

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

DENEZA STANLEY JR. ABEL also known as  
STANLEY DESJARLAIS JR.; STANLEY ABEL JR.

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Transcript of the Reasons for Sentence delivered by  
The Honourable Justice L.A. Charbonneau, sitting in  
Yellowknife, in the Northwest Territories, on the  
17th day of February, 2017.

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**APPEARANCES:**

Mr. M. Lecorre: Counsel for the Crown  
Mr. C.B. Davison: Counsel for the Accused

(Charges under s. 236(b) of the *Criminal Code of Canada*)

No information shall be published in any document or  
broadcast or transmitted in any way which could identify  
the victim or a witness in these proceedings pursuant to  
s . 486 . 4 of the Criminal Code

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1 THE COURT: Good afternoon, everyone.

2 Mr. Davison, would you like your client  
3 seated with you for this proceedings?

4 MR. DAVISON: I would, please, yes.

5 THE COURT: You can go sit with your  
6 lawyer, Mr. Abel.

7 I am ready to give my decision on this  
8 matter. I will try to speak loud so that  
9 everybody can hear me. I know there is a lot of  
10 people here. Before I begin, though, we do have  
11 to mark as exhibits the support letters that were  
12 sent to the Registry by Mr. Davison.

13 Mr. Lecorre, you confirm you are consenting  
14 to this?

15 MR. LECORRE: Absolutely.

16 THE COURT: All right. So there was the  
17 first group of letters and then a subsequent one,  
18 so they will all be marked collectively as the  
19 next exhibit.

20 MR. DAVISON: Thank you.

**21 EXHIBIT S-4: SUPPORT LETTERS FOR S. ABEL**

22 THE COURT: Today it is my responsibility  
23 to sentence Stanley Abel. He has pleaded guilty  
24 to a charge of manslaughter as a result of the  
25 death of his uncle, H.A..

26 Any time someone dies as result of being  
27 assaulted by another person, it is traumatic for

1 the people who are close to the people involved,  
2 and this case is no different. What makes it  
3 even harder for everyone involved in this case is  
4 that this happened within the same family.

5 Many people were here in court earlier this  
6 week for the submissions and even more people are  
7 here today. Certainly earlier this week, I saw  
8 the pain and sadness and the devastation on the  
9 faces of the people who were facing me as I was  
10 listening to the circumstances of this case, the  
11 Victim Impact Statements, and the sentencing  
12 submissions.

13 I am sorry for your loss, and I know that  
14 there is nothing that the court can do to repair  
15 that loss. I only hope at the end of these court  
16 proceedings everyone can continue with the  
17 process and the long path that you all have to go  
18 through to try to heal from what has happened.

19 The court received five Victim Impact  
20 Statements. Some were read in open Court earlier  
21 this week. And I, again, have to salute the  
22 courage of the person who read them and the  
23 wisdom of her words, as well as the wisdom of  
24 some of the other things that were said in these  
25 Victim Impact Statements.

26 Two of the Victim Impact Statements were  
27 written by H.A.'s young children. They

1           wrote letters and they made drawings depicting  
2           how they remember their father. Those were truly  
3           heartbreaking to see and to hear read in Court.

4           The Victim Impact Statements put words to  
5           things that I know are very difficult to explain  
6           in words: The impact of these events on H.A's  
7           family, which is also Stanley Abel's  
8           family. They also help me understand a little  
9           bit more about who H.A. was and what he  
10          meant to people. He was a gifted musician. He  
11          was a good mechanic. He was very handy and  
12          apparently could fix anything. He took his kids  
13          out camping. He will be sorely missed by many  
14          people. It is truly tragic that his life was cut  
15          short in this way.

16          Stanley Abel was very close to H.A..  
17          That is also very clear from everything that I  
18          have been told in this case. They grew up  
19          together, hung out together, and were more like  
20          brothers to one another than uncle and nephew.  
21          And I know that whatever sentence I impose today,  
22          Stanley Abel is already serving a life sentence  
23          of sorts because he has to live for the rest of  
24          his life with the terrible reality of what he has  
25          done. I suspect, based on what I have observed  
26          of Stanley Abel in court earlier this week, what  
27          I am observing now, and having heard him address

1 his family after counsel submissions earlier this  
2 week, that whatever sentence I impose today, it  
3 is not going to be as difficult as living with  
4 himself knowing what he has done. Still it is my  
5 responsibility to impose a sentence on him for  
6 this very serious crime.

