R. v. Pierrot, 2015 NWTSC 73 S-1-CR-2013-000036

 IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

 IN THE MATTER OF:

 HER MAJESTY THE QUEEN

 - V -

 DONALD PIERROT

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 Transcript of the Reasons for Sentence by The Honourable

 Justice C. L. Kenny, sitting in Hay River, in the

 Northwest Territories, delivered orally on the phone

 on the 21st day of May, A.D., 2015.

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 APPEARANCES:

 Mr. M. Lecorre: Counsel for the Crown

 Mr. D. Pierrot: Appearing on his own behalf

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 Charges under s. 266 & 91(1) Criminal Code of Canada

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 1 THE COURT: With respect to the sentence

 2 in this matter Mr. Pierrot has been convicted

 3 by a jury of two offences, one being possession

 4 of an unregistered firearm and the second being

 5 what is commonly known as common assault. The

 6 facts as cited by Crown Counsel, as found by

 7 the jury, are appropriate given the convictions.

 8 Mr. Pierrot admitted that the rifle that was

 9 found in his possession was unregistered.

 10 With respect to the common assault, this

 11 came about as a result of a slap on the side

 12 of the head of the victim, Ms. Townend. The

 13 evidence was that her glasses were thrown off

 14 of her face as a result of the striking of her

 15 face. Mr. Pierrot tried to strike her on two

 16 other occasions but missed. I find as a fact

 17 that the bruise on the right side of her face

 18 and around her eye was caused by this slap.

 19 The principles of sentencing must be

 20 respected, particularly with respect to the

 21 matter of the assault. The main principles

 22 of sentencing with respect to that conviction

 23 are denunciation and deterrence. In this case

 24 there are no mitigating circumstances. The

 25 aggravating circumstances are as follows:

 26 1. Mr. Pierrot is not a young offender.

 27 He has a criminal record, including another

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 1 assault and offences involving alcohol abuse.

 2 The record is dated, so this is not a significant

 3 factor, but it is a factor nevertheless.

 4 2. Alcohol was involved in this offence.

 5 Mr. Pierrot has issues with alcohol abuse. He

 6 has admitted this in the past and his criminal

 7 record shows that that is the case.

 8 3. This was an assault against a woman with

 9 whom Mr. Pierrot was in a romantic relationship.

 10 This is a statutorily aggravating factor.

 11 4. The pre-sentence report indicates that

 12 Mr. Pierrot lacks insight into his behavior and

 13 lacks remorse with respect to the circumstances

 14 surrounding this offence. He portrays himself

 15 as the victim and deflects the blame to everyone

 16 else.

 17 The Court must consider a sentence that

 18 meets the principles of sentencing without

 19 jail, if possible, particularly with respect

 20 to aboriginal offenders. There are Gladue

 21 factors at play here with respect to the

 22 accused's background and his upbringing, in

 23 a family where alcohol abuse and violence were

 24 common occurrences. The pre-sentence report

 25 indicates that a sentence to be served in the

 26 community is not an appropriate sentence in

 27 this case. There are concerns with respect

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 1 to safety and supervision in the community.

 2 I agree with the Crown that a short

 3 sharp sentence of incarceration is appropriate

 4 to reflect the principles of denunciation and

 5 deterrence with respect to this type of offence

 6 in a community where alcohol abuse and assaults

 7 are common. It will also allow the process of

 8 the appropriate counselling and assessment to

 9 take place or to start to take place, which can

 10 then continue on through a period of probation

 11 which I will also order.

 12 The sentence to be imposed, therefore,

 13 is a sentence of three months incarceration

 14 followed by a period of one year probation.

 15 The probation order will contain the mandatory

 16 terms. In addition to the mandatory terms there

 17 will be a condition that Mr. Pierrot take such

 18 counselling and undergo such assessments as

 19 recommended by the probation officer, and there

 20 will also be a no-contact order with the victim,

 21 Ida Townend, during the currency of the probation

 22 order.

 23 As the assault is a secondary designated

 24 offence and there is a concern about safety

 25 to the public I make a DNA order under Section

 26 487.051(3) of the Criminal Code.

 27 There will also be a firearms prohibition

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 1 under Section 110 of the Criminal Code.

 2 Mr. Lecorre, you indicated for a period of

 3 five years, but my reading of that section

 4 of the Code says ten years.

 5 MR. LECORRE: Yes, Section 109 is a ten-year

 6 minimum. Just a brief indulgence, Your Honour,

 7 I just want to confirm whether it's a 109 or a

 8 110.

 9 THE COURT: We will make sure we have

 10 the right section.

 11 MR. LECORRE: For a 109, Your Honour, I'm

 12 looking at 109(1), if a person is convicted of

 13 an indictable offence where violence is used or

 14 threatened, where the person may be sentenced to

 15 imprisonment of ten years or more, 109 applies.

 16 That's not the case. There are some firearms

 17 sections that are mentioned in sub (b), but not

 18 Section 91 of the Criminal Code. I see, (d) is

 19 an offence that involves where the subject matter

 20 is a firearm. Yes, Your Honour, I believe Your

 21 Honour's correct, 109(d) would make it a ten-year

 22 minimum pursuant to that section.

 23 THE COURT: So for ten years with the

 24 exception set out in Section 113 of the Criminal

 25 Code, which authorizes the issuing of a licence,

 26 authorization or registration of a firearm for

 27 sustenance purposes. So with that exception.

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 1 There will be a weapons forfeiture under Section

 2 491 with respect to the rifle and the ammunition

 3 that was seized. Madam Clerk has forwarded to

 4 me a copy of the forfeiture order, which I will

 5 sign and send back, and when the other orders

 6 are prepared I will sign them and send them

 7 back as well.

 8 MR. LECORRE: There's the issue of a victim

 9 crime surcharge, Your Honour. Given the offence

 10 date I believe Your Honour does have the power

 11 to waive it.

 12 THE COURT: Yes, I think given the

 13 offence date I do, and given the incarceration

 14 and the disability income I am going to waive

 15 that.

 16 MR. LECORRE: Thank you. I can advise,

 17 Your Honour, that the RCMP officer is present

 18 in court, just so Your Honour knows.

 19 THE COURT: Thank you. Have I covered

 20 everything?

 21 MR. LECORRE: Yes, from the Crown's

 22 perspective, yes.

 23 THE COURT: All right. We are concluded.

 24 MR. LECORRE: Thank you, Your Honour.

 25 THE COURT: Thank you very much.

 26 THE ACCUSED: Thank you, Your Honour.

 27 (ADJOURNMENT)

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 1 MR. LECORRE: Yes, good afternoon again,

 2 Your Honour. My apologies for the second call.

 3 Just one detail that we wanted to confirm on

 4 the record for Mr. Pierrot's benefit and also

 5 for the Crown's benefit, that the three-month

 6 sentence, that's a three-month sentence on each

 7 charge running concurrently? We just wanted

 8 to confirm that that's Your Honour's intent.

 9 THE COURT: Yes, it is. Yes, they will

 10 be concurrent.

 11 MR. LECORRE: Excellent. Thank you so

 12 much, Your Honour.

 13 THE COURT: Thank you.

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 16 Certified to be a true and

 accurate transcript, pursuant

 17 to Rules 723 and 724 of the

 Supreme Court Rules.

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 20 Joel Bowker

 Court Reporter

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