

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

FRANCIS PAUL YUKON

Transcript of the Reasons for Sentence delivered by The Honourable Justice J.E. Richard, in Yellowknife, in the Northwest Territories, on the 21st day of February, A.D. 2005.

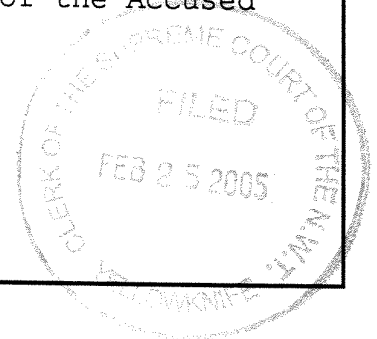
TEMPORARY BAN ON PUBLICATION

*Ban lifted
28 June 05*

APPEARANCES:

Ms. C. Carrasco: Counsel on behalf of the Crown
Mr. J. MacFarlane: Counsel on behalf of the Accused

Charge under s. 236(b) C.C.



1 THE COURT: The offender before the court,
2 Francis Yukon, has pleaded guilty to the serious
3 crime of manslaughter contrary to section 236 of
4 the *Criminal Code*. In June of 2003, Mr. Yukon
5 participated in the brutal beating and killing of
6 a man at a crack house here in Yellowknife
7 because of a \$1,400 drug debt. Today, he is to
8 be sentenced for his part in this terrible crime.

9 Before proceeding further I will just
10 reiterate that there is a publication ban in this
11 case which prohibits the publication or
12 broadcasting of any of the details of Mr. Yukon's
13 crime - the evidence presented at this hearing,
14 submissions made by counsel, or any details of
15 the crime that are contained in these reasons.
16 That publication ban will continue until such
17 time as the jury is selected in the Delorme case,
18 unless Mr. Delorme's case is earlier resolved by
19 the court.

20 For the purposes of this sentencing hearing,
21 counsel have placed before the court a statement
22 of agreed facts, Exhibit S1. I will summarize
23 these undisputed facts.

24 A Mr. Dale Courtoreille ran a crack cocaine
25 business at a so-called "crack house" here in
26 Yellowknife and this offender Francis Yukon, a
27 Mr. Richard Tutin, and Individual "A" were

1 associates of Mr. Courtoreille in that
2 enterprise.

3 In the early morning hours of June 16th,
4 2003, Individual "A", Mr. Yukon and Mr. Tutin
5 were engaged in a crack cocaine and drinking
6 party at the crack house. The victim of this
7 crime, one Justin Hai Van Vo, arrived at the
8 house and was allowed inside and joined in the
9 party. In due course Individual "A" became angry
10 and started to harass Mr. Vo about a \$1,400 drug
11 debt that Mr. Vo owed to Mr. Courtoreille.

12 During this discussion which led to
13 violence, both Individual "A" and Mr. Yukon were
14 smoking crack cocaine.

15 Individual "A" backhanded or slapped Mr. Vo
16 in the face and then both Individual "A" and
17 Mr. Yukon took turns hitting Mr. Vo on the head
18 and body.

19 On a coffee table in front of them was a
20 machete, some knives, a crowbar and a hammer.

21 Mr. Tutin was present during all of this.
22 Also, Mr. Yukon's girlfriend was in a bedroom in
23 the house and could hear yells and screams but
24 did not leave the bedroom.

25 Individual "A" hit Mr. Vo with the crowbar
26 on the head and the arm and Mr. Vo started to
27 bleed. Mr. Tutin tried to intervene to stop the

1 assault but Mr. Yukon prevented him from doing
2 so. Mr. Vo was crying out in pain and pleading
3 for the assault to stop. At one point he got up
4 and ran towards the window trying to escape, but
5 Individual "A" caught him, grabbed a knife and
6 started stabbing Mr. Vo. Mr. Vo bit Individual
7 "A" on the arm and Individual "A" was jabbing Mr.
8 Vo again with the knife.

9 Individual "A" told this offender, Francis
10 Yukon, to grab a long, yellow electrical
11 extension cord which was there and to tie
12 Mr. Vo's feet. Mr. Yukon took the extension cord
13 and got down on the floor on top of Mr. Vo and
14 wrapped it around Mr. Vo's feet and legs. And
15 then Mr. Vo stopped resisting the assault.