7 In making that decision, just like in any  
8 other sentencing, I have to take into account the  
9 crime that was committed, the circumstances of  
10 Stanley Abel, and the principles of sentencing  
11 that are outlined in the *Criminal Code*. I need  
12 to talk about these three things. The first  
13 thing I will do is talk again about the  
14 circumstances of this offence, although I know it  
15 is painful for everyone to hear.

16 On the night this happened night, H.A.  
17 had been out for supper at the Gold Range in  
18 Yellowknife along with two other people, Ms. B  
19 and Ms. M. They called a cab to return to  
20 Dettah, and Stanley Abel joined them and they all  
21 returned to Dettah together. They all went to a  
22 house party and drank alcohol into the early  
23 morning hours.

24 Stanley Abel drank so much that he has no  
25 memory of anything that happened between drinking  
26 at the house party and waking up at his house in  
27 Yellowknife the next day.

1           One witness said that during the party at  
2           one point, Stanley Abel said, "I could kill all  
3           of you and you wouldn't even know it." There  
4           does not seem to be any explanation or context  
5           for why Stanley Abel said that at that particular  
6           time, but it sounds like there was already some  
7           sort of anger boiling inside of him even at that  
8           point. Even though it seems from the evidence  
9           before me that everyone in Stanley Abel's life  
10          know him as a gentle and nonviolent person,  
11          something was happening with him that night.

12                 Eventually H.A. and Ms. B went  
13          into a bedroom, and H.A. fell asleep on  
14          the ground in front of the bed. Stanley Abel  
15          became angry because he thought that they had  
16          taken his bottle of vodka. He went inside the  
17          bedroom and he attacked H.A. while H.A.  
18          was sleeping.

19                 Ms. B saw him punch H.A., elbow  
20          him, and stomp him on the head while he was  
21          sleeping. Ms. B tried to stop Stanley, but  
22          she was not able to.

23                 Ms. M heard the noise in the room and  
24          she went in. She saw Stanley kicking H in  
25          the head three or four times. She was not able  
26          to stop him either.

27                 Police were called; and when they arrived,

1           they saw that H.A. had injuries to his  
2           face and was bleeding. Paramedics later arrived  
3           and took H.A. to the hospital.           By this  
4           point Stanley had left.

5           H.A. died from head injuries.

6           Stanley Abel has been in custody since his  
7           arrest. Counsel agree that he has spent a total  
8           of 321 days in pretrial custody.

9           I now turn to Stanley Abel's personal  
10          circumstances.

11          To understand more about him I have the  
12          benefit of the submissions from his lawyer, of a  
13          Presentence Report that was prepared and tells me  
14          about his background and his circumstances, and I  
15          also have a number of letters that were written  
16          about him by people who know him and support him.

17          I will now say that, although I also heard  
18          that Stanley Abel has a criminal record, it  
19          contains only one conviction. It is unrelated  
20          and minor, and that record was not at all a  
21          factor in my decision today.

22          Stanley Abel is 31 years old and of  
23          Chipewyan decent. He was more fortunate than  
24          many offenders who come before this court as far  
25          as the kind of upbringing he had. He appears to  
26          have had a largely positive upbringing. He  
27          himself describes it as a very good childhood.



1           That is what he told the author of the  
2           Presentence Report.

3           He was taught traditional skills from a very  
4           young age by his grandfather. He learned to  
5           hunt, trap, and prepare traditional foods, and he  
6           still has those skills today and can survive out  
7           on the land.

8           Many years ago his parents did abuse alcohol  
9           on occasion. The Presentence Report says that at  
10          that point there was some domestic violence in  
11          the home, although Stanley Abel does not have any  
12          memories of that. He does remember some drinking  
13          sometimes going on at the house on weekends and  
14          that he would go to his grandparents' house when  
15          this was happening. But there is no indication  
16          that he was ever abused by anyone. I also know  
17          from the report that many years ago his parents  
18          stopped drinking and that resolved many of the  
19          issues in the home.

