

R. v. Delorme, 2005 NWTSC 79

S-1-CR2004000034

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- vs. -

GERALD ANTHONY DELORME

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Transcript of the Decision on the period of Parole  
Ineligibility by The Honourable Justice J.Z. Vertes, at  
Yellowknife in the Northwest Territories, on September  
20th A.D., 2005.

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APPEARANCES:

Mr. N. Sinclair: Counsel for the Crown  
Ms. C. Rhineland: Counsel for the Accused

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Charge under s. 235(1), s. 240 *Criminal Code of Canada*

1 THE COURT: The offender, Gerald Delorme,  
2 was convicted of second degree murder in the  
3 death of Justin Vo.

4 The sentence mandated by law for second  
5 degree murder is life imprisonment. However,  
6 there remains to be determined the period of time  
7 the offender shall be required to serve before he  
8 will be eligible to be considered for parole.  
9 The law specifies that the period of parole  
10 ineligibility shall be no less than ten years and  
11 not more than 25 years.

12 Section 745.4 of the Criminal Code provides  
13 that the Judge who presided at the trial of the  
14 offender may, having regard to the character of  
15 the offender, the nature of the offence and the  
16 circumstances surrounding its commission, and the  
17 recommendation, if any, of the jury, substitute  
18 for ten years the number of years of parole  
19 ineligibility the Judge deems fit in the  
20 circumstances. In this case the jury made no  
21 recommendation as to parole ineligibility. That  
22 fact alone does not determine the period of  
23 parole ineligibility. It is still my  
24 responsibility to impose a fit sentence according  
25 to the factors set out in the Criminal Code,  
26 those being:

27 (a) the character of the offender;

1 (b) the nature of the offence; and,  
2 (c) the circumstances surrounding the commission  
3 of the offence.

4 Implicit in these factors are considerations  
5 of specific and general deterrence, denunciation,  
6 and the reformation and rehabilitation of the  
7 offender. And, as noted by the Supreme Court of  
8 Canada in R. v. Shropshire (1995), 102 C.C.C.  
9 (3d) 193, the determination of the period of  
10 parole ineligibility is a very fact-sensitive  
11 process. The Court also noted that the  
12 discretion to impose a period greater than ten  
13 years reflects the fact that within the category  
14 of second degree murder there is both a range of  
15 seriousness and varying degrees of moral  
16 culpability.

17 The Supreme Court also held that it is  
18 incorrect to start from the proposition that the  
19 period of parole ineligibility must be the  
20 statutory minimum unless there are unusual  
21 circumstances. It is a question of what is the  
22 appropriate sentence in the circumstances. The  
23 emphasis is on the protection of society through  
24 the Court's expression of repudiation for the  
25 particular crime by the particular offender.

26 In my opinion, the nature and circumstances  
27 of this offence are quite serious and

1           aggravating. They reveal an undercurrent of drug  
2           use, violence and criminality that no community  
3           should tolerate.

4           All of the principals involved in this  
5           offence were participants in the drug underworld  
6           of Yellowknife. The offender was one of several  
7           cohorts of a crack cocaine supplier by the name  
8           of Dale Courtoreille. Courtoreille ran a crack  
9           house in downtown Yellowknife. From there crack  
10          cocaine was sold by people living in the house.  
11          There were women living there whose primary jobs  
12          were to man the door and keep the place clean.  
13          There were men whose primary role was to act as  
14          the "muscle", protection for the house. These  
15          people did these things in exchange for free  
16          drugs and alcohol. One of these "muscle" guys  
17          was the offender. Another one was Francis Yukon.  
18          There was also Richard Tutin, a long-time drug  
19          addict and small-time dealer, who was a hanger-on  
20          at the crack house. Justin Vo was another  
21          hanger-on, although not living there. He was  
22          well-known as another street dealer of crack  
23          cocaine.

