

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

BILLY JOHNNY McNEELY

---

Transcript of the Reasons for Sentence by The Honourable  
Justice V.A. Schuler, at Yellowknife in the Northwest  
Territories, on June 1st A.D., 2009.

---

APPEARANCES:

Ms. S. Smallwood: Counsel for the Crown  
Mr. T. Boyd: Counsel for the Accused

-----  
Charge under s. 145(3) x 2 Criminal Code of Canada

1 THE COURT: The offences that Mr. McNeely  
2 has pleaded guilty to are serious offences. They  
3 are offences against the administration of  
4 justice. He was on an undertaking that required  
5 that he not contact or communicate with Erin  
6 Goose and also Thomas Kakfwi and yet in very  
7 obvious breach of that undertaking, he moved into  
8 the house or moved back into the house where  
9 those people were living without having done  
10 anything to seek a change to the undertaking to  
11 allow him to do that.

12 Obviously the undertaking with those  
13 conditions was put into place for a certain  
14 reason. Obviously Mr. McNeely was ordered not to  
15 contact those people and whether or not he had  
16 another place to live, it is a very blatant  
17 breach of the undertaking to simply have contact  
18 with the two individuals in question and in fact  
19 move back into the house with them.

20 Now Mr. McNeely does have a criminal record.  
21 He does have a number of convictions for other  
22 offences that also involve breaches of his  
23 obligation to show respect for the administration  
24 of justice - failures to attend court, escaping  
25 lawful custody, resisting arrest, failing to  
26 comply with a recognizance. So I have to take  
27 that into account as well, not from the point of



1 view of trying to punish him again for those  
2 offences that he has already been sentenced for  
3 but from the point of view that Mr. McNeely has  
4 got to realize that he cannot continue to simply  
5 disregard the obligations that he has when he  
6 comes into contact with the justice system.

7 But also, Mr. McNeely, I am sure you  
8 probably realize that the more you accumulate  
9 those types of charges, the less likely it is  
10 that you are going to be successful in getting  
11 out on bail if you get charged again with  
12 something else. So you are not helping yourself  
13 by accumulating convictions for these types of  
14 offences.

15 He has been in custody now since his other  
16 charges were dealt with, in terms of sentences,  
17 for just over seven months awaiting trial on the  
18 robbery charge and these two breach charges. The  
19 robbery charge has been stayed by the Crown so I  
20 am only dealing with the breach charges. He has  
21 pleaded guilty to those charges so I take all of  
22 that into account.

23 I do take into account that Mr. McNeely is  
24 now 28 years old and that there has been a change  
25 in his personal situation in that he now has a  
26 child. It appears that he has had work in the  
27 past. He has worked for First Air cargo. He may

1 be able to get on there again. He does have an  
2 interest in improving his skills and going to  
3 school, and it sounds as though he may have some  
4 opportunity to get funding to do that. So that  
5 is a reason, in my view, why I can have some hope  
6 that he will change his lifestyle and that he  
7 will now, at the age of 28 and being a father,  
8 put behind him all these run-ins with the law,  
9 committing offences and ending up in jail.

10 Because I am sure, Mr. McNeely, you don't  
11 want your child to grow up with a father who is  
12 in jail. And I am sure that you would also like  
13 to set a good example for your child and getting  
14 into trouble with the law, committing offences,  
15 ending up in jail and breaching the conditions  
16 that you are on and not showing respect for the  
17 Court, is not a good example to set for your  
18 child. And I am sure that you don't want your  
19 child to end up in the same sort of cycle of  
20 problems and trouble and ending up in jail. You  
21 are the adult; you have to set the good example  
22 for your child. And the community, society, have  
23 to be able to rely on you to do that. Whatever  
24 your own problems in the past may have been, you  
25 can make a decision now and you can start with a  
26 clean slate.

27 And partly for that reason, I am not going

1 to put you on probation. I am going to, in  
2 effect, let you start with a clean slate. I  
3 haven't heard that there are any other  
4 outstanding charges so I am going to assume that  
5 once you are sentenced here today you can walk  
6 out of here. But it will be up to you then to  
7 take that step. Don't walk out of here and go to  
8 the bar. Walk out of here and go home to your  
9 wife and child and start working on having a good  
10 family life.

11 The offences for which you have now been  
12 convicted are, as I say, serious. People  
13 shouldn't be interfering with witnesses and by  
14 interfering I mean breaching conditions that they  
15 are to stay away from them, even if the witnesses  
16 are happy to go along with it, which I take it  
17 may have been the case in this particular  
18 situation. But because of the seriousness of  
19 them, what I am going to order is that as a  
20 global sentence on both counts in the Indictment,  
21 the sentence be one day in jail served by your  
22 attendance here in court and the credit that I am  
23 giving you is six months jail.

24 Is there anything else, counsel, that I need  
25 to deal with? The victim surcharge will be  
26 waived.

27 MS. SMALLWOOD: Nothing else, Your Honour.

1 MR. BOYD: No, Your Honour, thank you.

2 THE COURT: Thank you. Mr. McNeely, I  
3 really do hope that you will take this as a clean  
4 slate and that you will show that, as I say, you  
5 can be a good father to your child. I hope we  
6 don't see you back here again.

7 THE ACCUSED: Thanks, Your Honour.

8 THE COURT: All right, we will close  
9 court.

10 -----

11  
12 Certified to be a true and  
13 accurate transcript pursuant  
14 to Rules 723 and 724 of the  
Supreme Court Rules,

15  
16  
17 \_\_\_\_\_  
18 Lois Hewitt, CSR(A), RPR, CRR  
19 Court Reporter