*R v Quitte,* 2020 NWTSC 36 S-1-CR-2020-000009

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

**IN THE MATTER OF:**

**HER MAJESTY THE QUEEN**

**-v-**

**ALECUS QUITTE**

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**Transcript of the Sentencing Decision of the Honourable Chief Justice L.A. Charbonneau, sitting in Yellowknife, in the Northwest Territories, on the 8th day of September, 2020**

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**APPEARANCES:**

A. Godfrey: Counsel for the Crown

A. Lewis: Counsel for the Crown

J. Bran: Counsel for the Defence

H. Paul: Tlicho Interpreter

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Charges under s. 235(1) and 236(b) of the *Criminal Code*

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THE COURT: There is a lot that could be said in a case like this, but many people have come here today for this sentencing hearing, and I want to try to put an end to this case today, so I am going to give my decision now. I probably will not say everything that should have been said, but I think it is important that I give my decision now.

 Today it is my responsibility to sentence Mr. Quitte for having killed Archie Wedzin. Many people were here this morning during the sentencing hearing, and I think everyone is still here this afternoon. I do not know any of you, but I can certainly see the pain in your faces, and I am very sorry for your loss.

 I know that no matter what I say right now, no matter what sentence I impose, I cannot do justice to the depth of your loss and of your pain. I only hope that the end of this case will help you all in your own processes of healing and to try to recover from these terrible events.

 This morning the Crown prosecutor read the facts. They had been read in at an earlier court appearance. They were read in again today. I am not going to repeat all the details because I know they are painful for everyone to listen to, but I do need to refer to them at least a little bit so that anyone reading my decision knows what Mr. Quitte was being sentenced for today. So I will start by summarizing what happened on that day.

 Mr. Quitte and his partner, Ms. Drybones, had gone to Mr. Wedzin’s house. The three of them drank vodka and smoked crack cocaine together into the early morning hours. There was an argument between Mr. Quitte and Ms. Drybones which resulted in Mr. Quitte being asked to leave, and he did leave. But he returned a short while later, and he was allowed back into the residence.

 I heard that Mr. Wedzin and Ms. Drybones refused to share vodka with him, and that led to another argument. Mr. Wedzin and Ms. Drybones threatened to kick Mr. Quitte out again. And most unfortunately, this escalated into a physical confrontation between Mr. Quitte and Mr. Wedzin.

 Mr. Quitte stabbed Mr. Wedzin twice in the neck with a knife. Mr. Wedzin tried to leave, but Mr. Quitte pulled him back inside. He and Ms. Drybones tried to stop the bleeding from Mr. Wedzin’s neck, but they were not able to do that. They later put a piece of cardboard over some of the blood that was on the floor. They got rid of the knife. They got rid of their clothes. Those items were never found.

 After Mr. Wedzin’s body was discovered the police investigated, of course, and as part of that investigation they spoke to Ms. Drybones and Mr. Quitte. Both of them admitted that they had been at Mr. Wedzin’s house on the night in question but said they left in the early morning hours and did not know anything about what happened to him after that.

 But on May 9th, Ms. Drybones gave a second statement to the police, and in that one she told police that Mr. Quitte had stabbed Mr. Wedzin. Mr. Quitte was arrested on May 14th. He was confronted with Ms. Drybones’ second statement and other evidence, and eventually, he admitted that he stabbed Mr. Wedzin. He said he did not intend to kill him, that he was defending himself.

 There is nothing in the agreed facts that suggest that this was done in self-defence, simply that it happened during the course of an argument. And I think Mr. Quitte now recognizes that. He takes full responsibility for what he has done.

 Three victim impact statements were filed earlier today, and I also heard just moments ago comments from Mr. Wedzin’s mother, Julie, who I again sincerely thank for her words. I also thank the other people who prepared these victim impact statements and anyone else who may have had input into them. It takes a lot of courage to share feelings like this in a courtroom. And I know it is also very difficult to put words to this kind of pain, and I know that words cannot fully describe the loss.

 It is clear from what I read and what I heard about Mr. Wedzin that he was loved by many people. He was generous; he opened his door to people. He was a good father to his children and good grandfather to his grandkids. And he was loved by his mom. He helped people out. He took people in, including Mr. Quitte and Ms. Drybones.

 Mr. Wedzin is very much missed by many people. That will be the case probably for as long as those people live. And unfortunately, there is nothing that I can do that can repair this harm. In many of the cases that the Crown has filed, the judge in sentencing talks about how senseless these deaths are, how much damage alcohol and drugs are causing, how much of a waste it is to have young people from our communities go to jail for killing people, often people they are close to, because of a stupid argument or an intoxicated fight.