20          Mr. Abel is an Aboriginal offender, and for  
21          that reason, the principles and approach outlined  
22          by the Supreme Court of Canada cases of *R. v.*  
23          *Gladue*, [1999] 1 S.C.R. 688, 133 C.C.C. (3d) 385,  
24          and *R. v. Ipeelee*, [2012] 1 S.C.R. 433, 280  
25          C.C.C. (3d) 265, are applicable to this case; but  
26          on the whole, Stanley Abel's counsel concedes  
27          that Mr. Abel's specific circumstances are such

1           that the *Gladue* and *Ipeelee* factors are not as  
2           significant as what we sometimes see in terms of  
3           this sentencing. In other words, Mr. Abel was  
4           fortunate to have had much better circumstances  
5           growing up than many offenders who come before  
6           the Court.

7           Alcohol was definitely a factor in the  
8           commission of this crime, and I want to say a few  
9           words about this.

10          The Presentence Report says that Mr. Abel  
11          consumed alcohol for the first time when he was  
12          13. By the time he was 18 years old, he was  
13          using it on a regular basis. He would experience  
14          blackouts. He ended up in police cells as a  
15          result of his intoxication.

16          In the weeks prior to H.A.'s death,  
17          Stanley had been drinking daily for two to three  
18          weeks. As I already said, he drank so much on  
19          the night of these events that he does not even  
20          remember what he did.

21          Before H.A.'s death, Stanley Abel did  
22          not think his consumption of alcohol was  
23          problematic. That is despite having blackouts,  
24          despite ending up in the drunk tank, despite  
25          drinking for days and weeks in a row on occasion.  
26          That, I think, is an indication of how normalized  
27          the excessive consumption of alcohol is for some

1 members of our community.

2 Alcohol abuse is a serious social and health  
3 problem in this jurisdiction. There are many  
4 reasons why people drink to excess. Often those  
5 reasons are complicated. It may start just as  
6 something people do with their peer group and  
7 then it becomes an addiction.

8 We also see a lot of cases in the criminal  
9 courts where we hear about people having started  
10 consuming alcohol at a very young age. We often  
11 hear and read that people consume alcohol to numb  
12 themselves to memories or difficult circumstances  
13 that they simply feel they cannot otherwise cope  
14 with. But, of course, getting drunk does not  
15 resolve any problems, and more often than not it  
16 leads to more problems.

17 Addictions can be overcome, even though it  
18 is a lifelong battle. There are many people who  
19 are the walking proof that addictions can be  
20 overcome. For some, counselling and support  
21 groups like AA can work. For others, much more  
22 intensive treatment is needed.

23 The resources to help people address their  
24 addiction issues are sorely lacking in this  
25 jurisdiction. Addictions counsellors,  
26 counsellors generally, and healthcare providers,  
27 are all doing their best to assist people; but

1 given the magnitude of the problem, given the  
2 impact it is having on adults and children in  
3 this jurisdiction and the number of lives that  
4 are affected and sometimes destroyed by this  
5 problem, it seems clear that we need far more  
6 resources to address this social problem. There  
7 is no residential alcohol treatment centre in the  
8 Northwest Territories. People can be referred  
9 and sent outside of the jurisdiction for  
10 residential alcohol treatment. That is better  
11 than not having access to treatment at all, but  
12 for some people it presents an additional  
13 obstacle to being able to access treatment.

14 We see in the courts so many manifestations  
15 of the ravages that substance abuse causes in our  
16 communities and how much harm results from it  
17 that we can only hope that someday, having more  
18 resources and more avenues to assist people  
19 overcoming their addictions and other problems  
20 will be made more of a priority.

21 But something else has to be said about this  
22 case. Alcohol was a factor in these events, yes;  
23 but this case is not only about the excessive  
24 consumption of alcohol. Sometimes when tragic  
25 events like this happen those involved, the  
26 offender, witnesses, family members, say that it  
27 is "because of the alcohol". We often see this

1 comment in Presentence Reports when people are  
2 asked to comment. We often read "This is not a  
3 violent person." "This person is very nice when  
4 sober." "It was the alcohol that did this." And  
5 there are some comments to similar effect in this  
6 case as well in the Presentence Report as well as  
7 in the letters of support that I have read.

