

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- v -

ADRIAN BILODEAU

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Transcript of the Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, in Yellowknife, in the Northwest Territories, on the 19th day of February, A.D. 2003.

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APPEARANCES:

Ms. B. Schmaltz:

Counsel for the Crown

Mr. H. Latimer:

Counsel for the Defence

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Charge under s. 267(b) C.C.

1 THE COURT: I want to thank both counsel for  
2 the efforts they have put in to presenting the joint  
3 submission that they did.

4 The accused has pleaded guilty to a charge of  
5 assault causing bodily harm. I said during counsel  
6 submissions and I will repeat it now, that, looking at  
7 the facts of this case and looking at the record of  
8 the accused, I would have no hesitation in imposing a  
9 lengthy jail sentence for this offence. My initial  
10 inclination was to do so.

11 The joint submission when I first heard it, that  
12 being a joint submission which would result in a  
13 further period of six months' incarceration, even when  
14 I take into account the time spent in custody, at  
15 first blush I would consider that inadequate. But  
16 having heard all of the submissions of counsel and  
17 having regard in particular to what I consider the  
18 mitigating effect of a guilty plea which, whenever it  
19 comes during the course of the proceedings, is worthy  
20 of serious credit; and when I consider the value of a  
21 joint submission in any case, when counsel, who  
22 obviously know the case far better than a judge does,  
23 are able to resolve things among themselves, and the  
24 importance of both counsel and accused being able to  
25 make decisions on some sort of reasonable assurance  
26 that a joint submission is likely to be accepted; on  
27 those bases, I think there is justification for the

1 submission that has been made to me.

2 The most important thing, of course, is to ask  
3 oneself whether the joint submission is a reasonable  
4 one, or is it so unreasonable as to be contrary to the  
5 interests of justice? I cannot say that. While, as I  
6 say, I may have been inclined at first blush to impose  
7 a far more severe sentence, I think under all of the  
8 circumstances the joint submission can be said to be  
9 within the bounds of reasonableness and I will accept  
10 it.

11 In this case the assault to which the accused  
12 pleaded guilty was a particularly violent one. It was  
13 a beating occurring late at night. The victim was  
14 intoxicated. The victim suffered severe and, no  
15 doubt, lasting injuries.

16 The accused has a record dating back to 1987 of  
17 some two dozen convictions, some of which, and many of  
18 the recent ones, being also for assault. As Crown  
19 counsel has said, all types of sentencing options have  
20 been tried in the past and therefore rehabilitation is  
21 now very much a secondary factor.

22 The accused is 34 years old. He is planning to  
23 stay in Yellowknife. He has employment prospects or,  
24 at least from what I am told, he is employable. He  
25 certainly has the strong support of his family. All I  
26 can say is that he should be very grateful for that  
27 and he should take advantage of that.

1 I considered seriously the question of a further  
2 period of probation after his incarceration. Crown  
3 counsel says that there does not seem to be much point  
4 in imposing probation because it has been tried before  
5 and it has not worked. With respect, I am not certain  
6 that is necessarily a good enough reason not to impose  
7 probation, and particularly in this case where it is  
8 obvious to me that the accused requires some sort of  
9 outside control, if for nothing else than to assist  
10 him and aid him in reforming his life as he says he  
11 will try to do.

12 The joint submission is that a sentence of 20  
13 months would be appropriate in all the circumstances.  
14 That is 20 months for this offence, but I must take  
15 into account time spent in pre-trial custody. The  
16 accused has been in custody for almost seven months.  
17 At the usual credit that would equate to 14 months.  
18 Therefore the joint submission is that I should impose  
19 a further term of incarceration of six months. I do  
20 so. The sentence will be one of six months'  
21 incarceration taking into account time spent in  
22 custody.

