

**IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES**

**IN THE MATTER OF:**

**HER MAJESTY THE QUEEN**

**- v -**

**WILLIAM BEAULIEU**

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Transcript of the Reasons for Sentence delivered by The Honourable Justice V.A. Schuler sitting in Fort Smith, in the Northwest Territories, on the 18 day of May, 2017.

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**APPEARANCES:**

Mr. B.W. Green:	Counsel for the Crown
Mr. C.B. Davison:	Counsel for the Accused

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1 THE COURT CLERK: Court is now reconvened.  
2 Please be seated.

3 THE COURT: Good morning. Before I  
4 proceed to sentence Mr. Beaulieu, do counsel have  
5 anything further?

6 MR. GREEN: I think the only issue we left  
7 unresolved yesterday, Your Honour, was the  
8 application of the victim of crime surcharge. I  
9 looked into this last night, and the -- the  
10 mandatory wording came into force in October of  
11 2013.

12 THE COURT: And -- and is still in force,  
13 I take it?

14 MR. GREEN: And is still in force, yes.

15 THE COURT: Okay. Good. All right.  
16 Do you agree with that?

17 MR. DAVISON: I do, yes.

18 THE COURT: All right. So I -- I need not  
19 do anything, it applies automatically, or do I  
20 still need to make the order?

21 MR. GREEN: I -- I think the practice is  
22 to make the order on the record, yeah.

23 MR. DAVISON: Yes.

24 THE COURT: William Beaulieu now stands  
25 convicted on the single-count Indictment that is  
26 before the Court. He is convicted of having  
27 committed an aggravated assault on Martin --



1 Marlin Shae, and an aggravated assault on Daniel  
2 Jackson, in two separate incidents on the same  
3 night into the early morning hours from September  
4 16 to 17 -- excuse me, 2015.

5 Although I have not yet filed written  
6 reasons for conviction, as I indicated I will do,  
7 I have heard submissions on sentence and -- and  
8 will now pronounce the sentence.

9 I will deal first with the circumstances of  
10 the offence. On the night in question,  
11 Mr. Beaulieu was drinking, contrary to one of the  
12 terms of the probation order he was on at the  
13 time. He was outside Rocky Beaulieu's house,  
14 here in Fort Smith, and came up behind Marlin  
15 Shae and hit and kicked him.

16 The only evidence of a possible motive comes  
17 from what Daniel Starr said Mr. Beaulieu told  
18 him, that he beat up a guy who was going in and  
19 out of Rocky Beaulieu's house. Presumably, this  
20 was objectionable to either or both Rocky  
21 Beaulieu and William Beaulieu.

22 Mr. Shae suffered serious injuries, multiple  
23 facial fractures, a skull fracture, and an  
24 epidural hematoma. He had a laceration to the  
25 back of his head that required five stitches to  
26 close.

27 He testified that his eye throbbed for a



1 month or two after the assault, and he lost  
2 feeling in the side of his face for a while. He  
3 also had sore ribs for about a month. He was  
4 treated in hospital in Edmonton but did not have  
5 surgery.

6 Later, in the early morning hours of  
7 September 17, 2015, William Beaulieu met up with  
8 Lorne Napier and Daniel Jackson. They ended up  
9 drinking in Daniel Jackson's basement.

10 Mr. Jackson wanted everyone to leave. He and  
11 Mr. Beaulieu argued and Mr. Beaulieu punched or  
12 hit him in the face two or three times.

13 Mr. Jackson did not fight back, and, after a few  
14 minutes and some further words exchanged between  
15 them, Mr. Beaulieu hit him in the face again, two  
16 or three times.

17 Mr. Jackson's injuries were a fractured  
18 cheek bone and eye socket. He testified that he  
19 continues to suffer numbness in the right side of  
20 his face and his jaw. He was sent to Edmonton  
21 for treatment, he did not require surgery.

22 Subsequent to the assault on Mr. Shae,  
23 Mr. Beaulieu told Mary Abraham and Daniel Starr  
24 about that assault. Mary Abraham did not  
25 describe Mr. Beaulieu as bragging about the  
26 assault, just that he said, "I just beat the shit  
27 out of Marlin Shae".

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1 Daniel Starr did describe Mr. Beaulieu as  
2 bragging that he beat up and kicked the guy going  
3 in and out of Rocky's.