8 I understand what people mean when they say  
9 that. They mean that the person would not have  
10 acted in this way if they had been sober. But I  
11 think everyone has to recognize that the truth is  
12 there is always something more than that. Many  
13 people drink. Many people drink to excess and do  
14 not become violent. And even people who become  
15 more aggressive and maybe somewhat violent when  
16 they drink, most of them do not launch into the  
17 kind of brutal senseless beating like the one  
18 that happened in this case.

19 To lay a beating like this one on a sleeping  
20 man over the perception that they had taken a  
21 bottle of liquor cannot be explained only by the  
22 fact that Stanley Abel was drunk. This was an  
23 incredibly violent act. That anger and that rage  
24 has to come from somewhere. It was buried inside  
25 Mr. Abel, and for some reason it came out in that  
26 moment.

27 I am not saying that his intoxication did

1 not contribute to this; but for what its worth, I  
2 think it would be a grave error for him and for  
3 those who love him and want to help him through  
4 this to fall into the trap of thinking in terms  
5 of this being only an alcohol problem. He has an  
6 alcohol problem for sure, but the facts of this  
7 case suggest that there was something at play  
8 here aside from alcohol.

9 Sometimes we hear about an offender's  
10 personal circumstance and background, and it is  
11 so tragic. It involves so much abuse, loss, and  
12 dysfunction that it is actually easy to  
13 understand why the person is full of anger, why  
14 they are turning to alcohol to numb the pain and  
15 the memories of those hard times. In Mr. Abel's  
16 case, it is not so clear, because as I said, his  
17 upbringing appears to have been positive and  
18 happy.

19 I hope that with help and with time Mr. Abel  
20 will be able to understand more about what  
21 happened that night. Because as hard as it is  
22 for those who know him in a different way and  
23 know him to be nonviolent, this violence did not  
24 come from the outside. It came from inside of  
25 him somehow.

26 I have talked about the circumstances of the  
27 offence and about the circumstances of Mr. Abel.

1           As I have said, the other thing I have to take  
2           into account today are the principles of  
3           sentencing. In dealing with serious violent  
4           offences like this one, deterrence and  
5           denunciation are very important. All that means  
6           is that the sentence has to send a message about  
7           how serious this is and it has to hopefully try  
8           to discourage violence in other people.

9           The crime of manslaughter has no minimum  
10          punishment and the maximum punishment is life  
11          imprisonment. That is the widest range of  
12          sentence that could possibly be available to the  
13          Court, and it reflects that there are many  
14          circumstances that can make out the offence of  
15          manslaughter.

16          What manslaughter means is causing someone's  
17          death by an unlawful act. That unlawful act  
18          could be a very minor assault that causes someone  
19          to fall and hit their head and die. It could be  
20          a single hit that causes a fatal injury. It  
21          could involve a weapon or not involve a weapon.  
22          Basically it covers situations all the way from  
23          near accident to near murder, and that is why  
24          there is such a wide range of sentences that can  
25          be imposed for it.

26          The more dangerous the actions of the person  
27          who caused the death, the more blameworthy it is

1 and the more the sentence has to reflect that.  
2 In this case there were repeated blows and kicks  
3 and stomping on the head on a sleeping and  
4 completely helpless victim. That is very  
5 serious, very dangerous, and very blameworthy  
6 conduct, and it falls at the higher end of the  
7 spectrum of seriousness.

8 So the level of blameworthiness is high for  
9 this case. Mr. Abel attacked a completely  
10 vulnerable victim without any provocation. The  
11 attack was sustained. It was not just a single  
12 blow, and it continued despite the fact that  
13 others tried to intervene.

14 Balanced against that is the very important  
15 mitigating factor and that is Mr. Abel's guilty  
16 plea. Counsel has said, and I accept, that early  
17 on after he was charged Mr. Abel indicated a  
18 desire not to take this matter to trial.

19 His remorse was very clear to me during the  
20 sentencing hearing. He cried through most of it.  
21 It is very obvious to me today. And his remorse  
22 was also obvious when he spoke earlier this week  
23 at the end of the submissions. I have absolutely  
24 no doubt that Mr. Abel is very, very sorry for  
25 what he has done. He knows the harm he has  
26 caused and wishes more than anything that he  
27 could turn time back and change the course of



1 events.

