

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF :

HER MAJESTY THE QUEEN



- and -

JONATHAN STEVE ANDRE

Transcript of the Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, sitting in Inuvik, in the Northwest Territories, on the 2nd day of December, A.D. 2003.

APPEARANCES:

Mr. B. Lepage:

Counsel for the Crown

Mr. J. MacFarlane:

Counsel for the Accused

(Charge under s. 267(b) Criminal Code of Canada)

1 THE COURT: In this case, Jonathan Steve
2 Andre has pleaded guilty to a charge of assault
3 causing bodily harm. The facts that were admitted
4 here in court reveal that the offence occurred as a
5 result of a drunken altercation between several men,
6 and during the course of that altercation, the victim,
7 William Robert, received three lacerations to his
8 face. The clear inference is that the lacerations
9 were caused by the accused using a pocketknife during
10 the course of this fight.

11 I recognize that the accused may have himself
12 received a beating during the course of this fight,
13 but the admitted facts as provided to me seem to
14 suggest that the accused and his co-accused instigated
15 the main part of the fight when everybody had an
16 opportunity to leave.

17 With respect to the offence itself, I think the
18 circumstances can be understandable - a group of young
19 people drinking, getting into an argument, and getting
20 into an altercation. Standing alone, that may not be
21 considered so serious. What is serious here is that
22 the accused, even though he is only 23 years old, has
23 already accumulated a significant criminal record.
24 Just his adult record since 1999 reveals fourteen
25 prior convictions, six of which are for crimes of
26 violence. He has been sentenced to significant
27 periods of incarceration. Those are the aggravating

1 circumstances.

2 The mitigating circumstances here are, first,
3 that the accused has stood up and taken
4 responsibility. He has entered a plea of guilty, and
5 I give him credit for that. The other circumstance is
6 that he has expressed to me that he realizes that his
7 time in jail is simply wasted time. And perhaps now
8 that he is getting older, he recognizes a need to take
9 control of his life and to deal with whatever problems
10 are plaguing him in terms of alcohol and drug abuse.

11 There is not much difference in terms of what has
12 been proposed as an appropriate sentence by the
13 defence and the Crown. I think both counsel recognize
14 that in these circumstances, considering that it was
15 an act of violence, that there is really no
16 alternative to a jail sentence.

17 I did not hear any evidence in this case as to
18 any systemic or historical factors that may have
19 attributed to bringing this young aboriginal man
20 before this court.

21 I have heard that there are some resources
22 available in his home community to help him should he
23 wish to have that help, and I hope he pursues that.

24 The fact that the accused is an aboriginal really
25 makes very little difference in a case like this where
26 it is a situation of personal violence. Where it does
27 make a difference is in the hope that the community

1 can work together to help him, that he can work with
2 the community, so that instead of coming back and
3 forth to court, he can take his place as, perhaps, a
4 proud and productive member of that community. And I
5 sincerely hope he does because he is still too young
6 to waste the rest of his life going in and out of
7 jail.

8 Stand up, Mr. Andre.

9 In my opinion, an appropriate sentence in this
10 case would be as suggested by the Crown, two years
11 less one day. Considering the fact that you have
12 spent eight and a half months in pre-trial custody, I
13 give you credit for that (the equivalent of 17
14 months), and my sentence is that you serve a term of
15 imprisonment of seven months.

16 In addition, once you are released, I am placing
17 you on probation for a period of one year. The terms
18 and conditions of that probation are as follows. You
19 are to maintain the peace and be of good behaviour.
20 You are to report to the probation officer in
21 Fort McPherson or in Inuvik upon your release from
22 custody. You are to reside in the community of
23 Fort McPherson unless, because of employment
24 opportunities or education opportunities, your
25 probation officer authorizes you to reside somewhere
26 else. You are to report as directed to the probation
27 officer. You are to participate in any counselling or

1 treatment programs as directed by the probation
2 officer. And by this, I also include, if the
3 probation officer recommends that you go out on some
4 program out on the land, then that would be included
5 in that. You are to abstain absolutely from the
6 consumption or possession of alcohol, non-prescription
7 drugs, or any other intoxicating stimulants. You are
8 prohibited from being in any bar or other premises
9 where alcohol is served.

10 Now, sir, those conditions will apply for the
11 course of your probation, for one year after your
12 release. If you are encountering any difficulties -
13 if you can't cope, in other words - and you can't get
14 the help that you need, then speak to your probation
15 officer so that this doesn't become a trap for you, as
16 I heard your father say. If you are tempted to go
17 have a drink or to smoke some dope, or if you feel
18 frustrated that things aren't working out for you,
19 then speak to your probation officer first before
20 things get out of hand, because if you do commit any
21 crimes while you are on this probation, if you breach
22 any of the conditions, then I can pretty well
23 guarantee that you will be charged for that and you
24 will be back in jail and all this good talk will be
25 for nothing. Do you understand?

26 THE ACCUSED: Yeah.

27 THE COURT: You may have a seat.

1 Under the circumstances, there will be no victim
2 of crime fine surcharge.

3 I take it, Mr. Lepage, you're not looking for any
4 other disposition.

5 MR. LEPAGE: No, Your Honour. Thank you.

6 THE COURT: Mr. MacFarlane, anything else?

7 MR. MACFARLANE: Just one point: that he not be
8 in a premise where alcohol is served. You may have
9 noticed in Inuvik that there essentially are no
10 restaurants that he would be able to go into. To my
11 understanding, most, if not all, of them serve some
12 sort of alcohol. So it may be difficult if he's here
13 for work or for other reasons, he can go out for
14 something to eat. How that clause could be worded
15 otherwise. But that may be a problem for him.

16 THE COURT: Is that really such a problem? I
17 mean, is that such a problem? Is there no place to
18 eat where there is no liquor licence, where they don't
19 serve alcohol?

20 MR. MACFARLANE: Sir, just in my four years here,
21 I think the -- Togo's maybe the only one. They served
22 alcohol in the past, but they've recently stopped.
23 But I believe every other place does have a liquor
24 licence.

25 MR. LEPAGE: Your Honour, there's also, I
26 believe, Fast Food Cafe and the food counter at --
27 inside the Northern does not have alcohol.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

THE COURT: Well, let me put it this way.
This man told me that when he drinks, he has had a history of going and looking for fights, getting into trouble. I mean, I see the record. He is only 23 years old. Surely, if he is going to get control of this issue in his life, now is the time to do it. And if it is a little inconvenient that he can't go into every restaurant in Inuvik, too bad. He can work out some other arrangements. He can start to learn to cook for himself maybe. Other adults have to do that. So I am not inclined to change the condition.
Anything else?

MR. LEPAGE: No, Your Honour. Thank you.


THE COURT: Is there any order we require disposing of any exhibits with respect to this case?

MR. LEPAGE: I don't believe so, Your Honour.
In any event, they would be held for the -- Mr. Itsi.

THE COURT: Very well. Thank you. That's all. Good luck, Mr. Andre.

.....

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



Jane Romanowich,
Court Reporter