4 I accept that Mr. Beaulieu was bragging or  
5 boasting, at least to Mr. Starr. He may have  
6 been, in effect, boasting when he told  
7 Ms. Abraham. He clearly was not telling them  
8 about the assault on Mr. Shae in the hopes that  
9 they would get help for Mr. Shae.

10 Mr. Beaulieu was arrested on these matters  
11 on October 1st, 2015, and has been in custody  
12 since then; a period of 19 months and 17 days.  
13 As to Mr. Beaulieu's circumstances, I have the  
14 benefit of a very thorough presentence report.

15 Mr. Beaulieu is now 40 years old, he is  
16 Métis. His childhood can be described as truly  
17 sad and terrible. The family was split up, he  
18 was exposed to alcohol and drug abuse and general  
19 chaos in his mother's home. He was apprehended  
20 by Social Services.

21 When he was 13 years old, both his parents  
22 who had separated by then, died violent deaths  
23 within a month of each other. He was moved  
24 around among family members, and, eventually,  
25 adopted by his grandparents and spent some time  
26 on the land with his grandfather, who was a  
27 trapper. He was sexually abused by a female



1 relative and later by another youth at a  
2 treatment centre. He was physically disciplined  
3 by being slapped by various relatives.

4 He started getting into trouble with the law  
5 around age 13. He reports that he began  
6 experimenting with alcohol at age 8 or 9, and  
7 drugs at age 13. Mr. Beaulieu has suffered  
8 further tragedy and trauma as an adult arising  
9 out of the deaths of other relatives, and also  
10 some close relatives suffering sexual assault.

11 He has been through homelessness and he has  
12 lacked financial stability. He has several  
13 children, but does not see all of them, nor do  
14 they all live in Fort Smith. He has been in a  
15 common-law relationship since 2011, and, prior to  
16 being arrested, lived with his common-law spouse,  
17 their biological child, and some of her five  
18 children. Although it is reportedly a committed  
19 relationship, Mr. Beaulieu and his spouse have  
20 struggled to maintain a home and resources to  
21 raise their family.

22 Mr. Beaulieu has had employment as a  
23 labourer, and is considered by at least one  
24 employer who was interviewed by the probation  
25 officer as a hard worker.

26 Mr. Beaulieu also has a lengthy criminal  
27 record, beginning with a conviction for assault



1 in 1992, when he would have been 15 years old.  
2 As a youth, he also had convictions for sexual  
3 assault in 1993, break and enters, breaches of  
4 court orders, and then robbery and escaping  
5 lawful custody spanning the years 1993 to 1994.

6 He received, as punishment, various short  
7 terms of secure custody, but, for the robbery,  
8 was given two years and six months secure  
9 custody. But the facts of the robbery are not  
10 before me, but I would assume, in the  
11 circumstances, that it was fairly serious.

12 As an adult, he has convictions for break  
13 and enter, mischief, and other property crimes  
14 from 1998 to 2013. But of more concern on this  
15 sentencing are his adult convictions for assault.  
16 First, the conviction for assault causing bodily  
17 harm in 2000 for which Mr. Beaulieu received four  
18 years in jail. Although I have not been told any  
19 facts of that offence, the sentence suggests that  
20 it was very serious.

21 Then there was an assault in 2006 for which  
22 Mr. Beaulieu was sentenced to a jail sentence of  
23 eight months and probation for two years. There  
24 is a conviction in 2010 for uttering threats for  
25 which 14 months jail was imposed concurrent to  
26 sentences imposed on other offences. There is a  
27 conviction in 2011 for an assault for which he

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1 was sentenced to five months jail and 12 months  
2 probation.

3 Mr. Beaulieu also has convictions as an  
4 adult in 1998 and 2010 for carrying a concealed  
5 weapon and possession of a weapon for a purpose  
6 dangerous to the public peace.

7 The crimes of violence, the assaults, and  
8 the threats, are, obviously, relevant as they  
9 disclose a continuing pattern -- pattern of  
10 violent behavior by Mr. Beaulieu against other  
11 people.

12 I note that his last conviction of September  
13 4, 2013, for two break and enters and taking a  
14 motor vehicle without consent, resulted in a  
15 total 24-month conditional sentence order,  
16 followed by a suspended sentence of 18 months  
17 probation. Mr. Beaulieu was still on that  
18 probation when he committed the offence for which  
19 I must now sentence him.

