

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

**IN THE MATTER OF:**

**HER MAJESTY THE QUEEN**

**-v-**

**MICHAEL DRESCHER**

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**Transcript of the Reasons for Sentence of the Honourable Justice S.H.  
Smallwood, sitting in Inuvik, in the Northwest Territories, on the 15th day of  
June, 2022.**

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**APPEARANCES:**

T. Johnson:	Counsel for the Crown
K. Arial:	Counsel for the Defence

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

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Adjournment

19

1 THE COURT: Good morning. So on June 5, 2020  
2 Michael Drescher stabbed his brother, Gregory  
3 Drescher six times at the family home here in Inuvik,  
4 Northwest Territories. One of those stab wounds  
5 pieced Gregory's heart and caused his death.

6 When initially asked by the police,  
7 Michael denied any knowledge of what had happened.  
8 It was not until October 14, 2020 that he was arrested  
9 and charged in relation to Gregory's death.

10 I will start out by saying I mean no  
11 disrespect to Michael Drescher, Gregory Drescher or  
12 their families, but because they share the same last  
13 name I will refer to them by their first names  
14 occasionally in this decision so it is not confusing.

15 Michael Drescher was charged with  
16 second degree murder initially, but yesterday he plead  
17 guilty to the included offence of manslaughter, contrary  
18 to Section 236 of the *Criminal Code*. My task today is  
19 to impose an appropriate sentence on Michael  
20 Drescher for this offence.

21 I have heard the submissions of counsel  
22 and read the cases and other materials that they have  
23 provided. Ms. Arial provided detailed information about  
24 Michael and his background yesterday. I would like to  
25 thank counsel at the outset for their work in resolving  
26 this case and for their submissions which have been  
27 very helpful to me in deciding upon a sentence.

1 More detailed facts of the offence are that  
2 on June 5 Michael was at Lanny Stuart's residence  
3 here in Inuvik drinking. While there he said that he was  
4 angry at Gregory because of a fight between them the  
5 previous week which had resulted in an injury to  
6 Michael's ribs. Michael said that he wanted to "pound  
7 his brother up."

8 Around 11 p.m. Michael left the house  
9 and walked to the family home where their mother,  
10 Elizabeth and Gregory lived. Michael had stayed there  
11 the previous night. Michael arrived at the house and  
12 Gregory was the only one home. Gregory also had  
13 been drinking. And later it was determined that he had  
14 a blood alcohol level consistent with a high level of  
15 intoxication.

16 They got into an altercation shortly after  
17 Michael returned to the house. There is little evidence  
18 about how this altercation started, what it was about,  
19 who instigated the altercation or how a knife became a  
20 part of the altercation. There are a lot of unanswered  
21 questions.

22 But during that altercation Michael  
23 stabbed Gregory six times. There is no evidence that  
24 Michael received any significant injuries in this fight.  
25 The stab wounds were inflicted between 11:19 p.m.  
26 and 11:35 p.m.

27 The stab wounds were to Gregory's neck,

1 left thigh, left armpit, right abdominal area, which  
2 injured the bowel, left rear chest, perforating the left  
3 lung and the left front chest penetrating the thoracic  
4 cavity and ending in the right ventricle of the heart. The  
5 stab wound that penetrated the heart was the cause of  
6 Gregory's death.

7 Elizabeth Drescher entered the house  
8 and went to her bedroom and changed. When she  
9 emerged, she became aware that Gregory was injured  
10 on the floor. She told Michael that they should call the  
11 cops. Michael said he could not be there, that he would  
12 be arrested or go to jail. Michael told Elizabeth to go  
13 and call an ambulance.

14 Elizabeth then went to a local  
15 convenience store and called the police. Michael left  
16 the residence. The police arrived at the home shortly  
17 thereafter and located Gregory on the floor and began  
18 to provide first aid.

19 Shortly after the police arrived, Michael  
20 and Elizabeth returned to the home. Michael lied to the  
21 police about his involvement in what happened and told  
22 them that he had come home and saw Gregory on the  
23 floor with blood around him.