 That is the overwhelming feeling that comes with all of these cases and with this one. This is so sad, and it is such a terrible waste. Many judges have said it before me, and I have said it also myself: the courts cannot solve these problems and prevent these tragedies; only people can. Community leaders, members of the communities together can make change happen. It cannot come from the outside; it has to come from the inside.

 And once again, I find myself hoping that Mr. Wedzin’s death will bring about some real true meaningful change, not just for Mr. Quitte himself but hopefully for others in the community who will find ways to change their own behaviour, tackle their issues with substance abuse, and find ways to not engage in the kind of senseless violence we see every week before the courts.

 In sentencing Mr. Quitte I have to take into account his own circumstances. I have a pre-sentence report before me that sets out those circumstances. I will not repeat everything that is in the report, but I have read it carefully.

 Mr. Quitte is Tlicho, and he is still very young. He has a limited criminal record, but I note it is for two assaults, cases of violence, both committed in the context of spousal relationships. I read in the report that he was not raised by his biological parents because his mother was very young when he was born. He was raised by his grandmother and an uncle, and according to the report, these people were loving and affectionate towards him, provided for his needs, and treated him as though he was their own son. They spent time on the land at their camp and taught him how to trap.

 Unlike many offenders who come before the Court, Mr. Quitte was not -- at least not on the information that I have before me -- subjected to violence or abuse when he was growing up. But he was young when his uncle died, and his grandmother passed away five years ago, at which point he moved in with his mother, and he lived in various communities.

 I heard that he met his first spouse and shortly after they began dating she got pregnant and they now have a son, age five. I heard that that relationship came to an end and that Mr. Quitte’s relationship with Ms. Drybones began a few months before the events that bring us to court today occurred.

 The report says that heavy alcohol and drug use and partying was an ongoing aspect of that relationship. Things seemed to spiral down from there to the point of the tragic events that bring us here today. Mr. Quitte told the author of the report that his addiction to crack cocaine consumed him, and I think that is an accurate description. Unfortunately, it was part of a chain of events that led to a most tragic outcome.

 It is striking to me that Mr. Quitte is described in various parts of the report as quiet and nonviolent, yet he has these two convictions for assaulting his spouses. And now he has to live with the knowledge that he killed someone he cared for while under the influence of alcohol and crack cocaine.

 I read in the report that Mr. Quitte started drinking alcohol at a young age. His uncle apparently did drink a lot, so he had access to alcohol that he took from him as a young teenager, and he also experimented with marijuana when he was relatively young. Crack cocaine, a much more dangerous drug, came into his life just a few years before this happened and seems to have led to most of the problems and dysfunction in his life.

 I can only hope that the knowledge of what he is capable of doing while under the influence of alcohol and crack cocaine will remain always a powerful force to help him stay away from these substances in the future.

 In considering the sentence to be imposed to Mr. Quitte, his circumstances must be taken into account, including the fact that he is Indigenous. There is a legal framework that was established by the Supreme Court of Canada in the cases of *R v Gladue,* [1999] S.C.R. 688 and *R v Ipeelee,* 2012 SCC 13 that applies to this case.

 But as was noted in submissions, compared to many offenders who come before the Court, Mr. Quitte was fortunate to grow up in a loving and caring environment. That is not to say he did not experience some loss and some struggles, but his circumstances are not as tragic as those of many offenders who come before the Court and who I have the sad task to sentence.

 I also agree with the comments of Justice Tulloch in *R v Padluq,* 2016 NUCJ 22 that when dealing with a very serious offence like this one, the application of the principle of restraint can only go so far in reducing the sentence to be imposed. The Supreme Court of Canada has made it clear in *R v Gladue* and *R v Ipeelee* that the framework does apply to serious offences, and I am not saying otherwise. But the objective of keeping communities safe and denouncing serious violence is as important for Indigenous communities, as it is for non-Indigenous communities.

 It struck me this morning in listening to the victim impact statements that there were comments about people not feeling safe in their home community anymore, that they never thought a family member could be killed, that they thought Behchoko was a safe place to live. Now they are afraid, and they keep their doors locked. The impact of an event like this on a small community cannot be overstated. The need to denounce this type of violence is an important sentencing principle even within the *R v Gladue* and *R v Ipeelee* framework.

