

R. v. De Boer, 2003 NWTSC 31

S-1-CR-2003000026,  
S-1-CR-2003000028 and  
S-1-CR-2003000033

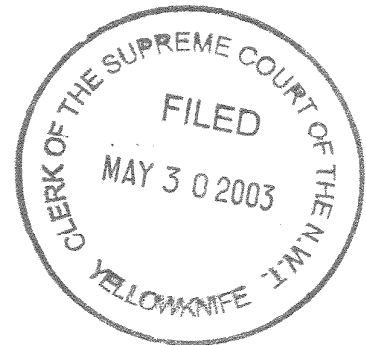
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

WILLIAM JOHN DE BOER



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Transcript of the Reasons for Sentence delivered by The Honourable Justice T.P. O'Connor, sitting in Yellowknife, in the Northwest Territories, on the 29th day of May, A.D. 2003.

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APPEARANCES:

Mr. P. Falvo:

Counsel for the Crown

Mr. R. Gorin:

Counsel for the Defendant

1 THE COURT: William De Boer has pleaded  
2 guilty at an early stage in these proceedings to two  
3 counts of robbery and one count of assault with a  
4 weapon causing bodily harm. The three offences  
5 occurred within seven hours, in Fort Smith. They were  
6 vicious and senseless. The victims were vulnerable,  
7 innocent, and older citizens who happened to attract  
8 the attention of an intoxicated Mr. De Boer. He  
9 assaulted them with kicks and punches and took small  
10 amounts of money, and in one case, a six pack of beer.

11 Mr. De Boer is an 18-year-old resident of Fort  
12 Smith. He has a record comprising two thefts,  
13 possession of marijuana, and an obstruct police, all  
14 as a young offender. He has completed Grade 10 but  
15 intends to continue school to the completion of Grade  
16 12. He holds a ticket or certificate qualifying him  
17 as a crane operator for fire and ambulance purposes.

18 Is that correct, Counsel?

19 MR. GORIN: That's correct.

20 THE COURT: He has been in custody awaiting  
21 trial for approximately six months. While in custody,  
22 he was diagnosed as suffering from depression and is  
23 now taking medication for this condition. He was  
24 depressed when he committed the offences.

25 I'm advised the victims received cuts and bruises  
26 and were treated at Fort Smith and apparently did not  
27 sustain permanent injuries or disabilities, nor were

1           they required to be treated other than at Fort Smith.

2           Both counsel agree the nature and violence of the  
3 offences warrant a further term in custody. Crown  
4 seeks a further one to two years; the defence, one  
5 year to eighteen months.

6           Obviously the primary sentencing considerations  
7 in a matter of this nature are general deterrence and  
8 denunciation of the offence committed. Like-minded  
9 members of the public must know that such violent  
10 conduct will warrant a substantial term of  
11 incarceration. However, of perhaps equal importance  
12 with an offender as young as Mr. De Boer is the need  
13 for rehabilitation. Such an approach is obviously  
14 best for the offender and is probably the surest way  
15 of protecting the public from him in the future. I am  
16 sure a sentence taking into account the rehabilitation  
17 of the offender is more profitable in the long run  
18 than harsher sentences, particularly for someone going  
19 to jail for the first time.

20           Accordingly, Mr. De Boer is sentenced to a term  
21 in custody of one year in addition to the credit of  
22 one year he is deemed to have already served. There  
23 will be a recommendation that he serve the one year at  
24 the South Mackenzie Correctional Centre unless the  
25 authorities there deem him to be a suicide risk,  
26 requiring his transfer to the Yellowknife Correctional  
27 Centre.

1           The term in custody will be followed by a term of  
2 probation of two years, the terms of which will be,  
3 first, report and be under the supervision of a  
4 probation officer. Second, to live with his parents  
5 in Fort Smith and abide by their household rules and  
6 regulations. Third, abstain absolutely from the use  
7 of alcohol or any non-prescribed drugs. Next,  
8 complete his Grade 12 education within the two years  
9 of the term of probation. Next, thereafter seek and  
10 maintain employment. Next, submit to and cooperate  
11 with any counselling recommended by the probation  
12 officer. Next, take, when required, any and all  
13 medication prescribed by his physician. Next, keep  
14 the peace and be of good behaviour; and next, the  
15 other necessary statutory conditions. There will be  
16 an order that he submit to a DNA order to supply a  
17 sample of his own DNA. There will also be an order  
18 under Section 109 of the *Criminal Code* prohibiting  
19 possession of any firearms, ammunition, crossbows,  
20 prohibited weapons and other items mentioned in that  
21 section for a period of ten years.

22           Now, sir, do you understand the terms of your  
23 probation?

24       THE ACCUSED:                   Yes, sir, I do.

25       THE COURT:                    Will you abide by those terms?

26       THE ACCUSED:                   Yes, I will.

27       THE COURT:                    You understand, also, that if you

1 breach any of those terms, you could be brought back  
2 before the Court and may be charged with an additional  
3 offence of breach of probation?

4 THE ACCUSED: Yes.

5 THE COURT: You understand that?

6 THE ACCUSED: Yes.

7 THE COURT: All right. You will have to sign  
8 some necessary papers and that will complete the  
9 matter.

10 Anything else, Counsel?

11 MR. FALVO: Sir, I do have the written DNA  
12 order here and defence counsel has signed it. I can  
13 give you that.

14 MR. GORIN: That's correct, sir. I'm not  
15 sure if it's required or not, but I'm just wondering  
16 how the sentence is broken down. Is it one year  
17 concurrent on each?

18 THE COURT: Sorry. I didn't mention that.  
19 Yes, it is one year concurrent on each of the three  
20 offences.

21 MR. GORIN: And the probation would be on --  
22 Thank you.

23 THE COURT: Similarly, yes.  
24 I've just signed one. You can distribute the  
25 other copies, please.

26 THE COURT CLERK: Yes, sir. Thank you.

27 THE COURT: Just as a matter of interest,

1           where is that done? Is it done here? The taking of  
2           the DNA.

3           THE COURT CLERK:           Yes.

4           THE COURT:                 In the court building?

5           THE COURT CLERK:           No, it's taken at the RCMP, I  
6           believe.

7           THE COURT:                 Okay. We have an issue down  
8           south about taking DNA samples in the court building  
9           where the sentencing has occurred. We discourage it.  
10          But it's not done here, so that's fine.

11                           Anything else, Counsel?

12          MR. FALVO:                 No, Your Honour.

13          THE COURT:                 Thank you.

14                           .....

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16   Certified to be a true and  
17   accurate transcript, pursuant to  
18   Rules 723 and 724 of the Supreme  
19   Court Rules of Court

19     
20   \_\_\_\_\_  
21   Jane Romanowich,  
22   Court Reporter

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