

10 Is there anything you wish to say, Mr. Jerome?

11 THE ACCUSED: No, Your Honour.

12 THE COURT: Very well.

13 In my view, an appropriate sentence would be one
14 of 12 months' imprisonment. He has served two months
15 already in pre-trial custody. I give him credit for
16 that to the equivalent of four months. Therefore, I
17 sentence Mr. Jerome to serve a further term of
18 imprisonment of eight months.

19 I am not going to impose any further conditions.
20 This man has been under conditions most of his life,
21 and I think it is up to him now to take whatever steps
22 are necessary to reform himself.

23 Is there anything else we need to address?

24 MR. SLATKOFF: Yes, sir. Three other matters.

25 Firstly, the Court must consider a firearm prohibition
26 according to the *Criminal Code*. I can advise that
27 Mr. Jerome --

1 THE COURT: He's already under --

2 MR. SLATKOFF: -- is already bound by, in fact,
3 two firearms prohibitions. One imposed in 1994, which
4 doesn't appear on the printout that you have there,
5 but a ten-year firearms prohibition was imposed at
6 that time, and in 1997 as well, ten years.

7 THE COURT: So what's the point of imposing a
8 further one?

9 MR. SLATKOFF: I don't see a reason. Just for
10 the record, the Court must consider it.

11 THE COURT: I decline to do so.

12 MR. SLATKOFF: Crown is seeking a DNA order.
13 This is a secondary designated offence and the Crown
14 does have to ask for it, and, I submit, in the context
15 of his record for violence and the possibility of his
16 DNA being found at a future crime scene, it would be
17 in the interests of justice that a sample of his blood
18 be in the DNA bank in Ottawa.

19 THE COURT: Any comment on that, Mr. Rehn?

20 MR. REHN: No, Sir.

21 THE COURT: Very well. I think there's merit
22 to issuing such an order. If you would hand it up to
23 the clerk, please.

24 MR. SLATKOFF: Sir, there are three copies here.

25 THE COURT: Next?

26 MR. SLATKOFF: Finally, I simply ask that the
27 Warrant for Committal and the convictions certificate

1 reflect the fact that the sentence of eight months is
2 taking into account two months time served or credit
3 for four months time served, however the Court wishes
4 to word it. I simply ask that the record accurately
5 reflects what the Court said today.

6 THE COURT: Very well. I'm sure the clerk
7 can put the appropriate wording on the Warrant of
8 Committal.

9 MR. SLATKOFF: Thank you, Sir. That's all.

10 THE COURT: Mr. Rehn, anything else?

11 MR. REHN: No, Your Honour.

12 THE COURT: Thank you, gentlemen.

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15 Certified Pursuant to Rule 723
16 of the Rules of Court

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19 Jane Romanowich,
20 Court Reporter
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