20 Although he was, according to the  
21 presentence report, able to do quite well on the  
22 conditional sentence order, it was not long at  
23 all after it expired, in fact, by my  
24 understanding, it would just have been a matter  
25 of days that Mr. Beaulieu committed the assaults  
26 on Mr. Shae and Mr. Jackson.

27 I accept, as the presentence report





1 indicates, as do the certificates that were filed  
2 as Exhibit S-3, documenting Mr. Beaulieu's  
3 completion of anger management and substance  
4 abuse and other programs, that Mr. Beaulieu has  
5 made an effort to change his behavior and his  
6 life. He seems to have some insight into his  
7 behaviour and the bad choices he makes, as  
8 referred to in the presentence report. However,  
9 there is definitely an angry side to  
10 Mr. Beaulieu, one that seeks to blame others, as  
11 revealed in his interview with Constable Long.

12 The aggravating factors in this case are,  
13 first: That Mr. Beaulieu was on probation at the  
14 time of the assaults. With respect to the  
15 assault on Mr. Shae, it is aggravating that he  
16 came up behind him, leaving him no opportunity to  
17 defend himself. The fact that after assaulting  
18 Mr. Shae, he went on to assault Mr. Jackson, is  
19 also an aggravating circumstance, as is  
20 his bragging to Mr. Starr about assaulting  
21 Mr. Shae. And, of course, assaulting Mr. Jackson  
22 in Mr. Jackson's own home is an aggravating  
23 circumstance.

24 As to mitigating factors, normally, a guilty  
25 plea is mitigating and will result in some and  
26 often substantial reduction in the sentence that  
27 would otherwise be imposed. And that is because



1           it indicates remorse, and that the offender is  
2           taking responsibility for his actions. In this  
3           case, Mr. Beaulieu tried, unsuccessfully, to have  
4           his guilty plea withdrawn, and so I do not  
5           consider and cannot consider that the plea  
6           indicates remorse.

7           We did have a hearing on the facts, although  
8           it was somewhat shorter than a full trial would  
9           likely have been because the *Rules of Evidence*  
10          are less stringent at this type of hearing.

11          I do want to make it clear that I am not  
12          punishing Mr. Beaulieu for attempting to withdraw  
13          his guilty plea, but that guilty plea, as a  
14          result, simply does not have the mitigating  
15          effect that it would otherwise.

16          I do take into account Mr. Beaulieu's  
17          statement yesterday here in court that he is  
18          sorry for what he has done. I take into account  
19          the *Gladue* and *Ipeelee* factors, which apply  
20          because of Mr. Beaulieu's Métis heritage. I have  
21          no doubt that Mr. Beaulieu is caught in a cycle  
22          of alcohol, negative effects from his terrible  
23          childhood, violence, and other challenges common  
24          in Aboriginal communities, and that these  
25          challenges have led him to where he is now. But  
26          because of the serious effect his behaviour has  
27          on other individuals, as in this case, and his



1           apparent inability, even as he was reaching his  
2           40s, to break that cycle and overcome his violent  
3           behaviour, there is no question that the  
4           community has to be protected from him.

5           I do not ignore the prospect of  
6           rehabilitation because Mr. Beaulieu has made  
7           efforts, as I said. However, at his age, and  
8           with the seriousness of the assaults,  
9           rehabilitation simply cannot be the Court's  
10          primary concern.

11          The fact that any aggravated assault is to  
12          be considered and treated as serious, is  
13          reflected in the fact that parliament has set a  
14          maximum sentence for aggravated assault at 14  
15          years in jail.

16          I agree completely with Crown counsel's  
17          submission that when an assault involves kicks or  
18          punches to the head, it is only luck that the  
19          assault does not result in death and a homicide  
20          charge because of the vulnerability of that part  
21          of the body.

22          The principles of sentencing are well-known.  
23          They include rehabilitation, which I have already  
24          mentioned. They include denunciation and  
25          deterrence. Clearly, individual deterrence, in  
26          other words, deterring Mr. Beaulieu from  
27          committing further offences, has to be an



1 objective in this case. A sentence must be  
2 proportionate to the gravity of the offence and  
3 the degree of the responsibility of the offender.