24 Gregory was taken to the hospital.  
25 Michael and Elizabeth were given a ride to the hospital.  
26 Gregory was ultimately pronounced dead just after 1  
27 a.m. on June 6, 2020. Michael later left the hospital

1 and went drinking with friends.

2 The police investigated Gregory's death  
3 over the next several months. They had reason to  
4 believe, based on the evidence, that Michael was  
5 responsible for Gregory's death. During the  
6 investigation they became aware of two people to  
7 whom Michael had confessed to killing Gregory.  
8 Michael was arrested on October 14, 2020.

9 After his arrest Michael provided a  
10 statement to the police in which he admitted lying but  
11 denied responsibility for the death of Gregory. He  
12 initially blamed the death on his mother, Elizabeth,  
13 before eventually admitting to killing Gregory by  
14 stabbing him numerous times.

15 Michael told the police that a fight broke  
16 out between himself and Gregory which led to the  
17 stabbing. Michael said that he was scared for his life.  
18 Those are the facts that were detailed in the Agreed  
19 Statement of Facts.

20 Turning now to the impact of this offence,  
21 victim impact statements were read in on behalf of  
22 Elizabeth Drescher's niece, Michael's former intimate  
23 partner and the mother of his two children, the spouse  
24 of Gregory and the daughter of Gregory. Gregory's  
25 brother and wife also prepared a biography of Gregory  
26 and Gregory's daughter provided a short statement  
27 which were both read in by the Crown yesterday.

1                                   It is apparent that the death of Gregory  
2                                   has affected many members of his family. He was a  
3                                   son, a brother, a husband, an uncle, a father and now a  
4                                   grandfather to a grandchild he will never meet. He  
5                                   liked to engage in traditional activities like fishing and  
6                                   hunting. He will be remembered for many things,  
7                                   including his laugh.

8                                   It was apparent yesterday from the victim  
9                                   impact statements and from the submissions of counsel  
10                                   that Gregory and Michael's family have experienced a  
11                                   lot of trauma and grief, and the death of Gregory is  
12                                   another loss that they have to endure. As Michael said  
13                                   yesterday as a family they have lost so much.

14                                   The death of their father, Michael Sr. has  
15                                   been described as causing the family to fall apart.  
16                                   Their mother, Elizabeth, relapsed after many years of  
17                                   sobriety and began drinking again. Michael is now  
18                                   responsible for taking Gregory's life, and Elizabeth has  
19                                   since died, after Michael was in custody.

20                                   It is a lot for any family to endure.  
21                                   Michael and his brothers Dwayne and Josh now have  
22                                   to live with this reality, and that extends to their families  
23                                   and other relatives. What the future looks like is hard to  
24                                   say. It depends on each member of this family,  
25                                   whether there can be forgiveness and healing.

26                                   Once the court process is over perhaps  
27                                   people will be able to grieve and begin to heal. As Ivy

1 Mangelana said in her victim impact statement:

2 When court is finally over, I am hopeful that I will  
3 finally be able to grieve, because so long as  
4 court has gone on, I haven't been able to grieve  
5 properly, not for Greg and not for Elizabeth.

6 I expect that what Ivy described and what  
7 she is experiencing is also experienced by others in this  
8 family.

9 No sentence I impose can bring back the  
10 life of a loved one or take away the grief and loss felt by  
11 those who are left behind. No sentence can ever make  
12 up for the life of Gregory. All I can do is impose a fit  
13 and appropriate sentence as best I can based on the  
14 applicable sentencing principles knowing that it may  
15 seem inadequate to some.

16 While this is a sad, tragic event that has  
17 affected this family there is also the public interest to be  
18 considered because this is unfortunately not the first  
19 time that this type of incident has occurred in the  
20 Northwest Territories. Deaths resulting from drunken  
21 fights occur far too frequently in this jurisdiction.  
22 Sometimes they involve knives, sometimes they do not.

