

R. v. Peetooloot, 2007 NWTSC 03

S-1-CR2006000034

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

LEVI PEETOOLOOT

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Transcript of the Reasons for Sentence by The Honourable  
Justice V.A. Schuler, at Yellowknife in the Northwest  
Territories, on January 18th A.D., 2007.

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APPEARANCES:

Ms. J. Walsh:

Counsel for the Crown

Ms. P. Taylor:

Counsel for the Accused

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Charge under s. 266 Criminal Code of Canada

1 THE COURT: Well, let me say first of all  
2 that the guilty plea to this assault charge came  
3 literally at the very last minute. It came right  
4 before counsel were to address the jury. In  
5 those circumstances, and I haven't been given a  
6 reason why it came so late and I can't really  
7 see, there was a preliminary hearing in this  
8 case, the evidence could not have come as that  
9 much of a surprise to Mr. Peetooloot, so in the  
10 circumstances I am not inclined to give the  
11 guilty plea really any weight at all. Normally  
12 guilty pleas are given weight because they save  
13 the victim the trauma of testifying. That's not  
14 applicable in this case. Or because they  
15 indicate remorse, and the timing of the guilty  
16 plea in this case doesn't lend itself to a  
17 conclusion that it was entered as a result of  
18 remorse.

19 I do take account of the fact that  
20 Mr. Peetooloot, when he spoke, indicated that  
21 he's sorry.

22 The facts are pretty straightforward in my  
23 view.

24 There's absolutely no evidence that  
25 Mr. Peetooloot in some way felt that he was the  
26 lesser of the two intellect-wise or that he had  
27 no option but to assault the victim in this case.

1           At its highest, and to use a rather crude term,  
2           she was "nagging" him and she was repeatedly  
3           asking him about money and he wasn't answering  
4           her, but that of course is absolutely no reason  
5           to assault her. He could have walked out the  
6           door. So I don't even see it as provocation,  
7           quite frankly, in any real sense. He was mad, he  
8           didn't like the fact that she was asking him  
9           about this money, he didn't want to answer what  
10          he did with the money, and he had got angry and  
11          he assaulted her by throwing her onto the bed and  
12          holding her wrists to the extent that she told  
13          him that she thought that he was breaking her  
14          wrists. He did apparently stop of his own  
15          accord. It is not really clear to me on the  
16          evidence how long this went on for but it  
17          obviously went on long enough that she had this  
18          concern that he was breaking her wrists.

19                 As far as whether his actions after that  
20          could be interpreted as genuine concern for her,  
21          on the evidence that the victim gave at the trial  
22          she indicated that it was when she mentioned the  
23          police that suddenly there was this "drastic", I  
24          think was the word that she used, change in his  
25          demeanour and he became very nice, so that's the  
26          evidence before me. The conclusion or the  
27          inference I would draw from that is that he got

1           concerned when she mentioned the police and  
2           decided to be nice so that she wouldn't call  
3           them. I don't conclude that somehow he felt so  
4           sorry that he decided that he would be nice to  
5           her and I note that she was asked and she did  
6           specifically say that at no time did he tell her  
7           that he was sorry for what he had done.

8           This was a common-law relationship of some  
9           two and a half years so that of course is an  
10          aggravating factor because as his spouse, the  
11          victim was entitled to be treated with respect  
12          and to be kept free from harm and instead  
13          Mr. Peetooloot assaulted her.

14          The criminal record is of great concern in  
15          this case.

16          In 1993, Mr. Peetooloot was convicted of  
17          spousal assault. In 1999, he was convicted of  
18          sexual assault. It may have been a sexual  
19          assault at the less serious end of the scale  
20          simply because the sentence that's recorded was  
21          five months and probation for one year although  
22          of course I don't know if there was remand time  
23          involved in that so I really can't draw any  
24          conclusions. But he was convicted of sexual  
25          assault in 1999. In 2002, he was convicted of  
26          assault causing bodily harm, again a spousal  
27          assault, and received two months in jail and

1           probation for 18 months. In 2004, he was  
2           convicted of a number of offences involving  
3           failure to obey Court orders. In May of 2006, he  
4           was convicted of failing to appear and, as I  
5           understand it, that is the conviction flowing  
6           from his failure to appear at his preliminary  
7           inquiry in this case. In September 2006, in  
8           Nunavut, he was convicted of spousal assault, a  
9           failure to comply with a probation order and  
10          assaulting a police officer, all of which were  
11          offences, from what counsel have told me, that  
12          occurred in February of 2003. He was also, in  
13          September 2006, convicted of spousal assault on  
14          the same victim as in this case arising from an  
15          incident that occurred in January of 2006, so  
16          after he had been charged for the offence before  
17          the Court now. And he was also at that time,  
18          September 2006, convicted of a sexual assault  
19          from June of 2003 and another failure to comply  
20          with a Court order.