2 The guilty plea has avoided this being even  
3 more painful for the family and even more  
4 divisive. With the certainty of outcome and the  
5 completion of these proceedings much faster than  
6 if they had gone to trial, everyone can now try  
7 to move forward, move towards the healing, each  
8 at their pace. The guilty plea, for all those  
9 reasons, is extremely significant.

10 As I have said, Mr. Abel virtually has no  
11 criminal record. The Presentence Report and the  
12 support letters that were filed at the sentencing  
13 hearing indicate that this was completely out of  
14 character for him.

15 Counsel have given me cases to help me make  
16 a decision in this case. Other cases are helpful  
17 because they give examples of sentences imposed  
18 on other people who were found guilty of  
19 manslaughter, what kinds of things were  
20 considered, and what range of sentences were  
21 imposed. Of course, no two cases are ever alike,  
22 and each sentence is arrived at by considering  
23 the specific features in every case. And each  
24 case has its own unique factors. It is very  
25 difficult to compare cases.

26 In *R. v. Bruha*, 2003 NWTSC 41, and *R. v.*  
27 *Stromberg*, 2002 NWTSC 49, for example, there were

1           aggravating factors that are not present here.  
2           The victim was attacked in his own home by two  
3           people and there was an element of planning.  
4           However, the force used in that case was far less  
5           violent than what happened here. In that case,  
6           the victim was struck a few times, but he  
7           suffered his fatal injury after he was thrown on  
8           his bed and rolled off of it and hit his head.

9           Throwing someone on a bed is far less  
10          violent than kicking and stomping on someone's  
11          head. Mr. Stromberg received a sentence of four  
12          years after he pleaded guilty. Mr. Bruha  
13          received a sentence of five years after trial.

14          Those are two examples of manslaughter  
15          sentences given in this jurisdiction.

16          *R. v. Sayine*, 2014 NWTSC 85, is another  
17          example. That assault occurred in the context of  
18          a spousal relationship, which is aggravating, and  
19          Mr. Sayine had a related record. On the other  
20          hand, in that case, it was a single blow. He  
21          struck the victim once, and there was also  
22          evidence that he tried to help the victim  
23          afterwards, not realizing how badly injured she  
24          was. He was sentenced to five and a half years  
25          after trial.

26          *R. v. Bourque*, 2015 NWTSC 48, has some  
27          similarities with this case because the type of

1 violence that was used in that case and caused  
2 the victim's death was similar to what happened  
3 here. The difference is that in that case, the  
4 victim was initially awake when the assault  
5 started, but he was quickly knocked out and the  
6 offender continued to hit him repeatedly on the  
7 head after that causing the fatal injuries.  
8 Mr. Bourque received a sentence of five years  
9 after the guilty plea, and that was a joint  
10 submission.

11 On this case, the Crown's position is that I  
12 should sentence Stanley Abel to six years in jail  
13 for what he did. The Crown says the facts are  
14 similar to the facts in *Bourque* but that the  
15 sentence should be higher in this case because  
16 H.A. was even more vulnerable than  
17 Mr. Bourque's victim because H.A. was not  
18 awake when the assault started.

19 Stanley Abel's lawyer says that a sentence  
20 of four years would be sufficient under the  
21 circumstances. He points to cases like *Sayine*,  
22 *Bruha*, and *Stromberg* and to the sentences imposed  
23 in those cases. As I have said, these cases had  
24 some aggravating factors that are not present  
25 here.

26 As I already noted, no two situations are  
27 ever alike in sentencing. There are always

1 differences about the offences that are  
2 committed, about the circumstances of the person  
3 who committed it. That is why sentencing is such  
4 a highly individualized exercise.

5 It is also very rare on sentencing that  
6 there is only one sentence that is appropriate.  
7 Usually there is a range, and at the end of the  
8 day the judge has to decide where in that range  
9 the sentence should be.

10 The six-year sentence that is sought by the  
11 Crown is not outside the range. It would be open  
12 to me to impose it. I do not think it would be  
13 an excessive or unfair sentence given what has  
14 happened.

