

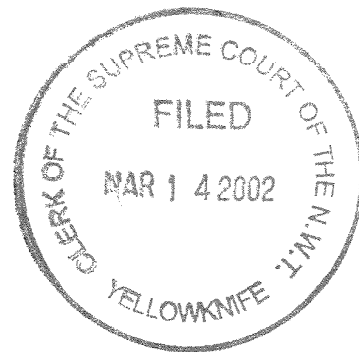
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

LARRY JAMES WARNER



Transcript of the oral Reasons for Sentence of The Honourable Justice J. Z. Vertes, sitting in Yellowknife, in the Northwest Territories, on the 7th day of March, A.D. 2002.

APPEARANCES:

Ms. S. Kendall:

Counsel for the Crown

Ms. K. Payne:

Counsel for the Defence

1 THE COURT: As counsel well appreciate, sentencing
2 in any criminal case has a number of objectives:
3 Those include the denunciation of unlawful conduct,
4 the deterrence of the offender and others from the
5 type of criminal behavior that's under consideration,
6 and the rehabilitation of the offender.

7 When we come to addressing the sentencing of
8 young offenders, and this offender certainly comes
9 under that category, the Courts tend to emphasize the
10 objective of rehabilitation. It is a major concern
11 in any criminal proceeding that a young offender be
12 rehabilitated and reformed as soon as possible, and
13 there is a general approach that the best way to
14 accomplish that is by minimizing, if one can, the
15 period of incarceration and maximizing the
16 opportunities for supervision and the opportunity for
17 changing one's behavior. But that has to be put into
18 perspective.

19 The overriding and fundamental principle of
20 sentencing is that of proportionality. The sentence,
21 in any case, must be proportional to the seriousness
22 of the offence and the blameworthiness of the
23 offender, young or old.

24 In this particular case, the accused has entered
25 pleas of guilty to three offences; assault causing
26 bodily harm, uttering a threat to cause death or
27 bodily harm, and using an imitation firearm while

1 uttering that threat. The circumstances, in my
2 opinion, are certainly very serious.

3 In order to extract payment or some kind of
4 revenge against another person for taking some
5 cocaine, the accused and another individual inflicted
6 a violent beating on the victim. The accused used an
7 imitation handgun, but of course the victim had no
8 knowledge that it was merely an imitation, but the
9 accused produced this imitation weapon, apparently
10 stuck it in the victim's mouth, threatened to kill
11 him, all over 25 grams of cocaine.

12 The victim suffered some serious injuries as
13 evident from the photographs that have been entered.
14 He was bleeding, and as is also evident from the
15 material entered, he was very fearful of the accused
16 and his accomplice.

17 The Crown characterizes it, plain and simple,
18 as "the actions of a drug dealer collecting a debt."
19 And, therefore, a penitentiary sentence is required
20 in the submission of Crown counsel.

21 Defence counsel takes issue with the
22 characterization of the accused as a drug dealer.
23 She refers to him as a 19-year-old kid who got
24 involved with the wrong people. There may be some
25 truth to that characterization, but it is evident to
26 me that he wasn't just tagging along with these
27 people, he was taking a very forceful and violent

1 role in this entire situation, and it certainly seems
2 to me that drugs and money were at the very heart of
3 it.

4 I note that in the presentence report there is
5 the comment that, and I quote, "Larry also reported
6 that he would receive money for selling cocaine."
7 Well, that makes him a drug dealer. Drug dealing
8 attracts violence and indeed it also attracts
9 criminal sanctions. And it seems to me that's why
10 the accused is here in court, not because he just
11 ended up with the wrong crowd. It is unfortunate
12 because he is only 19 years old. I gather he has a
13 good family background, a supportive family. All
14 indications are that he's quite bright and that his
15 family certainly considers this conduct out of
16 character, and all indications are that there is no
17 reason why he could not pursue his education and
18 pursue a gainful livelihood. And my sincere hope is
19 that he considers that for the future and thinks
20 about the future instead of just looking back at the
21 past.

22 I take into account the significant mitigating
23 effect of his guilty plea. I think that does
24 indicate a sense of responsibility on his part, it's
25 to his credit. But, as I indicated, the offences are
26 very serious, very violent, and violent offences must
27 be met with serious sanctions. I agree with Crown

1 counsel. I think the overriding objectives in this
2 sentence must be deterrence of this individual and
3 others by denunciation of this type of conduct. I
4 have seriously considered the submission that a
5 penitentiary sentence is warranted.

6 In my consideration, having regard particularly
7 to this young man's age, I believe I can impose a
8 sentence that will justify the objectives and
9 principles of sentencing, but at the same time keep
10 the sentence to what I consider to be a bare minimum
11 for this conduct and provide the accused with the
12 opportunity to try and rehabilitate himself.

13 Stand up, Mr. Warner. Mr. Warner, I think
14 you're probably smart enough to understand what I
15 have just said so I won't lecture you any further.
16 What you have done is a very serious crime,
17 notwithstanding whatever the circumstances, and it
18 must be met with serious sanctions. If I were
19 sentencing today without consideration for pretrial
20 custody, I think having regard to the violent nature
21 of the offences, that an appropriate disposition
22 would be in the neighborhood of a total sentence of
23 three years. That would take into account the
24 mandatory minimum consecutive sentence of one year on
25 the use of an imitation weapon offence. I am going
26 to credit your pretrial custody with one year which,
27 under the circumstances, I consider to be fair and

1 generous. And the sentence I'm going to impose is as
2 follows: On Counts 5 and 6, that is the charge of
3 assault causing bodily harm and the charge of
4 uttering a threat, I impose a sentence of one year
5 less one day concurrent to each other. On the use of
6 the imitation weapon charge, Count 1, I impose the
7 mandatory minimum sentence of one year imprisonment
8 consecutive to the one year less one day.

9 The total sentence is two years less one day.
10 That will keep you out of the penitentiary which I
11 think, at your age, is probably a good thing and it
12 will give you an opportunity to pursue the programs
13 that you've started at the Yellowknife Correctional
14 Center.

15 In addition to that, there is the mandatory DNA
16 order and I give the order in the usual terms. I
17 expect Crown counsel will prepare the standard form
18 order for my signature. And what is the mandatory
19 firearm prohibition period, Ms. Kendall? Is it ten
20 years?

21 MS. KENDALL: Ten years.

22 THE COURT: There will, in addition, be an order
23 prohibiting you from having in your possession any
24 firearms, ammunition, or explosives for a period of
25 ten years starting from the time of your release.

26 Two years less one day is quite a lengthy period
27 of time for someone who is only 19 years of age, but

1 I'm sure you realize, Mr. Warner, that with, as we
2 say, good behavior, you'll probably be released far
3 sooner than two years less a day. I'm optimistic
4 that you are smart enough and self aware enough that
5 you will take whatever steps are necessary to ensure
6 that you don't end up either getting in with the
7 wrong crowd again or ending up in court again.

8 Have I neglected anything, Ms. Kendall?

9 MS. KENDALL: Victim of crime surcharge, Sir.

10 THE COURT: Under the circumstances, there will be
11 no victim of crime fine surcharge. You may sit down.
12 Anything, Ms. Payne, that I have neglected?

13 MS. PAYNE: No, Sir.

14 THE COURT: Very well. I want to thank both of
15 you, counsel, for your disposition of this matter.
16 We're adjourned.

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18 Certified pursuant to Practice Direction #20
19 dated December 28, 1987.

20 
21 Sandra Burns R.P.R., C.R.R.
22 Court Reporter
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