23 In addition, I will place the accused on  
24 probation for a period of one year starting from the  
25 date of his release. The conditions of that probation  
26 order are the usual statutory ones, that is, he is to  
27 keep the peace and be of good behaviour. He is to

1 report to the court if and when required to do so. He  
2 is to report to a probation officer forthwith upon his  
3 release and to continue to report as and when directed  
4 by the probation officer. He is to participate in any  
5 and all counselling or treatment programs that may be  
6 recommended by the probation officer. He is  
7 prohibited absolutely from the possession or  
8 consumption of alcohol or non-prescription drugs  
9 during the period of his probation. He is prohibited  
10 absolutely from being in any licenced premises unless  
11 it is for the purpose of having a meal. In other  
12 words, Mr. Bilodeau, you are not allowed to be in the  
13 Gold Range or any other bar in this town. Do you  
14 understand?

15 THE ACCUSED: (Non-verbal response).

16 THE COURT: He is to seek and maintain  
17 employment. He is to have no contact directly or  
18 indirectly with Peter Ellsworth.

19 Are there any other conditions that counsel think  
20 may be appropriate in these circumstances? Ms.  
21 Schmaltz.

22 MS. SCHMALTZ: No, sir.

23 THE COURT: Mr. Latimer.

24 MR. LATIMER: No, I believe that covers it,  
25 Your Honour.

26 THE COURT: I have considered Mr. Latimer's  
27 submissions with respect to Mr. Bilodeau's professed

1           desire to aid or compensate the victim in this case in  
2           some manner. I agree with Crown counsel that it is  
3           not really the appropriate situation for a restitution  
4           order because the economic losses suffered by the  
5           victim in this case are not quantifiable, so I will  
6           not make any formal restitution order. But I will say  
7           this. If it is something that Mr. Bilodeau feels is  
8           necessary to soothe his conscience and perhaps  
9           something that he feels is morally responsible to do,  
10          then I will not stop him from doing it. He can do so  
11          voluntarily. All I will say is that if he does so he  
12          should do so through the offices of his counsel,  
13          through Mr. Latimer. I'm sure, Mr. Latimer, you can  
14          make whatever arrangements are necessary with the  
15          victim if indeed Mr. Bilodeau does provide any funds  
16          to you.

17          MR. LATIMER:                    Yes, Your Honour.

18          THE COURT:                    That's not part of any order,  
19          those are just my comments.

20                                    Anything else, Ms. Schmaltz?

21          MS. SCHMALTZ:                 A firearms prohibition, sir?

22          THE COURT:                    Is it a ten-year mandatory?

23          MS. SCHMALTZ:                 I believe it is, sir.

24          THE COURT:                    Any comment on that, Mr. Latimer?

25          MR. LATIMER:                   No, Your Honour.

26          THE COURT:                    Very well, there will be the  
27          required prohibition order for a period of ten years

1           prohibiting the accused from having in his possession  
2           any firearms or ammunition.

3           MS. SCHMALTZ:           I'm assuming Mr. Bilodeau has  
4           none now or, if he does, is there a time for disposal?

5           THE COURT:           Do you have any firearms,  
6           Mr. Bilodeau?

7           THE ACCUSED:           No.

8           MR. LATIMER:           No, he doesn't have any in his  
9           possession. He indicated that he already had a  
10          firearm prohibition.

11          THE COURT:           I see.

12          MR. LATIMER:           Would this then be concurrent  
13          with the other previous one?

14          THE COURT:           I think this one would start from  
15          the date of his release and last for a further ten  
16          years.

17          MR. LATIMER:           All right.

18          THE COURT:           If at some point in the future he  
19          requires some exemption from that restriction, then  
20          there are mechanisms by which he can apply for an  
21          exemption.

22          MR. LATIMER:           Yes. As long as it's not delayed  
23          then.

24          THE COURT:           Thank you, counsel.  
25          Mr. Bilodeau, I wish you luck for the future.

26          THE ACCUSED:           Thank you.

27          MS. SCHMALTZ:           I will say, sir, the Crown will

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stay Count number 2 on the Indictment and I will provide Madam Clerk with a copy of that. And the victim of crime surcharge?

THE COURT: I will not impose any surcharge under the circumstances. Thank you.

Thank you Mr. Latimer, Ms. Schmaltz.  
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Certified pursuant to Practice Direction #20 dated December 18, 1987.



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Annette Wright, RPR, CSR(A)  
Court Reporter