4 Here, as I have said, the assaults are  
5 serious. They are grave. Mr. Beaulieu, after  
6 all these years, must know that when he drinks,  
7 he is aggressive and violent. He knew he was not  
8 supposed to be drinking because his probation  
9 prohibited it, yet he drank and then attacked  
10 these two individuals, whom he did not even know.  
11 That is very blameworthy conduct.

12 I am satisfied, however, that the assaults  
13 were not premeditated, rather, they were likely  
14 spur-of-the-moment or uncontrolled reactions by  
15 Mr. Beaulieu to things that he did not like. For  
16 example, Mr. Shae being at Rocky Beaulieu's  
17 house; Mr. Jackson wanting everyone out of his  
18 home.

19 I also have to consider restraint pursuant  
20 to section 718.2(e) of the *Criminal Code*, and  
21 consider whether any sanctions, other than  
22 imprisonment, would be appropriate, especially  
23 because Mr. Beaulieu is Aboriginal and his  
24 circumstances give rise to the principles in  
25 *Gladue*.

26 In this case, it is clear that a sentence of  
27 imprisonment is called for, but the restraint





1 factor is relevant to its length and I will bear  
2 that in mind.

3 Counsel have submitted a number of cases,  
4 all of which I have read. I concur with the  
5 remarks made by Justice Shaner in *R. v. Thorn*,  
6 *2013 NWTSC 8*, that the range of sentences for  
7 aggravated assault is very broad, which reflects  
8 that such assaults can take many forms and  
9 individual circumstances have to be taken into  
10 account.

11 The assaults, in those cases, raise -- range  
12 from a matter of months; for example, the  
13 *Jeremick'ca* case, to several years, for example,  
14 the *Thorn* case, which illustrates how widely  
15 sentences for aggravated assault, even with  
16 serious consequences to the victim, can vary.

17 In this case, Crown counsel seeks a sentence  
18 of eight years, less credit for remand time,  
19 which he concedes should be credited at a rate of  
20 1.5 to 1. Defence counsel seeks a sentence of  
21 between 30 and 36 months, less credit for remand  
22 time.

23 Considering there were two assaults, the  
24 Crown's position would effectively reflect a  
25 four-year sentence before remand credit for each  
26 of the assaults, which was the sentence imposed  
27 on Mr. Beaulieu for assault causing bodily harm



1 in 2000, some 17 years ago. The defence  
2 submission would reflect a sentence of 15 to 18  
3 months on each of the assaults.

4 After his four-year sentences for assault  
5 causing bodily harm -- sorry, after his four-year  
6 sentence for assault causing bodily harm was  
7 imposed in 2000, the two assaults of which  
8 Mr. Beaulieu was later convicted resulted in  
9 eight months and then five months plus probation.  
10 So I can reasonably conclude that they were much  
11 less serious assaults than the one that resulted  
12 in the four-year sentence.

13 It is of great concern that Mr. Beaulieu  
14 now, again, with the assaults that I am dealing  
15 with today, has increased the seriousness of his  
16 behaviour. When he spoke to the Court yesterday,  
17 he said that he is learning in regarding to  
18 controlling his behaviour, but, clearly, he still  
19 has a lot to learn, and he has -- he now is at an  
20 age where he has to learn, or he will not be  
21 spending much, if any, time in the community.

22 I want to refer to Mr. Beaulieu 's testimony  
23 at the plea withdrawal hearing, and in that  
24 testimony, when he was talking to -- or speaking  
25 to the Court about the night in question, he  
26 stated that he was drinking at his auntie's place  
27 where he had gone with his spouse and children,



1 and, of course, he was not supposed to be  
2 drinking at all, and should not have been  
3 drinking in the presence of the children. Then  
4 you all went -- then Mr. Beaulieu, his spouse,  
5 and the children went home, they put the children  
6 to bed, and Mr. Beaulieu had a couple more beer.  
7 Then, he testified, at the plea withdrawal  
8 hearing, he went out. And when asked by Crown  
9 counsel, at that hearing, Why did you leave home?  
10 His answer was, I don't know. I wanted to go out  
11 and drink.