24          These were not wayward kids. These were all  
25          adults. These were not socially deprived  
26          individuals. They were, some of them at least,  
27          career criminals. Some were from southern

1 Canada; most, I am sad to say, were from the  
2 Northwest Territories. The fact that they could  
3 operate their various criminal enterprises for so  
4 long, in the heart of this city, and apparently  
5 in flagrant view of many, including the police,  
6 should serve as a shock and an eye-opener for  
7 everyone in this community.

8 And I want to emphasize this.

9 The problems and criminality caused by the  
10 illegal drug trade in this city will not be  
11 solved by this one case. It is going to take a  
12 serious effort by everyone, in particular by our  
13 civic, business and political leaders, in frankly  
14 recognizing and dealing with the festering  
15 problems in this city. The Courts and the police  
16 cannot do it without the active involvement of  
17 everyone, including the public.

18 In the early morning of June 16th, 2003, the  
19 deceased Vo came to the crack house. Vo was  
20 looking for a safe place because he was being  
21 threatened at the time by another notorious  
22 Yellowknife criminal. Later on the same morning,  
23 the offender and Yukon started to harass Vo,  
24 claiming he endangered their little operation by  
25 drawing police attention to it and that he owed a  
26 debt to Courtoreille. The offender and Yukon  
27 started to assault Vo by slapping and punching

1 him. Tutin was there but claimed to take no part  
2 in this. The offender and Yukon were using crack  
3 cocaine and drinking alcohol at the time. Vo  
4 tried to get away but he was restrained. Yukon  
5 tied up his feet and legs with an electrical  
6 cord. The offender punched Vo and hit him with a  
7 crowbar. Then the offender took the electrical  
8 cord and wrapped it around Vo's neck. At this  
9 point he strangled Vo. This was the cause of  
10 death.

11 After Vo died, the offender, Yukon and Tutin  
12 cleaned up the house. They then took Vo's body  
13 out of town where they tried to burn it.  
14 Subsequently, with the assistance of  
15 Courtoreille, they concocted a cover story. All  
16 of these individuals were subsequently arrested  
17 less than two weeks later.

18 Yukon eventually pleaded guilty to  
19 manslaughter and was sentenced to five years  
20 imprisonment (in addition to three years' credit  
21 for pre-sentence custody). Tutin and  
22 Courtoreille both pleaded guilty to being  
23 accessories after the fact to murder. Tutin  
24 received a sentence of two years (after credit  
25 for pre-sentence custody) while Courtoreille was  
26 sentenced to 18 months in jail (also after  
27 receiving credit).

1           So, the circumstances reveal a death as the  
2 result of a prolonged beating and confinement  
3 done within the context of a criminal drug  
4 enterprise. It was a killing done not as an  
5 impulsive isolated act but as part of a concerted  
6 attack by at least two men on the victim. They  
7 then attempted to cover up their crime by trying  
8 to destroy the body. And all of this was done in  
9 an atmosphere of crack cocaine induced violence  
10 and paranoia.

11           The offender, Gerald Delorme, is now 40  
12 years old. At the time of the offence he was 37.  
13 He was born at Fort Resolution and grew up there  
14 and in Fort Smith. His parents were described as  
15 loving and supportive. He was one of 11 children  
16 in the family. He has a Grade 5 education. He  
17 was taken out of school to go with his parents  
18 into the bush where he learned how to hunt and  
19 trap.

20           The offender left home when he was 17 or 18  
21 years old. Over the years he fathered nine  
22 children, one of whom is now deceased, and he has  
23 ongoing contact with five of them. Prior to this  
24 offence, he was living in a common-law  
25 relationship and caring for a son of that  
26 relationship. He has worked at a variety of jobs  
27 over the years, in construction, mining and

1 logging. He does not appear to be an  
2 unintelligent or unsophisticated individual.

3 The offender also, however, has a lengthy  
4 criminal record. Between 1983 and 2002, he was  
5 convicted of 30 offences, 11 of which were for  
6 crimes of violence. I was told that most of  
7 these offences occurred while the offender was  
8 under the influence of alcohol. The offender was  
9 sentenced repeatedly to jail although always for  
10 relatively short periods of time. He has never  
11 received a penitentiary sentence.

