

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

EDWARD CHRISTOPHER SNOWSHOE

Transcript of the Oral Reasons for Sentence delivered
by the Honourable Justice V.A. Schuler, sitting at
Yellowknife, in the Northwest Territories, on
June 20th, A.D. 2007.

APPEARANCES:

Ms. D. Keats: Counsel for the Crown

Mr. J. Brydon: Counsel for the Accused

(Charge under s. 344(a) Criminal Code)

1 THE COURT: Good morning.

2 MS. KEATS: Good morning, Your Honour.

3 THE COURT: Mr. Brydon, you are appearing
4 for Mr. Hansen?

5 MR. BRYDON: Yes, I am. Thank you, Your
6 Honour.

7 THE COURT: All right. I will now give my
8 reasons and the sentence in Mr. Snowshoe's case.
9 Mr. Snowshoe has pleaded guilty to a charge of
10 use of a firearm in the commission of a robbery
11 contrary to section 344(a) of the Criminal Code.
12 Perhaps, Ms. Keats, I don't think we dealt
13 with this yesterday, but did you want to deal
14 with count 2 in the indictment?

15 MS. KEATS: Certainly, Your Honour. The
16 Crown requests a stay of proceedings be entered
17 on the second count.

18 THE COURT: All right. The Crown will be
19 entering a stay --

20 MS. KEATS: Yes.

21 THE COURT: -- then, on that count? All
22 right. That's fine. Thank you.
23 The facts are set out at some length in the
24 Agreed Statement of Facts, which is Exhibit S-1,
25 so I will summarize them somewhat briefly for
26 purposes of this decision.
27 On March 1st of this year, Mr. Snowshoe

1 arranged to be picked up by a taxi in Inuvik and
2 asked the driver, Mr. El Khatib, to take him to
3 the airport. On the way, Mr. Snowshoe pulled out
4 a .22 calibre rifle that he had concealed in his
5 coat and pointed it at Mr. El Khatib from the
6 back seat. He told Mr. El Khatib that he wanted
7 his car. Mr. El Khatib told him that he could
8 have the car, but Mr. Snowshoe ordered him to
9 keep driving and to turn off the highway and then
10 to stop in an out of the way place approximately
11 five or six kilometres out of town.

12 At one point after the vehicle stopped Mr.
13 Snowshoe fired a bullet from the back seat into
14 the dashboard of the car. He subsequently
15 ordered Mr. El Khatib to get out of the vehicle
16 and lie on his stomach and told him that he would
17 tie him up and put him in the trunk.

18 Mr. El Khatib got out of the vehicle and
19 managed to run away. Mr. Snowshoe, who had been
20 pointing the gun at him all through this, fired
21 off a round through the back window and, although
22 apparently not aiming at the victim, did hit Mr.
23 El Khatib in the side between his ribs and hip.

24 Mr. El Khatib flagged down a passing
25 vehicle, called the police on his cell phone and
26 was taken by the driver to the hospital. The
27 encounter with the taxi driver took about 15

1 minutes.

2 Mr. Snowshoe then took \$45 from the cab and
3 drove the cab back towards the Town of Inuvik
4 where the police saw him. He tried to evade
5 them, but lost control of the vehicle and struck
6 a snowbank. He exited the vehicle and
7 surrendered to the police and was cooperative
8 with them from that point on, confessing to what
9 he had done and re-enacting the crime. He told
10 the police that he had planned to rob the taxi
11 driver and take his car and tie him up and put
12 him in the trunk.

13 Mr. El Khatib was able to walk into the
14 hospital. An attempt to remove the bullet was
15 unsuccessful, and the surgeon decided it would be
16 best to leave it in him. He was released from
17 hospital the next day, March 2nd. There is no
18 evidence before me as to his condition since
19 then.

20 Mr. Snowshoe was not intoxicated or high at
21 the time of the offence. He had, according to
22 what he later told the police, hitchhiked to
23 Inuvik from Fort McPherson the night before the
24 robbery armed with the gun which he had stolen
25 some time ago. He told the police that he
26 planned that morning what he would do with the
27 taxi driver. He also said to them, when first

1 taken into custody, words to the effect that he
2 was prepared to get caught, that it was either
3 that or kill himself, that his life was going
4 nowhere.