12 So the problem is, Mr. Beaulieu, that you  
13 put drinking before your family. That is really  
14 the root of the problem. And there has been --  
15 there have been submissions made by your lawyer,  
16 which I accept, that witnesses say you are a good  
17 father. You speak about your family in the  
18 presentence report, and you talk about wanting to  
19 be a good father, but you are not putting your  
20 family first by this behavior, and that is  
21 something that you really need to spend a lot of  
22 time thinking about.

23 Stand, please, Mr. Beaulieu. In my view,  
24 considering all of the circumstances, all of the  
25 factors, and, in particular, the circumstances of  
26 the offences, and Mr. Beaulieu's criminal record,  
27 it would not be inappropriate to impose a



1 sentence of two years on the first assault, the  
2 one on Mr. Shae; and three years consecutive on  
3 the second assault, the one on Mr. Jackson.  
4 Because, as I said, it is an aggravating factor  
5 that having assaulted Mr. Shae, he went on, and,  
6 essentially, did it again. That would be a total  
7 sentence of five years. I have considered that  
8 carefully, and considered it globally, and, in my  
9 view, that is still an appropriate total sentence  
10 for Mr. Beaulieu's violent actions that night.  
11 With credit of 29 months and eight days for  
12 remand time, that leaves a sentence of 30 months,  
13 plus 22 days, by my calculation, left to serve.  
14 And so that is the sentence that I impose today.

15 There will also be a firearm and other  
16 specified weapons prohibition order pursuant to  
17 section 109 of the *Criminal Code* that will  
18 commence today and expire ten years of  
19 Mr. Beaulieu's release from imprisonment. And  
20 there will be the usual order for the taking of  
21 Mr. Beaulieu's DNA, and the application of the  
22 victim surcharge.

23 So, Mr. Beaulieu, I cannot -- you may sit  
24 down now. I cannot tell you how to conquer your  
25 demons. I do not know what the answer is. You  
26 did well on the conditional sentence order,  
27 apparently, but, for some reason, you just could





1 not stick with it. And, as I have already said,  
2 you left your family at home and you went out and  
3 you drank, and you must have known, based on your  
4 past behaviour, that that could lead to nothing  
5 but trouble, nothing but trouble. Only you know  
6 why you did that, why you chose to do that that  
7 night. I -- I do not know. I cannot tell why  
8 you did it. But, as I said, you have to keep in  
9 mind that when you do that sort of thing, you are  
10 not putting your family first, you are not  
11 thinking about your family. Your being in jail  
12 means that your family suffers the consequences,  
13 and you need to see and understand, and you need  
14 to think about the fact that you are most likely,  
15 I am not going to say definitely, because there  
16 has always hope, but you are most likely  
17 contributing to your children getting caught up  
18 in the same cycle of alcohol and violence and a  
19 parent who is not around because you are in jail  
20 all the time. You are most likely contributing  
21 to them being caught up in that same cycle that  
22 you have been caught up in yourself. So you said  
23 yesterday you are trying, I will accept that, but  
24 you need to try a lot harder.

25 And you also need to think about the fact  
26 that if you commit another offence, like the one  
27 that I am -- that -- that I have just sentenced



1           you for, if you commit another assault on  
2           someone, punch, kick someone in the head, there  
3           is a very good chance that you will be looking at  
4           a homicide charge.       Because there is a very good  
5           chance that a person that is subjected     to that  
6           kind of treatment from you would die.     And if you  
7           are looking at a homicide charge, you are likely  
8           looking at a life sentence.   So you need to think  
9           about all those things.   I mean, you are not a  
10          stupid man.     I can tell that from the presentence  
11          report.   You have, obviously, thought about some  
12          of these things in the past, and why you engage  
13          in this behavior, but you need to think about it  
14          a lot more and you need to do something about it.  
15          So I am just going to leave that with you.

16                 Counsel, I will thank you for your work on  
17          this case.     I do not know if you have anything  
18          further at this time, if not, we will adjourn.

19   MR. GREEN:                 Nothing from Crown, Your  
20          Honour.

21   MR. DAVISON:                No, nothing else.     Thank you.

22   THE COURT:                 All right.   Thank you.   We  
23          will adjourn court then -- we will close court,  
24          rather.

25   THE COURT CLERK:            All rise.     I declare the  
26          Supreme Court closed.

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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 June, 2017.

Certified Pursuant to Rule 723  
Of the Rules of Court



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Leanne Harcourt, CSR(A)  
Court Reporter