12 The record, in my opinion, is important. It  
13 reveals, as Crown counsel noted, a continuing  
14 pattern of violence and lawless behaviour. The  
15 fact that it may have been a relatively low level  
16 of criminal behaviour makes it no less a  
17 continuing pattern. And it is that pattern which  
18 reflects on the offender's character.

19 I have to consider, as defence counsel urged  
20 me to, the circumstances of Delorme as an  
21 aboriginal offender. Section 718.2(e) of the  
22 Criminal Code mandates that the Courts give  
23 particular attention to the circumstances of  
24 aboriginal offenders.

25 As I stated during the hearing, I can take  
26 judicial notice of broad systemic and background  
27 factors affecting aboriginal people generally,



1 particularly northern aboriginal people. I know  
2 that even if an individual, such as this  
3 offender, grew up in a loving and caring family  
4 environment, there is often no way to avoid some  
5 of the pervasive problems present in our  
6 aboriginal communities caused by poverty,  
7 substance abuse and family disruptions. But I  
8 heard no evidence in this case of any unique  
9 systemic or background factors which may have  
10 played a specific part in bringing this  
11 particular offender before the Court. Nor indeed  
12 is there any evidence of systemic factors that  
13 may have played some part in the particular crime  
14 before the Court.

15 In my opinion, this is a case where the  
16 offender's aboriginal background, while certainly  
17 relevant, does not justify a sentence other than  
18 what would be imposed on any other offender with  
19 this offender's background and in the  
20 circumstances of this offence. As noted by the  
21 Supreme Court of Canada in R. v. Gladue, [1999] 1 S.C.R. 68  
22 generally speaking, the more serious and violent  
23 the crime, the more likely it will be as a  
24 practical matter that the sentence will be the  
25 same for similar offences and offenders, be they  
26 aboriginal or non-aboriginal.

27 Crown counsel has urged me to impose a

1 period of parole ineligibility of 15 to 20 years.  
2 He submitted that the crime was shocking and  
3 brutal, compounded by indignities inflicted upon  
4 the body of the victim and an attempt to cover up  
5 and deflect suspicion onto others. The killing  
6 was done in the context of a criminal  
7 organization, according to Crown counsel, and  
8 this is a highly aggravating factor.

9 Defence counsel has urged me to maintain the  
10 ten year minimum period of parole ineligibility.  
11 She noted in particular that this offender was a  
12 relative newcomer to the crack cocaine enterprise  
13 run by Courtoreille. She explained how, in the  
14 year before the offence, the offender's father  
15 and uncle had passed away. One of the offender's  
16 younger brothers had apparently got himself  
17 involved as a user of crack cocaine and through  
18 him the offender met Courtoreille. Courtoreille  
19 convinced Delorme to work at the crack house and  
20 Delorme did so, according to his counsel, so as  
21 to make sure that they were not selling drugs to  
22 his brother. He started using crack cocaine  
23 himself, however, and became addicted.  
24 Eventually he worked all the time for  
25 Courtoreille in exchange for drugs, money and  
26 alcohol.

27 I have no reason to doubt what counsel told

1 me. But I do point out that this explanation as  
2 to how Delorme got involved in Courterille's drug  
3 enterprise comes only from the mouth of counsel.  
4 The offender never testified. He chose not to  
5 say anything at this hearing. Also, while it may  
6 explain his involvement with Courtoreille, it  
7 does not explain his motive to murder Justin Vo,  
8 other than the fact that he was using crack  
9 cocaine and alcohol heavily at the time.

10 I am told that the offender has been a model  
11 prisoner in the 26 months of his incarceration to  
12 date. That is all to the good and I am sure that  
13 such continued good behaviour will bode him well  
14 when the parole board does start to consider his  
15 suitability for parole.

16 Both counsel referred me to cases from this  
17 and other jurisdictions to support their  
18 positions. These are of limited assistance since  
19 sentencing always depends on the circumstances of  
20 the particular case, but they do provide some  
21 broad guidance.

