

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

TROY WILFORD FANTASQUE

Transcript of the Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, sitting in Yellowknife, in the Northwest Territories, on the 7th day of May, A.D. 2007.

APPEARANCES:

Mr. S. Hinkley: Counsel for the Crown

Ms. T. Nguyen: Counsel for the Accused

(Charge under s. 239(a), 244, 268 Criminal Code of Canada)

1 THE COURT: The accused, Troy Fantasque,
2 has pleaded guilty to a charge that he, during
3 the evening of February 1st, 2007, at the Hamlet
4 of Fort Liard, discharged a firearm with intent
5 to wound Derwin Kotchea, the victim in this
6 tragic case.

7 The admitted facts reveal that the accused
8 was drinking alcohol and consuming marijuana on
9 the evening in question. He was in a belligerent
10 state, having gotten into arguments and fights
11 with others. At one point he threatened to shoot
12 a number of people and had retrieved a sawed-off
13 .22 calibre rifle.

14 The accused repeatedly asked the victim to
15 leave the house. The victim laid down on a couch
16 and pretended to sleep. The accused then walked
17 up to him and pointed the rifle at the victim's
18 head. He pulled the trigger and a .22 calibre
19 round entered the victim's skull above his right
20 eye.

21 The accused then left the house and hid the
22 rifle.

23 The authorities were called by the accused's
24 sister. The victim was stabilized and medevaced
25 to Edmonton.

26 The accused was arrested later that morning.
27 He was cooperative and told the police where they

1 could find the rifle. He also made a voluntary
2 inculpatory statement to the authorities.

3 With respect to the victim's condition, I
4 will recite the pertinent portions of the Agreed
5 Statement of Facts:

6 The full extent of Mr. Kotchea's
7 injuries are not yet known. The
8 .22 calibre round apparently
9 broke apart and followed two
10 trajectories, one to the orbital
11 floor and the other along the
12 left orbit and into the
13 musculature. A part of the
14 bullet is lodged between
15 Mr. Kotchea's right sphenoid and
16 the temporal bone. Mr. Kotchea
17 required surgery on the left side
18 of his face. Mesh was inserted
19 into the orbital cavity of the
20 eye, along with a microplate and
21 sutures, and there are metallic
22 shrapnel fragments in the orbital
23 cavity, the nasopharynx and
24 sinuses. There are soft tissue
25 changes in the sinuses along with
26 a medial bowing of the left
27 orbit. As the round entered

1 Mr. Kotchea's skull, it caused
2 multiple fracturing of the left
3 orbital walls and superior orbit.

4 At this point, Mr. Kotchea's
5 vision in his left eye is gone.
6 Although not certain at this
7 time, he may require the removal
8 of the eye in the future. In any
9 event, the vision cannot be
10 restored.

11 In this case, I have had the benefit of an
12 extensive pre-sentence report, and I thank the
13 probation officer who prepared it.

14 The accused is 24 years old. He and three
15 siblings were raised in the small community of
16 Fort Liard by his mother. He was apparently
17 raised in an unhealthy, dysfunctional environment
18 where alcohol abuse was prevalent. Proper
19 structure and discipline were missing from his
20 life. The accused struggled with his education
21 and quit at a Grade 10 level. He has had
22 sporadic employment as a labourer.

23 The accused has a minor, unrelated criminal
24 record. However, he was described as being a
25 kind and helpful individual, but one whose
26 maturity level is far below what would be
27 appropriate for his age.

1 The crime for which the accused has been
2 convicted is extremely serious. It carries a
3 mandatory minimum sentence of four years'
4 imprisonment; one of the few offences in the
5 Criminal Code which require a mandatory minimum
6 sentence. The consequences of this senseless act
7 will be felt by the victim, and his family, for
8 the rest of his life. Thus principles of
9 deterrence and denunciation play a significant
10 role in determining an appropriate sentence.

11 On the other hand, I must give recognition
12 to the genuine remorse demonstrated by the
13 accused, as reflected most dramatically by this
14 prompt guilty plea. He is still a young man, so
15 I must also look to the possibility of his
16 rehabilitation.

17 I am also required by the Criminal Code to
18 give consideration to his status as an aboriginal
19 offender. The circumstances under which he grew
20 up unfortunately reflect the reality of many
21 aboriginal communities. It can be considered to
22 be part of the systemic problems that this young
23 man and others like him have faced and provided a
24 background for the reason why he is in court
25 today. It is sad but true, but alcohol and drug
26 abuse is all too common in our communities, large
27 or small; and I note particularly in the

1 pre-sentence report the fact that this offender
2 started to abuse both alcohol and marijuana at a
3 very young age and has continued to do so until
4 this tragic event.

5 Both counsel recognize that sentencing for
6 this type of offence is very fact-specific.
7 Sentences range over a wide spectrum. Here,
8 however, they are more or less in agreement on
9 the appropriate range, and I find their
10 submissions to be very helpful in this regard.

11 Stand up, Mr. Fantasque.

12 Mr. Fantasque, I find that an appropriate
13 sentence in this case will be one of five years'
14 imprisonment. From that, I will provide credit
15 for the time already spent on remand.

16 The accused has been in custody for a little
17 over three months, and at a normal credit of
18 two-for-one, I will deduct six months from
19 sentence, so that the effective sentence will be
20 one of four and a half years.

21 You may sit down.

22 In addition, there will be an order
23 requiring the accused to provide a blood sample
24 for DNA analysis and registration in the DNA
25 databank.

26 There will also be an order imposing a
27 firearms prohibition for a period of ten years.

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Certified Pursuant to Rule 723
of the Rules of Court

Jane Romanowich, CSR(A), RPR
Court Reporter