

S-1-CR2010000227

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

DARCY JOSEPH PANAKTALOK

Transcript of the Reasons for Sentence by The Honourable
Justice V.A. Schuler, at Yellowknife in the Northwest
Territories, on December 20th A.D., 2010.

APPEARANCES:

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

Charge under s. 266 Criminal Code of Canada

1 THE COURT: Mr. Panaktalok has entered a
2 plea of guilty to one count of common assault
3 pursuant to Section 266 of the Criminal Code.
4 Because this matter is in Supreme Court and was
5 proceeded with by indictment, or really simply
6 because it was proceeded with by indictment, the
7 maximum punishment for an indictable common
8 assault is five years in jail.

9 Now, I take into account what Crown counsel
10 has said which is, that had this charge been
11 proceeded with alone, the Crown would have gone
12 by summary conviction and therefore the maximum
13 sentence would be six months in jail. So that
14 the reason that the Crown went by indictment is
15 because of other charges, several other charges,
16 and that those charges were the focus of the
17 preliminary inquiry in this matter and basically
18 the reason for the preliminary inquiry, and he
19 was discharged on those other charges. So his
20 guilty plea in this matter, and I note that the
21 guilty plea comes just a few weeks after the
22 committal for trial, and I will just pause so
23 that counsel can confirm that in case that I
24 have got that wrong -- November 23rd was the
25 committal, is that correct?

26 MR. BOYD: That's correct, yes.

27 THE COURT: All right, so I do accept

1 this as a reasonably early guilty plea.

2 The facts, even though it is a common
3 assault, the facts are serious.

4 Mr. Panaktalok was partying with a friend
5 of his. She and he and some other friends drank
6 quite a lot of vodka and became intoxicated at
7 Mr. Panaktalok's apartment. While one of the
8 other individuals was out, having gone to the
9 liquor store and another was passed out, Mr.
10 Panaktalok essentially attacked his female
11 friend and began choking her with both hands.
12 He pushed her to the ground, he got on top of
13 her, she managed to get him off her and stop him
14 choking her, and then she managed to get away
15 and ran to the door but he ran after her,
16 punched her in the eye and began choking her
17 again. And she then got free and woke up the
18 individual who was passed out and they left the
19 apartment. So it's an aggravating factor that
20 Mr. Panaktalok attacked a guest in his home.

21 It's also aggravating that he choked her.
22 I do keep in mind that I am sentencing him for
23 an assault and not for the offence of choking
24 but choking is serious and, Mr. Panaktalok, you
25 should think about the fact that maybe just a
26 little bit more pressure and you could be
27 sitting here on a homicide charge because

1 choking is the kind of action that can easily
2 kill someone. So it may be just good fortune
3 that she wasn't seriously injured or died, and
4 that is something that you should think about.
5 However, I am sentencing Mr. Panaktalok not for
6 what could have happened but for what did
7 happen.

8 The submissions of Crown counsel included
9 the submission that there were no long lasting
10 injuries and in fact there is no indication of
11 any injury in what I have been told.

12 Another aggravating feature is that Mr.
13 Panaktalok was persistent in attacking his
14 friend. He didn't stop the first time that she
15 managed to get him off her. So it is a
16 situation that could have been much worse. If
17 indeed it was just caused by Mr. Panaktalok's
18 drinking then, Mr. Panaktalok, you know that the
19 thing to do is not to drink. Because if this is
20 how you behave when you drink, you are creating
21 situations of danger and you know that you may
22 go too far when you are drinking. So again, as
23 a young father, someone who has got a family to
24 support, you should be thinking about that so
25 that your children don't end up living without a
26 father because he is in jail and don't end up
27 with the grief of knowing that their father is

1 in jail. So again, these are all things that
2 you should be giving some thought to and
3 thinking about your family and putting them
4 first instead of drinking too much and then just
5 sitting back and seeing what happens which, as
6 in this case, is something very dangerous.

7 Sentencing on common assault is of course
8 very much tied to the facts of the case and the
9 situation of the offender. There is no general
10 range for offences of assault, especially in a
11 nonspousal context.

12 The fact that Mr. Panaktalok has a record
13 has to be taken into account. The only related
14 offence is a sexual assault in 2002, and he did
15 receive three years in jail for that, so
16 obviously it was a serious example of sexual
17 assault. Apart from that, the record really
18 consists of failures to comply with
19 undertakings, and the last of those was in 2006.
20 So he has not been convicted since 2006, and I
21 have to take that into account. And if indeed,
22 Mr. Panaktalok, you were doing better, and I
23 assume that you must have been doing better than
24 you had been because there are no convictions on
25 your record for the past four years, although
26 obviously from what has been said you had some
27 charges you had to deal with, but the important

1 thing is that you weren't convicted, obviously
2 you can, when you make the effort, stay out of
3 trouble so I hope that you will continue along
4 that line and not end up in the same situation
5 that you were in in August - drinking to excess
6 and attacking a friend, apparently for no
7 reason. There is certainly no reason that has
8 been put forward in the facts.

9 Stand up, please, Mr. Panaktalok.

10 Counsel have made a joint submission that
11 you be sentenced to time served. And
12 considering all of the circumstances, the guilty
13 plea and what has been said, in particular by
14 the Crown about how they would have proceeded
15 with the charge if you had not had other charges
16 that you were subsequently discharged on, I am
17 going to accept the joint submission. So the
18 sentence will be time served and the record
19 should reflect, though, that in effect it is a
20 four month sentence. But it will be time served
21 as of today. So you are free to go then.

22 I take it he is not being held on anything
23 else?

24 MS. SMALLWOOD: No, he isn't.

25 THE COURT: All right, that's fine then.

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

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