

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

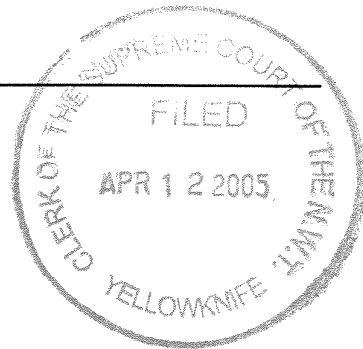
IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

YVONNE DESJARLAIS

Transcript of the Oral Reasons for Sentence by The Honourable Justice J.E. Richard, sitting at Yellowknife, in the Northwest Territories, on March 31st, A.D. 2005.



APPEARANCES:

Ms. S. Tkatch: Counsel for the Crown
Ms. T. Nguyen: Counsel for the Accused
(Charges under s. 268, 267(a) Criminal Code)

1 THE COURT: I am going to impose sentence
2 now on Ms. Desjarlais, and I am going to raise my
3 voice because of her hearing problem, and I
4 apologize to others in the courtroom.

5 This offender is a 55-year-old Dene woman
6 from Lutsel K'e who is to be sentenced for two
7 serious crimes of violence committed by her on
8 December 16th in her home community.

9 The evidence before the Court is that Yvonne
10 Desjarlais is an alcoholic and has been for many
11 years. She has lived most of her life in Lutsel
12 K'e. There is no evidence that she has caused
13 any problems in her community or committed any
14 crimes before December 16th, 2004.

15 She was intoxicated on December 16th at her
16 brother's home and got into an argument with her
17 brother and stabbed him with a knife. Ms.
18 Desjarlais was asked to leave that home and she
19 did and she returned to her own home. There she
20 got into an argument with her husband. She got a
21 knife from the kitchen and approached her husband
22 waving the knife at him. Another person
23 intervened and took the knife from her,
24 fortunately, before any injury could be done.

25 Ms. Desjarlais was arrested by the RCMP in
26 Lutsel K'e on the evening of December 16th. On
27 December 21st she was released on an undertaking

1 by a Justice of the Peace in Yellowknife, one of
2 the conditions being that she was not to consume
3 or possess alcohol. She was arrested again one
4 day later because she was grossly intoxicated.
5 She was released again on a recognizance on
6 February 28th, 2005. Her Preliminary Inquiry was
7 scheduled for April 21st, but she has now waived
8 her Preliminary Inquiry and appears in this court
9 and has pleaded guilty to the two charges.

10 She does not have full recollection of the
11 December 16th events, but accepts that she did
12 what is alleged. She does not understand why she
13 resorted to violence, because she says that she
14 is very close to both her brother, Alfred Abel,
15 and her husband, Joe Desjarlais. I am going to
16 accept defence counsel's submission that this
17 violent behaviour was unusual or out of character
18 behaviour for Yvonne Desjarlais. The evidence
19 does indicate, however, that she can be a danger
20 to her family and to her community when she is
21 intoxicated.

22 It must be obvious to everyone in this
23 courtroom, including Yvonne Desjarlais, that it
24 is her drinking that must be addressed. It is to
25 Ms. Desjarlais' credit that she accepts
26 responsibility for her criminal acts at an early
27 stage. She needs to deal with her alcoholism

1 with the support of her family and friends and
2 professional counsellors. I am sure that her
3 family and friends and the community of Lutsel
4 K'e will be supportive, but it is she who must
5 make the ultimate decision to stop drinking.

6 After consideration of all of the
7 circumstances, including the age and antecedents
8 of Yvonne Desjarlais, I have decided that I will
9 today not impose a jail sentence on Ms.
10 Desjarlais, but will, instead, suspend the
11 passing of sentence and place her on probation.
12 I will ask that her lawyer, Ms. Nguyen, explain
13 carefully to her the implications of this
14 disposition should she fail to adhere to the
15 conditions of the probation order.

16 With respect to the two convictions under
17 section 267(a) of the *Criminal Code*, I suspend
18 the passing of sentence for a period of 12
19 months, and I direct that Yvonne Desjarlais be
20 released on the following conditions prescribed
21 in her probation order: You will keep the peace
22 and be of good behaviour. You will appear again
23 before this Court when required to do so. You
24 will report within 24 hours to the offices of
25 Probation Services here in Yellowknife and
26 thereafter to a probation officer in Yellowknife
27 or Lutsel K'e as directed. You will abstain from

1 the excessive consumption of alcohol. You will
2 take whatever counselling or treatment is
3 recommended by the probation officer to deal with
4 your alcohol addiction. You will, with the
5 assistance of the probation officer, provide a
6 written report to this Court at three-month
7 intervals advising of your compliance with all
8 terms of the probation order.

9 Now, Ms. Desjarlais, you are going to have
10 to remain here in the courtroom until the
11 probation order is prepared. You are going to be
12 given a copy of it. I am going to ask your
13 lawyer to carefully advise you of the provisions
14 of section 732.2 and section 733.1 of the
15 *Criminal Code* to ensure that you understand this
16 order and those provisions of the *Criminal Code*.
17 I am going to direct the Clerk of the Court to
18 send a transcript of the Court's reasons to
19 Probation Services.

20 Finally, I grant the DNA order requested by
21 the Crown. You can hand the order up to the
22 Clerk and I will deal with it.

23 MS. TKATCH: Thank you, Your Honour. Your
24 Honour, if I may, with respect to the order
25 that -- abstain from excessive consumption of
26 alcohol, would Your Honour want to put at least a
27 breath demand provision and maybe a numerical

1 number to what may be excessive. I am concerned
2 more about a judgment call being on whether she
3 is in breach or not and what's excessive to the
4 individual police officer or probation officer
5 that finds her.

6 THE COURT: Well, I appreciate that it is
7 expressed in what you might say is grey terms,
8 but I am going to leave it both to the judgment
9 of the police and the probation officer, but also
10 the Court that has to deal with it after the
11 fact. I appreciate this woman is inflicted with
12 what really is a disease, but she has got family
13 and friends that can help her, and gross
14 intoxication will be a breach of the order. That
15 is the danger, that she is going to repeat this
16 kind of violent behaviour if she drinks too much,
17 and I have put that provision in there simply as
18 a balance between absolute abstinence and no
19 provision at all.

20 If there is nothing else, then we will close
21 court. Thank you.

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



Jill MacDonald, CSR(A), RPR
Court Reporter