15 But having given this matter a lot of  
16 thought and considering the guilty plea,  
17 remembering the importance of the principle of  
18 restraint, and remembering that this was out of  
19 character for Mr. Abel, I have decided that it is  
20 not necessary for me to impose a six-year  
21 sentence today. A sentence should never be  
22 longer than what is needed to achieve the goals  
23 of sentencing, and I do not think in this case  
24 that a sentence of six years is necessary to  
25 address the goals of sentencing, even though the  
26 crime Mr. Abel committed was very serious.

27 At the same time, I do not think that the

1 four-year sentence that Mr. Abel's lawyer is  
2 suggesting would adequately reflect the  
3 seriousness of this offence, the high degree of  
4 blameworthiness of Stanley Abel, and the  
5 aggravating factors that I have referred to.

6 The Crown has asked for some ancillary  
7 orders, and I will deal with those first.

8 There will be a DNA order. This is a  
9 primary designated offence.

10 There will be a firearms prohibition order  
11 commencing today and expiring ten years after  
12 Mr. Abel's release. I am not going to include  
13 the exemption in my order today. Mr. Abel will  
14 be free to apply for such an exemption when the  
15 time comes so that he can continue his activities  
16 on the land, but I think that given the length of  
17 his sentence I am going to impose that  
18 application should be made after he has spent  
19 some time in custody when he is ready to be  
20 released and hopefully when he has more insight  
21 into what triggered his actions that night.

22 I will make an order for the return of  
23 exhibits to their rightful owners if that is  
24 appropriate. Otherwise they will be destroyed at  
25 the end of the appeal period. And I am obligated  
26 by law to impose a victim of crime surcharge of  
27 \$200.

1           I will, of course, take into consideration  
2           the time that Mr. Abel has spent in pretrial  
3           custody. For the 321 days he spent in pretrial  
4           custody, I will give him the maximum credit that  
5           I am entitled to give him under the law which is  
6           one and a half day credit for each day spent on  
7           remand. Counsel agree that this works out to 481  
8           days, which is roughly 16 months.

9           Mr. Abel, can you stand up, please.

10          Mr. Abel, I have decided that for this  
11          offence a fit sentence would be a sentence of  
12          five years if you did not have any remand time.  
13          I will give you credit for 16 months for the time  
14          you have spent on remand. That leaves a further  
15          jail term of 44 months which is three years and  
16          eight months.

17          You can sit down.

18          I will ask the clerk to endorse the Warrant  
19          of Committal with my strongest recommendation  
20          that you be permitted to serve your sentence in  
21          the North. If I could order it, I would, but it  
22          is not within my powers to order it. All I can  
23          do is have the strongest possible recommendation,  
24          and I hope that the authorities will take that  
25          into account.

26          I want to make it clear that one of the  
27          reasons I am making this recommendation is that

1           you have a lot of support from your family, and I  
2           am sure that being closer to them would be  
3           helpful to you for your rehabilitation and to  
4           prepare your return to the community at the end  
5           of your sentence.

6                    Have I overlooked anything from the Crown's  
7           perspective?

8           MR. LECORRE:                   No, Your Honour.

9           THE COURT:                    Have I overlooked anything?

10          MR. DAVISON:                  No, not that I can think of.

11                    Thank you.

12          THE COURT:                    Thank you.

13                    Before we close court, I do want to thank  
14           counsel for their submissions and their work in  
15           resolving this case. It certainly is a better  
16           outcome than a long and prolonged trial into  
17           these tragic events.

18                    And to all the people who were here today  
19           who are members of the family, the families  
20           affected by this, again I extend my condolences.  
21           I hope those who are grieving the loss of Herman  
22           Abel will be able to move on to the next steps  
23           perhaps now that the formal Court proceedings are  
24           over. It will be a long road ahead, but I heard  
25           a lot of strength and I see a lot of strength in  
26           the courtroom today and I am sure that together  
27           you can pull through this.

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Close court.

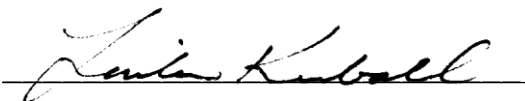
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**CERTIFICATE OF TRANSCRIPT**

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 14th day of March, 2017.

Certified Pursuant to Rule 723  
of the Rules of Court



Linda Kimball  
Court Reporter