5 It is clear from the facts that Mr. Snowshoe
6 embarked on his plan well-armed with the gun,
7 which was a .22 pump action sawed-off rifle that
8 he had loaded 11 bullets into that morning. He
9 also had two knives, a flashlight, rope to tie up
10 the taxi driver and latex gloves to cover his
11 fingerprints. He had also taped the rifle and
12 one of the knives, apparently to avoid
13 fingerprints. He had covered most of his face
14 with a neck warmer.

15 Even though Mr. El Khatib told Mr. Snowshoe
16 that he could have the car,
17 Mr. Snowshoe acted in an intimidating and violent
18 manner in the vehicle using the barrel of the gun
19 to move the rearview mirror so that Mr. El Khatib
20 could not look at him, swearing and yelling at
21 Mr. El Khatib, telling him to lie on the ground,
22 telling him that he was going to tie him up and
23 put him in the trunk, and firing the bullet into
24 the dashboard; all of this while Mr. El Khatib
25 was pleading with him to just take the car.

26 Mr. Snowshoe is 21 years old. He is an
27 Aboriginal man from Fort McPherson. He was

1 raised by his single mother, who has an alcohol
2 problem, and he, as the eldest child, has tried
3 to play a parental role to his younger siblings.
4 He has a grade 10 education and what counsel
5 described as a spotty work history.

6 He has a fairly brief criminal record
7 consisting of two theft convictions as a youth,
8 and in 2004 as an adult two break and enter
9 convictions and two charges of failing to comply
10 with a youth disposition. He was sentenced to a
11 total of five months in jail for those offences,
12 which, since they were his first offences as an
13 adult, may suggest that the circumstances of them
14 were quite serious, although I have no definite
15 information before me in that regard. He has no
16 previous record for violence.

17 His counsel submitted a letter from a friend
18 of Mr. Snowshoe's mother who describes him as a
19 well-behaved and respectful young man who has
20 always been helpful to his mother and family.

21 At the time of the offence, Mr. Snowshoe had
22 no job, was unhappy with his family situation and
23 upset that a month earlier two of his siblings
24 were taken into the care of Social Services,
25 leading him to feel that he had failed the
26 family.

27 It is understandable that this combination

1 of circumstances would lead him to feel
2 depressed. However, to react to that situation
3 by arming himself in the way that he did and
4 executing what was a fairly well-thought-out plan
5 to rob a taxi driver is, as I am sure Mr.
6 Snowshoe now realizes, completely unreasonable
7 and dangerous.

8 While it does appear that Mr. Snowshoe did
9 put quite a bit of thought and planning into the
10 offence, much of what he did does not really make
11 sense: For example, wanting to steal the car,
12 but, at the same time, planning to put the driver
13 in the trunk so that the police would find him
14 there. The fact that much of what he did does
15 not make sense and the words that he spoke to the
16 police about suicide does give rise to concern
17 about what else Mr. Snowshoe might have done had
18 the police not got there when they did.

19 It may be that Mr. Snowshoe, as he told the
20 police, did not want to shoot anybody, but the
21 facts indicate that Mr. Snowshoe was in control
22 of himself and was quite deliberate in his
23 actions toward the taxi driver. Shooting off a
24 rifle inside a vehicle beside where the driver
25 was sitting and then shooting in his direction
26 while he was running from the vehicle are both
27 extremely dangerous acts. I hope that Mr.

1 Snowshoe realizes that it is only through luck
2 that one of his bullets did not kill Mr. El
3 Khatib. It is only through luck that the final
4 bullet was not fatal and that Mr. Snowshoe is not
5 here facing a charge of murder. It is also only
6 luck that Mr. El Khatib was not much more
7 severely injured.

8 There is no victim impact statement, so I do
9 not have evidence of the actual effect of these
10 events on the taxi driver. Obviously, however,
11 the circumstances must have been terrifying for
12 him and not something he is likely to get over
13 very easily.