23 Often these cases involve relatives or  
24 close friends, community members. The aftermath of  
25 these incidents are long-term and they affect family,  
26 friends, communities. As we have heard here there  
27 was alcohol abuse and dysfunction which are common



1 elements in many of these offences, as well as so  
2 many offences of violence and other offences that  
3 occur in the Northwest Territories.

4 As Chief Justice Charbonneau stated in  
5 the case of *R v Emile*, 2008 NWTSC 50, at page 5:

6 Alcohol abuse, anger and violence cause  
7 ravages in communities all across the Northwest  
8 Territories and elsewhere. The solutions to the  
9 underlying problems will not come from the  
10 outside, from the police or from the courts,  
11 because the criminal justice system responds  
12 after the fact. It can do very little to get at the  
13 root causes.

14 Change will have to come from the  
15 community, from increased government resources  
16 devoted to alcohol and substance abuse treatment,  
17 aftercare and counselling, and from individuals taking  
18 the steps to address their problems, if not for  
19 themselves then for their family, for their children, for  
20 their futures to hopefully end the cycle of substance  
21 abuse and violence.

22 Until that happens, the Court must  
23 continue to sentence individuals like Michael Drescher  
24 who under the influence of alcohol and driven by a  
25 background of anger and dysfunction take another  
26 person's life.

27 The sentencing principles that are

1 applicable in cases like this are well established. The  
2 fundamental purpose of sentencing is that a sentence  
3 must be proportionate to the gravity of the offence and  
4 the degree of reasonability of the offender.

5 Section 718 of the Criminal Code speaks  
6 of the objectives of sentencing which include the  
7 denunciation of unlawful conduct and the harm done to  
8 victims or the community; to deter the specific offender  
9 and other people generally from committing crimes; to  
10 separate the offender from society, where it is  
11 necessary; to assist in the rehabilitation of offenders; to  
12 provide reparations for harm done to the victims or the  
13 community; and to promote a sense of responsibility in  
14 the offender and an acknowledgement of the harm  
15 done to victims or the community.

16 Many of the cases speak of the  
17 applicable sentencing principles in sentencing an  
18 offender for manslaughter. All of the factors must be  
19 considered, placing additional emphasis on the  
20 protection of the public, deterrence, denunciation and  
21 the rehabilitation of the offender.

22 Mr. Drescher is of Inuvialuit descent, and  
23 this also requires me to specifically consider Section  
24 718.2(e) of the *Criminal Code* where all available  
25 sanctions, other than imprisonment, that are  
26 reasonable in the circumstances should be considered  
27 for all offenders, with particular attention to the

1 circumstances of Aboriginal offenders.

2 The case law is clear, and the Supreme  
3 Court of Canada has stated several times how  
4 sentencing courts are to consider this section. I have  
5 considered the principles set out in those cases and the  
6 requirement to consider the unique systemic or  
7 background factors which may have played a part in  
8 bringing an Aboriginal offender before the courts and  
9 the types of sentencing procedures and sanctions  
10 which might be appropriate in the circumstances  
11 because of his background.

12 Looking at the circumstances of the  
13 offence, the offence of manslaughter is a serious  
14 offence, one of the most serious crimes in Canada.  
15 The maximum punishment for manslaughter is life  
16 imprisonment, but unlike murder there is no automatic  
17 sentence of life imprisonment and there is no  
18 mandatory minimum sentence of punishment.

19 The sentences imposed for manslaughter  
20 can vary widely, and this reflects the circumstances  
21 under which manslaughter can occur. Manslaughter  
22 has been described as covering:

23 A wide range of cases extending from those  
24 which may be classified as near accident at the  
25 one extreme and near murder at the other.  
26 Different degrees of moral culpability attach to  
27 each along a continuum within that spectrum. It

1 is precisely because a sentence for  
2 manslaughter can range from a suspended  
3 sentence up to life imprisonment that the court  
4 must determine for sentencing purposes what  
5 rung on the moral culpability ladder the offender  
6 reached when he committed the prohibited act.