 The crime of manslaughter is the killing of another person through an unlawful act but when there is not an intention to kill. Because when the Crown proves that there was an intention to kill, that is murder, not manslaughter. Manslaughter covers a broad range of possible acts, everything from something that is almost an accident to something that is almost murder.

 It could be a minor assault, such as a push which causes the person to fall, hit their head and die, for example. Or it can be something much more serious, such as an assault with a weapon. The wide range of conduct that can lead to this charge is reflected in the available sentences. There is no minimum punishment, so there could be cases where no jail at all is imposed on manslaughter. But on the other hand, the maximum sentence is life imprisonment.

 Our Court of Appeal has recently reviewed aspects of the law of sentencing in manslaughter cases in *R v Nerysoo, 2020 NWTCA 8*. I had the unfortunate task of applying that same framework just over a week ago in another manslaughter sentencing in Yellowknife, *R v Ugyuk,* 2020 NWTSC 34. And that same framework was also applied in the case of *R v* *MacPherson*, 2017 YKSC 19, one of the authorities filed by the Crown.

 What the legal framework boils down to is that in the wide variety of acts that can lead to a conviction for manslaughter, not all those acts are equally blameworthy. In every case it is serious because the act has led to a death, which is obviously very tragic. But the accused’s moral blameworthiness depends on the seriousness of the act that led to the death, and this has an impact on sentence.

 Crown and defence agree that stabbing someone in the neck falls at the high end of the range of seriousness. I certainly agree. Stabbing someone is always a serious thing, but as I noted in *R v* *Emile*, 2008 NWTSC 50 as was referred to this morning, we see many cases, a surprising number of cases, involving stabbings where the victim not only does not die but often is not injured that seriously.

 Stabbing someone in the neck always carries with it a very real risk of very serious or lethal injury. What Mr. Quitte did falls much closer to murder than to accident; his degree of blameworthiness is very high. It is higher than in the case of *R v Ugyuk* or *R v Nerysoo* where no weapons were used. I would say it is even higher than in *Emile* or *R v* *Andre*-*Blake*, 2010 NWTSC 85, because, again, while stabbing someone in the abdomen or body is very serious and dangerous, stabbing someone in the neck is almost inevitably going to cause death.

 In this case counsel have presented me with a joint submission, and I need to address that as well. As I said last week in another sentencing in *R v Qumuaqtuk,* 2020 NWTSC 35*,* a joint submission considerably reduces the discretion that a sentencing judge has on sentencing. Ordinarily sentencing involves a lot of discretion on the part of the sentencing judge. The judge has to balance the mitigating factors, the aggravating factors, all the sentencing principles, and decide what a fit sentence is, a fit sentence being one that meets the fundamental requirement of proportionality.

 And normally, because judges have a lot of discretion on sentencing, even the Court of Appeal is going to give a sentencing judge’s decision a lot of deference.

 A joint submission changes that legal framework in a major way. That is not something that is in the *Criminal Code*; it is something that comes from the Supreme Court of Canada’s decision, *R v Anthony-Cook*, 2016 SCC 43. If a joint submission is presented, the sentencing judge’s discretion disappears almost completely because a sentencing judge is required to follow a joint submission unless, in the words of the Supreme Court, “the joint submission is so unhinged from the circumstances of the case that it would cause the public to think the justice system has broken down.” That is a very high threshold.

 In effect, this law takes most of the discretion away from sentencing judges and place it in the hands of counsel for reasons that the Supreme Court explained in *R v Anthony-Cook*. That is the current state of the law, which of course I must follow. So the question today is not what I think a fit sentence would be for this offence; rather, the question is whether the joint submission is clearly unreasonable.

 There are aggravating factors in this case. The first is the use of the weapon; the second is that there was this act of preventing Mr. Wedzin from leaving after the stabbing; the third is the attempt to conceal what happened and the destruction of evidence. The fourth, to the lesser degree, is the criminal record; it is not a significant aggravating factor because of the nature of the convictions and the sentences imposed do not suggest that they were at the most serious end of the scale as far as assaults, but they are crimes of violence.

 There are also mitigating factors. The guilty plea is the most important one, and I recognize this. The Crown’s case here was heavily dependent on the evidence of Mr. Quitte’s partner. Testifying on this case would no doubt have been very difficult for her. I have spent enough time in courtrooms to have a sense of how this might have unfolded.

 She would have been confronted with her initial claim not to know anything about what happened to Mr. Wedzin. It may have been suggested to her that being the only other person there, she was the one who committed this crime. Mr. Quitte did eventually admit his involvement to police but statements to police do not automatically get admitted into evidence. There is no guarantee that the Crown will be able to rely on a statement made by an accused person.

