

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

CHESTER JASON ALLEN

Transcript of the Reasons for Sentence by The Honourable
Justice J.E. Richard, at Yellowknife in the Northwest
Territories, on November 29th A.D., 2010.

APPEARANCES:

Mr. M. Lecorre: Counsel for the Crown
Mr. S. Shabala: Counsel for the Accused

Charge under s. 267(b) Criminal Code of Canada

1 THE COURT: The offender, Chester Jason
2 Allen, is convicted of assault causing bodily
3 harm contrary to Section 267 of the Criminal
4 Code, and it is now the Court's responsibility
5 to impose an appropriate sentence.

6 The offence occurred at the North Slave
7 Correctional Centre on October 4th, 2009, more
8 than one year ago. The victim of the assault
9 was another inmate. There was an altercation
10 between the two and in the course of that
11 altercation, this offender struck the victim on
12 the face with a coffee mug which was filled with
13 boiling liquid.

14 The victim was taken to the local hospital
15 to obtain treatment for second degree burns to
16 his face and shoulder. He was in hospital for
17 five days. He also received treatment from a
18 local ophthalmologist for an injury to his right
19 eye. He suffered vision problems in his right
20 eye for several weeks subsequent to this
21 assault. The victim has recovered from his
22 injuries with the exception of minor but visible
23 scarring on his face and upper body.

24 The offence of assault causing bodily harm
25 carries a maximum sentence of ten years'
26 imprisonment in penitentiary.

27 Mr. Allen's crime is very serious, and the

1 sentence imposed must reflect the level of
2 seriousness of the crime and Mr. Allen's level
3 of responsibility for that serious crime. This
4 was the willful, intentional infliction of harm
5 by striking the victim with hot boiling liquid
6 and causing severe burns. Although I am told
7 that the victim has recovered except for some
8 remaining scars, it is obvious from looking at
9 the photograph exhibits that the victim suffered
10 a great deal at the time.

11 Specific and general deterrence and
12 denunciation are important principles in the
13 determination of an appropriate sentence for any
14 violent behaviour and, in particular, when the
15 violence occurs within a prison environment. If
16 the Court's sentence was not seen as a
17 deterrent, and denunciatory, there would be
18 chaos in our prisons.

19 I am told that Mr. Allen is 33 years old
20 and of Inuvialuit descent. He spent a great
21 deal of his earlier life in foster care in the
22 Inuvik region. He achieved a Grade 11 formal
23 education and subsequently developed skills as a
24 mechanic and has had regular employment in that
25 field. I am told that he is also an
26 accomplished artist and is able to sell his
27 artwork commercially. Mr. Allen is married with

1 seven children however in recent times he is
2 estranged from his spouse.

3 Mr. Allen has a lengthy criminal record and
4 has been to jail many times, both as a young
5 offender and as an adult. The types of offences
6 comprising his criminal record are varied
7 however I note that he does not have any prior
8 convictions for assaultive violent behaviour.

9 In mitigation of sentence in this case is
10 the fact that Mr. Allen waived a preliminary
11 inquiry and offered a plea of guilty to an
12 included offence, which plea was accepted by the
13 prosecutor. In the context of the waiver of
14 preliminary and a guilty plea, it is regrettable
15 that it is only now, today, more than 13 months
16 after the offence, that the formal conviction
17 and sentencing disposition takes place.

18 Mr. Allen, today in open court, expressed
19 his apologies to the victim of his crime and
20 acknowledged his wrongdoing. I am satisfied
21 that today Mr. Allen is genuinely remorseful.
22 That is to his credit and it bodes well for the
23 life that he has ahead of him after he is
24 released.

25 Mr. Allen has been in custody awaiting
26 disposition of this serious charge and
27 accordingly I must deal with the fact of

1 pre-sentencing time on remand. I will briefly
2 recite the background details.

3 In August 2009, Mr. Allen was at large,
4 here in Yellowknife, on a recognizance entered
5 into by him, in July 2009 as a result of
6 unrelated Criminal Code charges which arose in
7 July 2009. There were several conditions to the
8 recognizance document which allowed him to be at
9 large on those July 2009 outstanding Criminal
10 Code charges. In August 2009, he breached three
11 of those conditions and was arrested and charged
12 with three counts of breach of recognizance. He
13 was detained in custody at the North Slave
14 Correctional Centre.

15 On April 7th, 2010, he was sentenced in
16 Territorial Court on the three convictions for
17 breach of recognizance. The sentencing Judge
18 imposed a total sentence of nine months
19 imprisonment but gave credit for eight months
20 time on remand, with a resulting net sentence of
21 30 days imprisonment imposed on April 7th, 2010.
22 He served that sentence but, not surprisingly,
23 was further detained to await his trial on the
24 present charge; i.e., the assault on the other
25 inmate in October of 2009.

26 But for this present charge, Mr. Allen
27 would have been released from jail in late April

1 2010. He thus has been in remand status on the
2 present charge for the past seven months.

3 The fact that he was unable to obtain
4 judicial interim release during these past seven
5 months is, of course, primarily due to his
6 lengthy list of convictions for disobeying court
7 orders, including orders granting him bail. In
8 these circumstances, although I will give credit
9 for the seven months remand time, I am not
10 satisfied that he ought to get more credit than
11 on a one-for-one ratio.

12 Please stand, Mr. Allen.

13 Chester Jason Allen, for the crime that you
14 have committed, assault causing bodily harm
15 contrary to Section 267 of the Criminal Code, it
16 is the sentence of this Court that you be
17 imprisoned for a period of 18 months. I will
18 give you credit of seven months for the remand
19 time and therefore the net sentence is one of 11
20 months imprisonment.

21 In addition, I make an order under
22 Section 109 of the Criminal Code with respect to
23 prohibition of firearms for a period of ten
24 years. And finally, the DNA order sought by the
25 Crown prosecutor, under Section 487.012 of the
26 Criminal Code, will issue as well.

27 Mr. Allen, your lawyer indicated to me this

1 morning that you have told him that it is your
2 intention, when you do get your release, to lead
3 a crime-free life from here on in. And I hope
4 that you hold true to that statement that you
5 made to your lawyer which he repeated in court
6 here today. You are 33 years old now, and I am
7 sure you don't want to be spending any more time
8 in jail. You have already spent too much time
9 there for a healthy young man. You want to get
10 back your relationship with your younger kids;
11 you can't do it from inside that jail. So I
12 wish you well.

13 You can sit down now.

14 Anything further, counsel?

15 MR. LECORRE: Just with respect to the
16 issue of the probation order, has Your Honour
17 considered that?

18 THE COURT: I have considered that, Mr.
19 Lecorre, and in my view the circumstances of
20 this crime, it was within the prison walls, the
21 altercation between he and the victim, it is not
22 a similar circumstance to them having an
23 altercation out in the wide world so I am
24 satisfied, from hearing Mr. Allen this morning,
25 he knows he has done wrong and he has apologised
26 to the victim, and so I am content to leave it
27 up to him to lead a crime-free life when he is

1 released.

2 MR. LECORRE: Thank you, Your Honour.

3 Nothing further from the Crown.

4 MR. SHABALA: Requesting the victim of
5 crime surcharge be waived, Your Honour.

6 THE COURT: Yes, in the circumstances,
7 there will be no victim fine surcharge, thank
8 you for reminding me.

9 We will close court.

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

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

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