

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

KURTIS JAMES THRASHER

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Transcript of the Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, sitting in Inuvik, in the Northwest Territories, on the 15th day of May, A.D. 2008.

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APPEARANCES:

Mr. P. Lepage: Counsel for the Crown

Mr. P. Fuglsang: Counsel for the Accused

(Charge under s. 268 of the Criminal Code of Canada)

1 THE COURT: The accused, Kurtis James  
2 Thrasher, was convicted of the offence of  
3 aggravated assault after trial.

4 The facts of the case were related in my  
5 reasons for convicting the accused. Briefly  
6 stated, he was drinking with a group of youths,  
7 all of them apparently younger than he, in an  
8 abandoned house here in Inuvik. One of the  
9 youths was attacked by an older man who came onto  
10 the scene. He and another one of the youths came  
11 to the fellow's defence. They punched the  
12 attacker and, in the process, the accused stabbed  
13 the older man; the victim in this case.

14 The victim suffered multiple penetrating  
15 stab wounds, some of them life-threatening.  
16 There were 20 lacerations that had to be sutured,  
17 and there were four or five wounds that  
18 penetrated the victim's left lung.

19 Crown counsel has pointed to a number of  
20 aggravating factors. First, there is the  
21 excessive nature of the violence inflicted by the  
22 accused resulting in life-threatening injuries.  
23 Second, there is the accused's criminal record.  
24 He has 16 convictions in the past seven years,  
25 six of which are for crimes of violence. Third,  
26 at the time of this offence, in January of 2007,  
27 he was on judicial interim release awaiting trial

1 on another offence of aggravated assault  
2 committed in June of 2006. He was convicted of  
3 that charge in June of 2007 and sentenced to 12  
4 months' imprisonment, that sentence having  
5 expired in February of this year.

6 Defence counsel submitted that I have to  
7 examine the overall circumstances, which he says  
8 are not as aggravating as Crown counsel submits.  
9 In defence counsel's words, this is not a case of  
10 gratuitous violence. The accused was coming to  
11 the aid of the youth who was being beaten by the  
12 victim in this case who, himself, was the  
13 aggressor.

14 I acknowledge that it is not a case of  
15 gratuitous violence, but it is certainly a case  
16 of excessive violence. The sheer number of stab  
17 wounds is indicative of someone who was in an  
18 uncontrollable rage and anger. I recognize the  
19 accused was drinking at the time, but the nature  
20 of this attack, combined with his criminal record  
21 and history of violence, demonstrates, at least  
22 to me, someone who is in serious need of control  
23 and treatment both for his own sake and for the  
24 sake of the safety of the community. Otherwise,  
25 as I said directly to the accused a few minutes  
26 ago, he will simply end up leading a life of  
27 going in and out of jail.

1 Crown and defence counsel have provided me  
2 with a number of cases to assist me in coming to  
3 my decision. Of course every case must be  
4 decided on the basis of its own facts and  
5 circumstances. What those cases demonstrate,  
6 that in cases of convictions for aggravated  
7 assault, sentences vary generally anywhere from  
8 thirty months to five years. Crown counsel in  
9 this case suggests that an appropriate sentence  
10 would be one of four to five years' imprisonment.  
11 But I must take into account the accused is only  
12 24 years old. There must still be some hope of  
13 rehabilitation, so any sentence must not be so  
14 long as to destroy that. The sentence, however,  
15 must still be meaningful enough to make the  
16 accused realized that now is his final chance to  
17 take control of his life and to change his  
18 future.

19 I heard little about the accused's personal  
20 background. I recognize that he is an aboriginal  
21 person, but I heard nothing regarding any  
22 systemic factors that may have led to his being  
23 before this court, and certainly nothing has been  
24 said to me about any alternative measures that  
25 would be appropriate in this case. This is a  
26 crime of serious violence notwithstanding the  
27 overall circumstances that have been described to

1 me, and as I said before, a sentence must bring  
2 home to the accused that it is up to him to  
3 change his future.

4 In my opinion, an appropriate effective  
5 sentence for this crime is one of three years'  
6 imprisonment. I will give the accused credit of  
7 six months for the period of remand time he has  
8 spent since the expiration of his last sentence.  
9 Therefore, my sentence is that the accused serve  
10 a term of imprisonment of 30 months. In  
11 addition, there will be the order requiring him  
12 to provide a sample for DNA analysis and  
13 submission to the DNA registration bank if that  
14 has not already been done so, and there will be a  
15 Section 109 order prohibiting the accused from  
16 having in his possession any firearms or  
17 ammunition or explosives for the rest of his life  
18 as required by the Criminal Code. Under the  
19 circumstances, there will be no victim of crime  
20 fine surcharge.

21 Is there anything that I have neglected,  
22 Mr. Lepage?

23 MR. LEPAGE: Not on sentence, Your Honour,  
24 just with regard to the exhibits.

25 THE COURT: Mr. Fuglsang, with respect to  
26 sentence?

27 MR. FUGLSANG: No; it's fine, Your Honour.

1 THE COURT: Very well. I will also direct  
2 that the exhibits be returned to the RCMP for  
3 safekeeping pending expiry of the appeal period,  
4 at which time certainly the knife that was  
5 submitted in evidence during the trial can be  
6 destroyed.

7 MR. LEPAGE: Thank you, Your Honour.

8 THE COURT: Thank you, gentlemen. We are  
9 adjourned.

10 THE COURT CLERK: Thank you, sir.

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14 Certified Pursuant to Rule 723  
15 of the Rules of Court

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18 Jane Romanowich, CSR(A), RPR  
19 Court Reporter

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