 And in any event, any time there is a trial, there is an uncertainty as far as the outcome. At trial the Crown faces the burden to prove guilt beyond a reasonable doubt. That is a very high burden of proof.

 For those reasons, for Mr. Quitte to give up his right to have a trial was no small concession. Even when the Crown’s case is strong, trials are hard on people. It adds time and anxiety for everyone involved, witnesses, family members. And in the current situation with the COVID-19 crisis, many trials have been delayed. It is very hard to know when this matter would have proceeded if Mr. Quitte had exercised his right to have a trial.

 The other very important thing -- and I have to emphasize this, given what I have read and given some of the things I heard this afternoon -- a guilty plea provides certainty of outcome. It can and it should put an end to any lingering rumours or doubt about what happened that day.

 I saw in the pre-sentence report comments to the effect that some people do not believe Mr. Quitte did this. His own mother made comments to that effect, and she was quoted in the pre-sentence report referring to the fact that “others may be of the same view.” There was also a hint of that in what she said this afternoon.

 I want to make this very clear, let there be no doubt: Mr. Quitte has pleaded guilty to this. He has admitted the facts. He took responsibility for what he did when he spoke to the author of the pre-sentence report. He has apologized to a courtroom full of people for what he did. After today, there should be no lingering rumours or doubts or suggestion that he is not the one who killed Mr. Wedzin.

 Mr. Quitte has come to terms with what he has done, and that takes courage. Those who support and love him need to also come to terms with what he has done. If there is ever to be any healing from these terrible events for everyone involved, including Mr. Quitte, accepting the truth is a necessary step. Denial prevents healing. Pretending that things are not the way they are prevents healing. It will not help Mr. Quitte in the future to have people continue to suggest that maybe he did not do this. He wants to take responsibility and to move on. Those who want to help him and support him need to do the same thing.

 Aside from the guilty plea, as I have already said, Mr. Quitte’s circumstances as an Indigenous offender must be taken into account. Those principles require me to take judicial notice of systemic and background factors that have contributed to the over-representation of Indigenous people in Canadian jails, and they also require me to take into account Mr. Quitte’s own circumstances. And I have to assess to what extent these factors reduce his blameworthiness.

 Taking into account the cases that I have been provided, the aggravating and mitigating factors, Mr. Quitte’s young age and his personal circumstances, I can say without hesitation that the joint submission that was presented is not unreasonable. It is certainly not at the high end of the scale of what could be imposed, given the seriousness of this offence, but it is not unreasonable. It represents a position of restraint, which is what the law mandates. It gives considerable weight to his guilty plea, which is appropriate. After trial Mr. Quitte would have faced a much, much longer sentence.

 Mr. Quitte has been in custody, I heard, for 483 days. Credited at the usual ratio of one and a half days credit for each day of remand, this adds up to 725 days, which is five days short of two years. I cannot round up this credit to two years because the *Criminal Code* sets the maximum credit at one and a half days for each day of remand. So the credit for the remand time will be one year, 11 months, and three weeks.

 The Crown has sought a number of orders as part of this sentencing, and I will deal with those first. They are all unopposed by defence.

 First, there will be a DNA order because this is a primary designated offence.

 Second, there will be a firearms prohibition order that will start today and end 10 years after Mr. Quitte’s release. I have the power to order the lifting of that order for sustenance purposes subject to certain conditions under section 113 of the *Code* but trying to set appropriate conditions today would be very difficult. Mr. Quitte will be in custody for some time. How he does in custody, what he does to address his substance abuse issues will be relevant to whether it is safe for him to have access to firearms for sustenance purposes and if so under what conditions. So I leave the conditions to be determined in due course by the chief firearms officer.

 There will be an order for the return of the exhibits to their lawful owners in the instances where that is appropriate. Any other exhibits will be destroyed at the expiration of the appeal period.

 The next request from the Crown is a sealing order for Exhibit S-1. The Crown seeks to have Exhibit S-1 sealed; that is the exhibit that was filed when we began this sentencing hearing several months ago. It includes a number of photographs, including one photograph of Mr. Wedzin’s injuries. Earlier today the Crown filed a second booklet, which was marked as S-1.1. It is identical to S-1 with the exception that it does not include one of the photographs.

 I reviewed the framework that applies to this type of request in *R v Sutherland*, 2019 NWTSC 45. The context was very different, but the legal framework is the same. And it comes down to a very basic point: courts do not operate in secret. They operate in the open. It is important that members of the public and representatives of the media whose job it is to inform the public have access to court proceedings and all relevant information that is related to those court proceedings.