21                 So prior to this offence in July of 2005, he  
22          had convictions for spousal assault and sexual  
23          assault. I refer to the sexual assault because  
24          although I am not sentencing him today for sexual  
25          assault, it is obviously a related offence. So  
26          he had convictions for those offences prior to  
27          July 2005. And after July 2005, he has

1 convictions for related offences, again, that  
2 occurred in 2003, I don't know whether he had  
3 been charged by the time that he committed the  
4 offence in July 2005. But he then has, after  
5 July 2005 and after he would have been charged  
6 with this offence, committed another spousal  
7 assault on the same victim in January 2006. And  
8 of course he has the sexual assault for which he  
9 was convicted in September 2006 but occurred in  
10 June 2003. So this is an individual who has a  
11 history before and after the offence before the  
12 Court of spousal assault and sexual assault.

13 I would have to say that there is an  
14 indication here that Mr. Peetooloot is a danger  
15 to women, perhaps men, I don't know what the  
16 sexual assault convictions, what the gender of  
17 the victim was on those offences, but clearly  
18 Mr. Peetooloot is unable to control his anger.  
19 He is unable to control himself from using  
20 violence on other people and so that has to be of  
21 great concern to me in sentencing him today.

22 As far as the remand time goes, in the  
23 circumstances, as I understand it, initially the  
24 reason that he was remanded in custody was  
25 because he failed to appear at his preliminary  
26 inquiry on the charge before the Court and the  
27 other charges of which he was acquitted by the

1 jury in this case. And of course the Nunavut  
2 charges are relevant in that regard. Obviously  
3 this man was facing quite a number of charges not  
4 just the ones that were dealt with in this Court.  
5 So I have to say that I have some difficulty in  
6 giving him any more credit than the face amount  
7 of the time that he was actually in custody on  
8 remand for these charges. Because, in my view,  
9 there is a difference between being in custody  
10 because you are not able to obtain bail in the  
11 first instance and being in custody after you  
12 have been released and then you don't appear in  
13 Court when required. The whole issue of credit  
14 for remand time of course is generally aimed at  
15 or the whole issue of more than face credit for  
16 remand time is generally aimed at the fact that  
17 remission is not available on the remand time and  
18 also that it is often considered "hard" time.  
19 And that generally is because those people on  
20 remand are not able to participate in programs  
21 and things like that where they are incarcerated.  
22 In this case it appears that Mr. Peetooloot was  
23 able to work at the jail. The only thing that is  
24 indicative of his having a more difficult time is  
25 the fact that he did have a stroke in  
26 mid-December, so approximately a month ago. I  
27 accept that that is a serious matter and that

1           having to go through that while in remand would  
2           make the remand more difficult.

3           In all of the circumstances, I have to say,  
4           and especially in light of this very serious  
5           record, I think that a sentence of eight months  
6           is really inadequate to address the concerns. In  
7           my view, society needs to be protected from  
8           Mr. Peetooloot because this record indicates that  
9           he is not controlling himself. Mr. Peetooloot  
10          needs to be deterred from committing more  
11          offences of assault and sexual assault, no matter  
12          who they may be against, and other people who  
13          would commit these types of offences need to be  
14          deterred. So all of these factors have to taken  
15          into account in sentencing Mr. Peetooloot.

16          Having said that, I am always reluctant to  
17          go much beyond the sentence that is being  
18          suggested by the Crown in any case but I do feel  
19          in this case that, as I say particularly in light  
20          of the record, that the sentence that is being  
21          suggested is not adequate to address the issues.

22          There will be in the circumstances, and I  
23          have not heard any argument to the contrary,  
24          there will be a DNA order if there has not  
25          already been DNA taken and being maintained in  
26          the DNA databank. And the DNA order will be in  
27          the usual terms.



1           I am not going to impose a firearm  
2 prohibition order. There were no firearms  
3 involved in the commission of the offence. There  
4 is no indication to me from the record or from  
5 anything that was said that Mr. Peetooloot has  
6 used firearms in the commission of any of the  
7 offences on his record, so I decline to make that  
8 order.

9           Stand please, Mr. Peetooloot.

10           Mr. Peetooloot, in the circumstances, quite  
11 frankly from looking at your record I think that  
12 if you commit further offences of assault or  
13 sexual assault, you may, it will obviously be up  
14 to the Judge at the time, but you may very well  
15 find yourself looking at penitentiary terms. So  
16 you had better think very carefully about what  
17 you are doing and you better find a way to  
18 control yourself. You cannot use force on people  
19 without paying the penalty for it. You have a  
20 very serious criminal record and any more  
21 offences on your record are going to, I would  
22 think, result in much longer periods of  
23 incarceration being imposed on you.

24           In my view, and I am bearing in mind the  
25 submissions that were made, but in my view the  
26 sentence for this offence, the appropriate  
27 sentence, is a sentence of one year in jail. I

1           am going to give you credit for the remand time  
2           but the credit will be five months which means  
3           that you now serve a term of seven months in  
4           jail. The Victims of Crime surcharge will be  
5           waived.

6           You may have a seat.

7           Is there anything further, counsel?

8       MS. WALSH:                    Nothing further, Your Honour,  
9           thank you.

10       MS. TAYLOR:                  Nothing, thank you.

11       THE COURT:                   All right, we will close  
12       Court.

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

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

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