14 As has been pointed out in the cases dealing
15 with assaults on taxi drivers, they are people in
16 a particularly vulnerable position, because they
17 provide a service to the public, to the community
18 in circumstances that put them at risk. This
19 factor makes denunciation of this offence and
20 discouraging others who might commit like
21 offences significant objectives of the sentence
22 to be imposed on Mr. Snowshoe.

23 Quite apart from that, the offence of
24 robbery with a firearm does entail a maximum
25 sentence of life imprisonment and a minimum
26 punishment of imprisonment for four years. So
27 obviously it has been recognized as one of the

1 more serious offences in the Criminal Code.

2 Crown counsel in this case submits that a
3 sentence in the five to seven-year range is
4 appropriate, while defence counsel submits that
5 four or five years less remand time is
6 sufficient.

7 The cases that were submitted - and I have
8 reviewed them all - do indicate that robbery of
9 any kind where a firearm is involved and also
10 robbery of a taxi driver will be treated
11 severely. I would simply note, again, the
12 comment that I made in the McInnes case, quoting
13 the Cullen case from Prince Edward Island, that
14 the four-year minimum for use of a firearm in the
15 commission of an offence such as robbery should
16 be considered in light of the fact that it would
17 apply even to a youthful accused without any
18 criminal record in circumstances where no bodily
19 injury was caused.

20 At the same time, I take note of what was
21 said in the Young case from Ontario - and I think
22 this is applicable in the Northwest Territories,
23 as well - that the length of a first penitentiary
24 sentence for a youthful offender should rarely be
25 determined solely by the objectives of
26 denunciation and deterrence and that the Court
27 should sentence the accused to the shortest

1 possible sentence which will achieve the relevant
2 objectives.

3 The aggravating factors in this case are
4 that the offence was planned. Mr. Snowshoe armed
5 himself and decided to embark on a robbery of a
6 taxi driver. Even if he did not plan to shoot
7 anyone, he at least planned to use force of some
8 kind. He had rope with him to tie up the taxi
9 driver. He certainly planned to show force by
10 means of the gun and perhaps the knives that he
11 had with him. He continued to intimidate and
12 threaten the taxi driver even after he was
13 offered the car. It is aggravating that he used
14 the gun not once, but twice. He took steps
15 before the robbery to conceal his identity and
16 afterwards attempted to evade police.

17 It is also aggravating that at the time of
18 this event he was on release after being charged
19 with other offences. It is aggravating that he
20 used the gun in such a way that harm was likely
21 to come to the taxi driver, and that he did, in
22 fact, cause injury to him.

23 The mitigating factors are, first, the fact
24 that Mr. Snowshoe did surrender to the police
25 after the vehicle ended up in the snowbank; that
26 he offered no resistance at all from that point
27 and was fully cooperative.

1 The guilty plea, which I would characterize
2 as a guilty plea at the earliest reasonable
3 opportunity, is very significant, because it
4 indicates that Mr. Snowshoe takes responsibility
5 for what he did, and it means that the victim has
6 not had to testify at all and relive these
7 events.

8 I also take into account the words spoken by
9 Mr. Snowshoe here in court indicating that he is
10 sorry for what he did.

11 I will take into account the remand time
12 since his arrest on March 1st up to the date he
13 was sentenced on the charges that were
14 outstanding on the date of this offence. I do
15 note that defence counsel indicated that that
16 remand time was not taken into account when
17 Mr. Snowshoe was sentenced on those other
18 charges. However, I know of no precedent for
19 taking into account the time that Mr. Snowshoe
20 has been sentenced to serve on those other
21 charges. The request made by defence counsel was
22 that that time, too, be considered remand time
23 because Mr. Snowshoe was still on remand for this
24 particular offence. As I say, I know of no
25 precedent for taking that time into account and I
26 decline to do so.

27 As I have already noted, denunciation and

1 deterrence are important factors because of the
2 nature of the offence. Although armed robbery
3 and, I would say, robbery of a taxi driver is not
4 particularly prevalent in this jurisdiction,
5 there have been some very serious incidents, and
6 the sentence that I impose in this case should
7 deter other offenders from making this type of
8 offence more prevalent.

9 Because of Mr. Snowshoe's age and his lack
10 of any really significant record, rehabilitation
11 is also a factor to be considered. In other
12 words, despite the seriousness of this offence,
13 the Court and society should not give up on Mr.
14 Snowshoe.