7 And that's from *R v Laberge*, 1995 ABCA  
8 196 at paragraph 6.

9 Stabbing someone with a knife has been  
10 regarded as conduct that falls at the high end of moral  
11 blameworthiness:

12 Stabbing someone in the chest with a knife,  
13 even if it happens in a context where there has  
14 been arguing and fighting leading up to it, is  
15 conduct that falls at the high end of moral  
16 culpability and moral blameworthiness....

17 Stabbing someone through the chest is almost  
18 certain to cause serious harm or death to the  
19 person. When it does not, when it is an inch to  
20 the right or an inch to the left or the knife hits a  
21 bone and the victim ends up with a few stitches,  
22 that is the result of pure luck. It has nothing to  
23 do with the seriousness of the act.

24 *R v Emile*, 2008 NWTSC 50, at page 12  
25 to 13.

26 The case of *Emile*, a case from the  
27 Northwest Territories was a similar case in that it

1 involved a stabling to the chest that resulted in the  
2 death of the offender's brother. It also involved multiple  
3 stab wounds.

4 In *Emile* there were four stab wounds  
5 whereas in this case there were six. *Emile* also had the  
6 seriously aggravating factor of the offender grabbing a  
7 knife and pursuing his brother down the street before  
8 stabbing him. Emile entered a guilty plea. He was a  
9 young indigenous man with a minor unrelated record.  
10 In that case a sentence of six years imprisonment was  
11 imposed.

12 I do not intend to review all of the cases  
13 that counsel have provided, but they generally  
14 demonstrate a range of five to six and a half years that  
15 have been imposed in this jurisdiction on a guilty plea  
16 for offences of manslaughter that have involved a  
17 stabbing. The case of *Larson* from Alberta Queen's  
18 Bench also endorsed a range of five to six and a half  
19 years for this type of offence. In that case the  
20 sentencing judge also reviewed a number of the cases  
21 to determine that that was the appropriate range.

22 The case of *Makpah* in the Nunavut  
23 Court of Justice was also included in the sentencing  
24 cases that were provided. And in that case there was a  
25 sentence of four years that was imposed after trial in a  
26 case involving a stabbing. That case appears to be an  
27 outlier and not in line with the precedents established in

1 this jurisdiction and Alberta.

2 Stabbing someone in the neck or in the  
3 chest, as occurred in this case carries with it the risk of  
4 serious bodily harm or lethal injury. Regardless of  
5 whether the act was impulsive or thought out carrying  
6 out the act of stabbing someone in the neck comes with  
7 it the real risk that death will result. Stabbing someone  
8 in the chest also brings with it a risk that serious bodily  
9 harm or death will result, both are very serious actions.

10 In the circumstances, Mr. Dresher's moral  
11 blameworthiness is high and the gravity of the offence  
12 is serious. It is also important to remember that while  
13 Mr. Dresher is responsible for the death of Gregory that  
14 his moral culpability is for the offence of manslaughter  
15 and not that of murder.

16 In terms of mitigating factors, Mr. Dresher  
17 entered a guilty plea. In this case he has pled guilty to  
18 the included offence of manslaughter and not murder  
19 as was originally charged on the indictment. The  
20 Crown's case, I am told, would not have inevitably  
21 resulted in conviction and there were triable issues,  
22 notably the issue of self-defence would have been in  
23 consideration.

24 A trial would have also been difficult for  
25 family members and the guilty plea saves the family  
26 and witnesses from having to endure a trial. So Mr.  
27 Dresher's guilty plea has real value. He has taken

1 responsibility and it provides certainty of result. And it  
2 is an expression of remorse.

3 In addition to the guilty plea which was  
4 entered Michael Drescher has also expressed his  
5 remorse and acceptance of responsibility in his words  
6 to the Court and to his family members yesterday. His  
7 plea removes any doubt about whether Michael  
8 Drescher is responsible for the death of Gregory. In the  
9 circumstances he will be given full credit for his guilty  
10 plea.