16 When Mr. Vo started moving again, Individual
17 "A" took up the remaining length of the extension
18 cord and wrapped it around Mr. Vo's neck, at the
19 same time saying "I'm going to kill you, you
20 little bastard." Individual "A" then kicked Mr.
21 Vo in the head a couple of times and pulled on
22 the extension cord. Mr. Vo stopped moving and it
23 was apparent that he was dead.

24 While Individual "A" was wrapping the
25 extension cord around Mr. Vo's neck, Mr. Yukon
26 was standing beside Mr. Tutin.

27 This offender, Francis Yukon, then assisted

1 Individual "A" to place the body first into a
2 sleeping bag and then into a large hockey bag.

3 The two of them and Mr. Tutin then cleaned
4 up the blood and other evidence of the struggle.

5 Mr. Tutin was sent to borrow a pick-up truck
6 to use to dispose of the body.

7 Mr. Yukon telephoned Mr. Courtoreille and
8 told him to get over to the house.

9 Mr. Courtoreille arrived at the house and gave
10 Mr. Tutin money for gas for the borrowed truck
11 and drove Mr. Tutin to the place where he
12 borrowed the truck.

13 The three men - Individual "A", Yukon and
14 Tutin - then put the body in the pick-up truck
15 and drove out the Ingraham Trail just past the
16 Yellowknife River where they disposed of Mr. Vo's
17 body. Individual "A" was concerned that some of
18 his DNA might be on Mr. Vo's body so a decision
19 was made to burn the body to remove any traces of
20 DNA. The burning body was discovered a few hours
21 later and the police were called.

22 The three men - Yukon, Tutin and "A" -
23 returned to the crack house and continued with
24 their clean-up efforts.

25 Mr. Courtoreille arrived with some alcohol
26 and some cocaine and the four of them drove to a
27 deserted road on the Con Mine property and

1 consumed alcohol and cocaine and discussed what
2 each of them would say if they were questioned by
3 the police about Mr. Vo's presence at the crack
4 house and about Mr. Vo's disappearance.

5 Twelve days later on June 28th, the police
6 arrested all four men. Initially, each of them
7 told the police the cover-up story that they had
8 agreed to.

9 The day after his arrest and subsequently,
10 Mr. Yukon gave a warned statement to the police
11 confirming some of his involvement in the assault
12 on Mr. Vo and subsequent events.

13 The pathologist who performed the autopsy on
14 Mr. Vo's body is of the opinion that the cause of
15 death was ligature strangulation evidenced by the
16 tight wraps of the electrical extension cord
17 around Mr. Vo's neck and the bruising of Mr. Vo's
18 underlying neck structures.

19 In April 2004, Mr. Tutin pleaded guilty to
20 being an accessory after the fact to murder. He
21 received an effective sentence of three and a
22 half years' imprisonment after taking into
23 account presentencing custody.

24 Mr. Courtoreille also pleaded guilty in
25 April 2004 to being an accessory after the fact
26 to murder and received an effective sentence of
27 three years after taking into account

1 presentencing custody.

2 The reasons of the sentencing judge can be
3 found at 2004 NWTSC 20 and 2004 NWTSC 25.

4 Individual "A" is charged with murder and
5 has not yet had his trial.

6 This offender, Francis Yukon, has been in
7 custody since the day of his arrest on June 28th,
8 2003, approximately 20 months. In accordance
9 with the case law and the usual practice of the
10 court, he will receive credit on account of that
11 time in custody, that is, credit towards the
12 sentence to be imposed.

13 Mr. Yukon pleads guilty to the crime of
14 manslaughter, an admission that he participated
15 in this brutal assault that led to Mr. Vo's
16 death.

17 Although, sadly, in this small jurisdiction
18 of ours we have numerous crimes of violence
19 causing death which come before the court, this
20 particular crime is unique in the Northwest
21 Territories. I say that in the sense that here
22 we have three or four men all involved in the
23 illegal drug trade ganging up on a fifth man also
24 involved in the drug trade in order to extract
25 payment of a \$1,400 drug debt or to punish for
26 non-payment of a \$1,400 drug debt, leading to a
27 brutal, sordid killing and the burning of the

1 body.

