

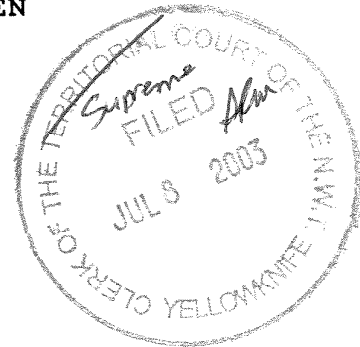
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

JASON JAMES VITAL



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Transcript of the Reasons for Sentence delivered by The Honourable Justice J.E. Richard, in Yellowknife, in the Northwest Territories, on the 26th day of June, A.D. 2003.

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APPEARANCES:

Mr. A. Fox:	Counsel for the Crown
Mr. G. Boyd:	Counsel for the Defence

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

**Ban on Publication of Complainant / Witness  
Pursuant to Section 486 of the Criminal Code**

1 THE COURT: This morning, the Court is once  
2 again faced with the responsibility of sending a  
3 healthy young man to jail because of a violent crime  
4 that he committed while intoxicated by alcohol.

5 Jason Vital is 28 years old, a Dogrib person from  
6 Rae Edzo. He has a grade 11 education and most  
7 recently was employed in the community Co-op store. I  
8 am told that he has been in a common-law relationship  
9 for five years and, with his common-law spouse,  
10 supports three children.

11 Mr. Vital admits to a long-time addiction to  
12 alcohol. He says that he has taken treatment programs  
13 in the past, but he says that on the date when he  
14 committed this crime of violence, he succumbed once  
15 again to his addiction. He also says that his alcohol  
16 addiction led to the incidents giving rise to each  
17 entry on his criminal record.

18 His criminal record is clearly an aggravating  
19 circumstance in the context of the Court's  
20 consideration of an appropriate sentence for his most  
21 recent crime. I will refer to four of the entries on  
22 his criminal record in particular.

23 Firstly, as a youth in 1990, he was convicted of  
24 assault with a weapon, contrary to section 267(1)(a)  
25 of the *Criminal Code* and was placed on probation for  
26 nine months.

27 In 1998, he was convicted of assault causing

1           bodily harm, received a sentence of nine months'  
2           imprisonment, followed by 18 months of probation. I  
3           am told that the victim in that case was his mother.

4           In December 2000, he was convicted of possession  
5           of a weapon and mischief, received a sentence of 30  
6           days' imprisonment. I am told that the circumstances  
7           there were that Mr. Vital slashed the tires of a  
8           police vehicle.

9           Finally, on June 5th, 2002, he was convicted of  
10          assault causing bodily harm and received a sentence of  
11          eight months' imprisonment. That was obviously just a  
12          year ago. By my rough calculation, he would have  
13          completed that last sentence in early February of this  
14          year.

15          On March 30th of this year, he was intoxicated  
16          and was visiting at his brother's house and got into  
17          an argument and a fight with his brother. Others were  
18          also present in the house, including the victim Dallas  
19          Drybones. After this argument or fight with his  
20          brother, Jason Vital went to his own home. A short  
21          time later, he returned to his brother's house,  
22          carrying an axe. In seeking to exact revenge on his  
23          brother Nathan, he first used the axe on the outside  
24          door of his brother's home. After he gained entry,  
25          his brother Nathan retreated to a bedroom and closed  
26          the door. The first person that Jason Vital  
27          encountered was a friend or acquaintance, Dallas

1 Drybones, and he swung the axe at Dallas Drybones.  
2 Mr. Drybones attempted to evade the assault, but he  
3 was struck on the back by the axe. Mr. Drybones  
4 received a minor injury, depicted in the photographic  
5 exhibit, that did not require medical attention.

6 The offender, Jason Vital, then pursued his  
7 brother Nathan next, using the axe to slash at the  
8 door to the bedroom. Nathan and another individual  
9 escaped out a window and fled. The offender Jason  
10 Vital continued to pursue the other individual, but  
11 fortunately to no avail.

12 The police arrested Jason Vital within the hour.  
13 He was intoxicated at the time of his arrest. He has  
14 been in custody since his arrest, a period of some  
15 three months.