 So any time there is a request for a publication ban or a sealing order, the Court has to balance the interests of the public in knowing what goes on in court against the privacy interests and other considerations that may weigh in favour of limiting access.

 The photograph that the Crown seeks to have sealed is a very graphic and disturbing photograph that shows the details of Mr. Wedzin’s injuries to his neck, and it also shows the side of his face. The injuries are described in detail in the agreed statement of facts. Not having the photograph itself available to the public or media representatives will not prevent anyone from having the full picture of what occurred in this case and what injuries were inflicted.

 On balance I agree that the privacy interests of Mr. Wedzin and his family outweigh the usefulness of this photograph being publicly accessible on the court’s file. I am satisfied that based on the information available to me at this point, it is in the public interest to seal that exhibit that contains that particular photograph.

 But recognizing that this request was only made today, if anyone should think there is a compelling reason why they should have access to this photograph, it is open to them to make an application to have the sealing order set aside. If this were to be done, it would have to be done by formal application on notice to the Crown and to Mr. Quitte, and it would be heard in court by me.

 But unless such an application is made and granted Exhibit S-1 will remain sealed. Aside from the photograph in question, S-1.1 contains all the same information, including other photographs that were filed by the Crown. Exhibit S-1.1 is not subject to any sealing order.

 Can you stand up, please, Mr. Quitte.

 Mr. Quitte, for the unlawful of killing of Archie Wedzin, I am going to follow the joint submission that was presented to me and sentence you to a term of imprisonment of six and a half years. You can sit down.

 For the 483 days you have already spent in custody, as I said, I give you credit for one year, 11 months and three weeks. The remaining jail term will be four years, six months and one week.

 I will endorse the warrant of committal with my recommendation that you be permitted to serve your sentence in the North, provided that the authorities are of the view that you can have access to the programming you need in a northern institution.

 I do understand why your family and friends and community members want you to be able to serve your sentence in the North. It is a request that is often asked and one that I often grant, but it is not my decision, as I told your mother. Those who make those decisions will have to take into account your programming needs and then they will make, I am sure, the best decision that they think under the circumstances.

 Is there anything that I have overlooked from the Crown’s point of view?

A. GODFREY: I don’t believe so, Your Honour. Thank you.

THE COURT: Mr. Bran, anything I have overlooked from your point of view?

J. BRAN: I think the only issue might be, Your Honour, the victim crime surcharge?

THE COURT: It was not addressed in submissions. I was not sure if this --

J. BRAN: Yeah --

THE COURT: -- offence occurred after the change in the law or after the re-enactment of the surcharge.

A. GODFREY: I believe so, Your Honour, yes.

THE COURT: Well, in any event, with -- and I did the same thing in another matter last week -- the *Criminal Code* now says that I have discretion to waive this. It also says that the fact of imprisonment is not in itself a cause to conclude that there would be hardship but considering that Mr. Quitte has a young son and considering the overall circumstances of this case, I am going to waive the imposition of the surcharge.

A. GODFREY: Thank you, Your Honour, and my apologies for not addressing it.

THE COURT: Mr. Quitte, I want to say to you before we close court that I believe you completely when you say you are sorry. There is nothing you can do to change what happened that night. You cannot undo what you did, but what you can do in the future is you can be true to the words you spoke this morning. You said you want to lead a clean and sober life, and I hope you do. I hope that you come back from your sentence and that you lead a healthy lifestyle and contribute to your community in positive ways. You are very well spoken. You have skills.

 For you, for your son, for Archie Wedzin’s family, you need to be true to your words because otherwise they will only have been words. So I wish you the best of luck in achieving that. I think it will probably be a long road, but I sincerely hope that you are able to make this the turning point and use the rest of your life in a much more productive way than the last few years and obviously this one terrible event have been.

 I also want to thank Madam Interpreter for her work today especially because, as I said before, she agreed to do this on very short notice this morning, and I am very glad we were able to proceed today, so thank you, Madam Interpreter.

 Thank you, counsel, for your submissions as well. We will close court.

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

**(PROCEEDINGS CONCLUDED)**

**CERTIFICATE OF TRANSCRIPT**

Neesons, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings transcribed from the audio recording to the best of our skill and ability. Judicial amendments have been applied to this transcript.

Dated at the City of Toronto, in the Province of Ontario, this 5th day of October, 2020.



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Kim Neeson

Principal