2 This offender, Francis Yukon, is now 29
3 years of age and is an aboriginal person who grew
4 up in Deline and was raised by his grandparents
5 there. He reached grade 10, I'm told, in school
6 in Deline and apparently moved to Yellowknife a
7 number of years ago. He comes from a large
8 well-known family in Deline, the Yukon family.

9 His family has written a letter of support
10 for him and they have presented it to the court.
11 Some members of his family have travelled here to
12 Yellowknife to be with him today. This is
13 commendable in my view, that is, that the family
14 stands beside him in this difficult time for him
15 even though they now know what he did that brings
16 him to court today.

17 Francis Yukon is fortunate to have such a
18 family. Family is important, and I do hope that
19 Mr. Yukon reflects on that aspect of his life
20 while he is serving his term of imprisonment and
21 awaiting his release.

22 The manslaughter conviction for which
23 Mr. Yukon is being sentenced today is not
24 Mr. Yukon's first conviction for a crime of
25 violence. He has a record of 14 previous
26 *Criminal Code* offences starting in 1989 and
27 including six convictions for crimes of violence:

1 In 1993 at Deline, he was convicted of break and
2 enter and committing an assault and received a
3 sentence of one month in jail; in 1995 at Deline,
4 assault causing bodily harm, 60 days in jail; in
5 1999 at Deline, assault causing bodily harm,
6 three months in jail; in 1999 at Yellowknife,
7 common assault, four months in jail; April 2002
8 in Yellowknife, robbery, a sentence of one day in
9 jail plus time served which was five and a half
10 months; and in August of 2002 at Yellowknife,
11 another conviction for assault for which he
12 received a sentence of five months' imprisonment
13 followed by a year of probation. So Mr. Yukon
14 would have completed his last sentence just
15 months before participating in the killing of
16 Justin Vo and indeed would have still been on
17 probation for the assault conviction of August
18 '02.

19 His criminal record and the fact that he was
20 still on probation at the time of committing the
21 crime of manslaughter is an aggravating
22 circumstance. It also an aggravating feature
23 that Mr. Yukon acted in concert with another
24 individual in perpetrating this extreme violence
25 on the victim. The victim was virtually
26 defenceless against these two men.

27 Although there is no evidence that Francis

1 Yukon himself intended to cause death to Mr. Vo,
2 he did set out to cause harm to Mr. Vo, indeed
3 telling his girlfriend that they were going to
4 "put a scare into Mr. Vo".

5 This was a prolonged attack and not just one
6 blow, and the continuation or escalation of the
7 assault almost amounted to torture.

8 On the facts before me, it was Individual
9 "A" who killed Mr. Vo, and Mr. Yukon assisted "A"
10 in killing Mr. Vo.

11 Mr. Yukon's moral blameworthiness is high.
12 He participated in a brutal beating of the victim
13 all over a \$1,400 drug debt and he participated
14 in the sordid disposal of the victim's body and
15 in cleaning up the crime scene and in concocting
16 a cover-up story to the police.

17 As opposed to the remorse which Mr. Yukon
18 expresses in court today, which I do take to be
19 genuine remorse, this is far different from
20 Mr. Yukon's conduct immediately after the
21 killing. His conduct then in participating in
22 the cover-up and the disposal of the body was
23 callous and without remorse.

24 On the mitigating side, Mr. Yukon has
25 pleaded guilty to manslaughter and now accepts
26 responsibility for his role in the death of
27 Justin Vo. He was originally charged with

1 murder. His preliminary inquiry was held, and
2 his trial on the murder charge was scheduled and
3 rescheduled.

4 He retained new counsel just a few months
5 ago and took a fresh look at his situation and
6 with the assistance of his counsel made
7 arrangements with the Crown prosecutor to resolve
8 his charge by way of a guilty plea to
9 manslaughter. This public acceptance of
10 responsibility and the dispensing with the need
11 for a lengthy and costly trial acts to mitigate
12 the sentence that would otherwise be imposed.

13 This court has commented many times in
14 recent years about the prevalence of crack
15 cocaine in this community and the devastation
16 which it has caused in our community. The case
17 of Francis Yukon and of the late Justin Vo brings
18 home that reality in a very dramatic and forceful
19 way. Just consider what crack cocaine has done
20 for these two men.