16 Eventually in Territorial Court, he waived a  
17 preliminary inquiry and was committed to stand trial  
18 in this court, where today he has entered a guilty  
19 plea to assaulting Dallas Drybones with an axe,  
20 contrary to section 267(a) of the *Criminal Code*. This  
21 offence carries a maximum penalty of ten years'  
22 imprisonment in a federal penitentiary.

23 As I listened to the recitation of the facts of  
24 this case, I could not help reflecting on a very  
25 similar case in this court a few years ago. It was a  
26 case arising from a different aboriginal community,  
27 but the facts were very similar. The outcome was more

1 tragic. In that case, the angry, intoxicated offender  
2 was pursuing the victim, and the victim sought refuge  
3 in a bedroom behind a closed door. The offender used  
4 the weapon to slash at the victim through the door  
5 and, tragically, one of the blows reached the victim  
6 through the door and killed the victim. That offender  
7 of course was convicted of homicide and received a  
8 lengthy penitentiary term.

9 The offender before the court today, Jason Vital,  
10 says he realizes the seriousness of what he did and  
11 that the consequences could have very easily been more  
12 tragic for Dallas Drybones or his brother Nathan.

13 The overriding consideration in the sentencing of  
14 Jason Vital this morning is the protection of the  
15 community. He has a serious record of violence when  
16 he has access to alcohol. He is a danger to the  
17 members of his own family. When will his violence  
18 stop? Will it only stop when he kills someone,  
19 perhaps a member of his own family? What kind of  
20 example is Mr. Vital setting for the children that he  
21 is supporting? Will they grow up to be like Jason  
22 Vital, getting into the habit of abusing alcohol and  
23 becoming violent, beyond control, while intoxicated?  
24 Will Jason Vital continue to contribute to the cycle  
25 of violence?

26 These are some of the questions, Jason, that you  
27 should be asking yourself while you are serving your

1 term of imprisonment. You have told me this morning  
2 that you have done a lot of thinking these past three  
3 months about yourself and about the life that you have  
4 been living. I suggest to you that you should  
5 continue that self-examination every day during your  
6 sentence and after you are released.

7 It appears from the letter that has been given to  
8 me from Chief Eddie Paul Rabesca, that you have  
9 support. You have support in your family and in your  
10 community, but it is you, Jason Vital, who has to  
11 decide if you are going to change your life.

12 I have considered the principles and the  
13 objectives of the sentencing process, and also the  
14 fact that Mr. Vital is an aboriginal person who is  
15 facing a period of incarceration. Because of  
16 Mr. Vital's record of previous violence, the  
17 seriousness of the present offence, and the need to  
18 protect the members of the community, it is my view  
19 that a sentence in the range of two to three years  
20 would be a fit sentence. That is the starting point,  
21 and it is not any less than that, in my respectful  
22 view.

23 However, in mitigation, we have Mr. Vital's early  
24 guilty plea, his recognition of the seriousness of  
25 what he did, and his remorse. Also, he has already  
26 served three months of pre-trial incarceration and  
27 that must be taken into account.

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Please stand now, Mr. Vital.

Jason Vital, for the crime that you have committed, assault with a weapon contrary to section 267(a) of the *Criminal Code*, it is the sentence of this Court that you serve a term of imprisonment of 18 months.

In addition, the term of imprisonment will be followed by a period of probation of 12 months. In addition to the statutory conditions for probation order, you will abstain from the consumption of alcohol during the period of probation, and also you will provide a sample of your breath to a police officer on request.

In addition, there will be the mandatory section 109 firearms prohibition order for a period of ten years.

In the circumstances, there will be no victim fine surcharge.

You may sit.

Anything further on this case, counsel?

MR. FOX: No, sir.

MR. BOYD: No, sir.

THE COURT: Thank you, we'll close court.

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Certified to be a true and accurate transcript, pursuant to Rule 723 and 724 of the Supreme Court Rules of Court

*AWright*

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Annette Wright, RPR, CSR(A)  
Court Reporter