15 Also, although Mr. Snowshoe is Aboriginal,
16 it has not been suggested that that should be a
17 major factor in the sentence, and, of course, I
18 can only deal with the length of the sentence
19 because of the four-year minimum, not the type of
20 sentence.

21 Unfortunately, Mr. Snowshoe seems to have
22 faced the problems that a number of young people
23 face in the small communities and also the larger
24 ones of the Northwest Territories; a difficult
25 family life, alcohol abuse in the home, little
26 education, lack of a job and other opportunities,
27 and I do take that into account. At the same

1 time, Mr. Snowshoe's reaction to those problems
2 is alarming and indicates to me that he has some
3 very serious issues he needs to deal with.

4 The sentence I impose must be proportionate
5 to the gravity of the offence and the
6 responsibility of the offender. For the reasons
7 already referred to, this offence is a very grave
8 one. Although Mr. Snowshoe's personal
9 circumstances at the time of the offence were
10 difficult and sad, nothing in the facts before me
11 lessens in any way his responsibility for his
12 actions.

13 There are some ancillary orders that have to
14 be dealt with. My understanding, and correct me
15 if I am wrong, counsel, is that robbery is still
16 a secondary designated offence under the Criminal
17 Code. The Crown seeks a DNA order and it was not
18 opposed by defence. I am satisfied in all the
19 circumstances that that order should be made. So
20 there will be an order requiring Mr. Snowshoe to
21 provide a DNA sample. If counsel do not have an
22 order heretoday, I will direct that it be
23 submitted to me within 15 days of today's date.

24 A firearm prohibition order is mandatory,
25 and there will be such an order in the usual
26 terms. The order will commence today and
27 continue for a period that expires 10 years after

1 Mr. Snowshoe's release from imprisonment. Any
2 firearms are to be surrendered to the RCMP
3 immediately.

4 Stand please, Mr. Snowshoe. I have taken
5 into account the remand time in this case, which
6 I will credit as four months. In my view, a
7 sentence at the high end of what the Crown is
8 seeking would not be unreasonable for this
9 offence, considering the planned nature of it and
10 the fact that the victim was shot. However, Mr.
11 Snowshoe's age and the very early guilty plea and
12 his cooperation with the police persuade me that
13 I should be looking to the lower end of that
14 range. I will say, however, that the aggravating
15 factors are too pronounced to compel me toward
16 the minimum of four years.

17 Mr. Hansen made some submissions about at
18 what point Mr. Snowshoe would be likely to be
19 sent to a penitentiary in the south rather than
20 kept here. I have to say that I have heard so
21 many different things from different counsel
22 about that, and I do not mean that in a critical
23 sense, but I am just not convinced that there is
24 any firm rule in that regard.

25 Having taken into account the remand time,
26 the factors that I have mentioned and, as I say,
27 considering the range in light of those various

1 factors, I sentence you today, Mr. Snowshoe, to a
2 period of five years in jail.

3 I am going to direct that the Clerk endorse
4 the warrant of committal with the Court's
5 recommendation that you be given the opportunity
6 to upgrade your education and to take anger
7 management counselling, because I think that is
8 something that you do very badly need.

9 As I say, I have to suspect from the
10 circumstances that there are a number of other
11 problems that you have that you need to deal
12 with. I do not know whether you can get help for
13 those here in the Northwest Territories, and
14 because of that I am not going to have the
15 warrant endorsed with any recommendation as to
16 where you will serve your time. I will leave
17 that to the correctional authorities. But I am
18 hoping that you will be offered some help, and I
19 hope that you will take that help and do some
20 work to make sure that you never again do
21 anything like this. You can have a seat, Mr.
22 Snowshoe.

23 The victim surcharge will be waived in the
24 circumstances.

25 Is there anything else that I need to
26 consider, counsel?

27 MS. KEATS: No. Thank you.

1 MR. BRYDON: Not that I know of, no. Thank
2 you.

3 THE COURT: All right. Thank you both
4 very much. We will close court.

5

6

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

10

11

Jill MacDonald, CSR(A), RPR
Court Reporter

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27