21 Mr. Yukon acknowledges that he started using
22 crack cocaine here in Yellowknife a few years
23 before this killing. He became a heavy user. In
24 the fall of 2002, he moved into the crack house,
25 and in the months leading up to June 2003 he was
26 existing only for his next hit of cocaine, and
27 then he participated in the killing of another

1 human being all because of a \$1,400 drug debt.

2 The principles of denunciation and
3 deterrence require a substantial penitentiary
4 sentence in this case. Also, the principle of
5 proportionality and the principle of parity, and
6 here, I am in particular referring to the
7 sentences imposed on Messrs Tutin and
8 Courtoreille for being accessories after the fact
9 - both of these additional principles also compel
10 a substantial term of imprisonment in a federal
11 penitentiary.

12 Counsel are in general agreement that the
13 range of sentence in this case given all of the
14 circumstances ought to be six to eight years. I
15 agree, however after much consideration I've
16 determined that the appropriate sentence is at
17 the upper extreme of that range, that is, eight
18 years.

19 The Crown prosecutor asks the Court to
20 exercise its discretionary power under section
21 743.6 and to make an order delaying Mr. Yukon's
22 eligibility for parole until he has served at
23 least one-half of his penitentiary sentence. In
24 considering this application I am guided again by
25 the principles of denunciation and deterrence.
26 The circumstances of the commission of this
27 offence by Mr. Yukon are indeed egregious.

1 Mr. Yukon's personal circumstances include
2 the fact that he is still only a man of 29 years
3 of age. He has a criminal record including
4 crimes of violence, but his longest sentence up
5 until now was six months' imprisonment. There's
6 no evidence that he has violated parole.

7 From his statement to the court today, I
8 accept that this tragedy and his role in it is
9 indeed a wake-up call for him.

10 In all of the circumstances I find that the
11 expression of our community's denunciation of
12 this crime and the objective of deterrence are
13 adequately met by a sentence of eight years'
14 imprisonment and the further punishment of
15 delayed parole eligibility is not required.
16 Accordingly, I decline to make an order under
17 section 743.6 of the *Criminal Code* and I will
18 leave the matter of parole eligibility to be
19 determined by the National Parole Board in the
20 usual course.

21 Please stand now, Mr. Yukon.

22 Francis Yukon, I'm giving you the equivalent
23 of three years' credit for the time that you have
24 been in custody since your arrest for this crime
25 and I hereby sentence you to a further term of
26 imprisonment of five years for the crime of
27 manslaughter contrary to section 236 of the

1 *Criminal Code.*

2 The mandatory firearms prohibition order
3 will issue for a period of ten years pursuant to
4 section 109 of the *Criminal Code.*

5 There will be no victim fine surcharge.

6 You may sit down.

7 Anything further on this case, counsel?

8 MS. CARRASCO: No, thank you, sir.

9 MR. MacFARLANE: Just one final point, sir. I
10 realize it's often the case where sentences in
11 excess of two years but closer to two years,
12 there's sometimes a recommendation that the
13 offender be able to serve the sentence in the
14 north if possible. I know that some of his
15 family members have voiced concern about that.
16 Given the length of the sentence I'll leave that
17 in Your Honour's hands, but he has spent a year
18 and a half in the North Slave Correctional
19 Centre, he is familiar with that facility, does
20 have family here and in the north. So the
21 request, if Your Honour feels it's appropriate,
22 is to put a notation on the warrant of committal
23 to that effect.

24 THE COURT: Thank you. I did see that
25 request in the family's letter to the court.
26 However I'm aware that the officials in the
27 federal penitentiary service and the local

1 correctional centre as a matter of course
2 consider each northern offender for the
3 possibility of remaining at an institution in the
4 north. This case is a little unusual and I'm
5 aware that that consideration is going to be
6 given in any event, so I'm going to leave it to
7 the appropriate officials to make that
8 determination without any particular
9 recommendation from the court in this case.

10 MR. MacFARLANE: Thank you, sir.

11 THE COURT: Thank you. 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.

Annette Wright

Annette Wright, RPR, CSR(A)
Court Reporter