22 In this case, the offender is one who has  
23 demonstrated a continuing pattern of criminal  
24 behaviour. He was involved, albeit for a limited  
25 time, with a group of people immersed in the sale  
26 and consumption of illegal drugs. He, together  
27 with at least one other person, inflicted a

1 beating on the victim during the course of which  
2 he strangled the victim. By the jury's verdict  
3 they were convinced that at that point in time he  
4 intended to kill Justin Vo and he did so.  
5 Afterward he participated, along with his  
6 criminal associates, in the attempted destruction  
7 of the victim's body and the cover-up of his  
8 crime. In summary, the circumstances of the  
9 offence are serious. And the offender's history  
10 reveals that this act was not necessarily out of  
11 character.

12 In my opinion, the totality of the  
13 circumstances warrant an increase in the period  
14 of parole ineligibility.

15 I want to emphasize that I am not fixing a  
16 date when the offender will be released on  
17 parole. That will be the function of the parole  
18 authorities when the period of parole  
19 ineligibility expires. They may grant parole or  
20 not. Or they may grant parole at a later time.  
21 That depends on their assessment at that time as  
22 to whether Delorme is a suitable candidate for  
23 parole.

24 I also want to emphasize that I am not  
25 fixing the offender's sentence at some number of  
26 years less than life imprisonment. His sentence  
27 is one of life imprisonment. The only decision

1           that I am making is to set the minimum amount of  
2           time which the offender must serve before he  
3           becomes eligible for parole.

4           Having considered the factors set out in the  
5           Criminal Code, and the submissions of counsel, I  
6           am satisfied that the period of parole  
7           ineligibility should be increased albeit not  
8           quite as much as Crown counsel has urged me to do  
9           so.

10           Stand up, Mr. Delorme.

11           I sentence you to imprisonment for life  
12           without eligibility for parole for a period of 14  
13           years.

14           You may sit down.

15           In addition, an order will issue pursuant to  
16           Section 487.051 of the Criminal Code authorizing  
17           the taking of a sample of bodily substance  
18           sufficient for DNA analysis. I have signed the  
19           draft order submitted.

20           Also, an order will issue pursuant to  
21           Section 109 of the Criminal Code prohibiting the  
22           offender from having in his possession any  
23           firearms, ammunition or explosives for the  
24           balance of his life. In my opinion a lifetime  
25           prohibition is warranted when the conviction is  
26           for murder even if no firearm was used.

27           Considering the offender's background, however, I

1 will, pursuant to Section 113, authorize the  
2 chief firearms officer to issue an authorization,  
3 if warranted, to the offender upon his release to  
4 possess and use firearms and ammunition solely  
5 for the purpose of sustenance hunting and  
6 trapping.

7 I have considered defence counsel's request  
8 that I recommend that the offender serve his  
9 sentence here in the Northwest Territories so  
10 that he can remain close to his family. While I  
11 sympathize with the offender's family, because  
12 they are not at fault in this whatsoever, I  
13 decline to make such a recommendation. I will  
14 leave the decision to the people in the best  
15 position to make it, those being the correctional  
16 authorities, in the expectation, since they will  
17 receive a copy of the transcript of the  
18 sentencing hearing, that they will consider all  
19 pertinent factors including those raised by  
20 defence counsel.

21 Under the circumstances there will be no  
22 Victim of Crime fine surcharge.

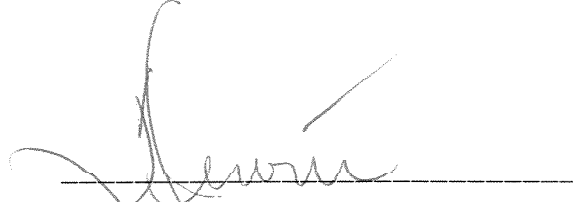
23 Finally, I want to thank both of you,  
24 counsel, both Crown and defence, not just for  
25 your helpful submissions on the sentencing but  
26 for your careful and professional work throughout  
27 the course of these proceedings.

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Madam Clerk, we will close Court.

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



Lois Hewitt, CSR(A), RPR, CRR  
Court Reporter