11 Looking at the circumstances of the  
12 offender, Michael Drescher is a 39-year-old indigenous  
13 male. I have heard from counsel about his background  
14 as well as read the letter from the psychologist that  
15 Michael saw while in custody. I will not repeat what  
16 counsel relayed yesterday, but it is apparent that  
17 Michael has had a difficult background, with family  
18 dysfunction, substance abuse, trauma and abuse.

19 The abuse of alcohol has been a  
20 longstanding and ongoing problem for Michael. There  
21 have been periods where he was in a relationship, had  
22 children and was employed, that he has been sober for  
23 periods of time. And he has engaged in traditional  
24 cultural activities. He has engaged in hunting, fishing  
25 and trapping activities with his family. And he has fond  
26 memories of engaging in fishing with his father.

27 While in custody he also attended

1 counselling. He was reluctant to participate initially, but  
2 ultimately attended 17 sessions which demonstrates a  
3 commitment once he began to continuing on with the  
4 sessions. The letter from the psychologist  
5 demonstrates that Michael has many issues that he  
6 needs to address, but hopefully he gained something  
7 from those sessions and hopefully he will be able to  
8 continue with another psychologist or counsellor as that  
9 psychologist has left the custodial facility.

10 The letter also indicates that meaningful  
11 change for Michael will be a challenge and will require  
12 active work on his part, participation in programs and  
13 the support of programs in the community when he is  
14 released from custody. His initial reluctance to  
15 participate in counselling and cynical world view can be  
16 serious challenges to the process and to progress.

17 It is clear that Michael loves his kids, and  
18 giving his children a stable home was very important to  
19 him, but if you want to give your children a stable  
20 homelife and be a good father then you need to make  
21 changes. Children are not destined to live the life of  
22 their parents and do not have to endure the school of  
23 hard knocks to survive.

24 The negative experiences you have  
25 endured growing up in your family do not have to carry  
26 over to your children. You have been apart from them  
27 for a significant period of time, and unfortunately you



1 are going to be apart from them for even longer. I hope  
2 that you are able to rebuild a relationship with them  
3 when you are released and that you use the time in  
4 custody to take and engage in programs that will assist  
5 you when you are released from custody.

6 Looking at the aggravating factors, there  
7 is a criminal record that was presented to the Court.  
8 Michael Dresher has a criminal record with 11  
9 convictions between 2009 and 2020. Seven of those  
10 convictions are for offences against the administration  
11 of justice.

12 The last conviction was entered on May  
13 19, 2020 when Michael was convicted of assault and  
14 two counts of failing to comply with release convictions.  
15 He received a sentence of 32 days imprisonment,  
16 essentially one of time served and 18 months of  
17 probation.

18 Overall, Michael Dresher's criminal  
19 record is relatively minor and is limited given that he is  
20 now 39 years old, but he is not a first-time offender and  
21 it is apparent that he has a poor history of compliance  
22 with Court ordered conditions. The main significance of  
23 the criminal record is that it had only been about two  
24 weeks between the May 19, 2020 convictions when he  
25 was convicted of an offence of violence and when he  
26 committed this offence. So he was on probation and  
27 required to comply with a number of conditions,

1 including that he keep the peace and be of good  
2 behaviour.

3 The Crown is seeking a sentence of six  
4 years' incarceration less credit for remand time, as well  
5 as a DNA order and a lifetime firearms prohibition  
6 order. The defence is recommending a global  
7 sentence of four and a half to five years, less credit for  
8 remand time to be followed by 18 months of probation  
9 with conditions aimed towards substance abuse  
10 treatment and counselling and grief counselling.

11 Michael Dresher has been in custody  
12 since his arrest on October 14, 2020, that equates to a  
13 little over 20 months in custody. Mr. Dresher will  
14 receive remand credit which will be deducted from the  
15 sentence that I impose today. As is standard, credit of  
16 one and a half days for every day spent in  
17 pre-sentencing custody will be granted which amounts  
18 to about 30 months.

19 Starting with the ancillary orders, the  
20 Crown has sought a DNA order. Manslaughter is a  
21 primary designated offense pursuant to the DNA  
22 provisions of the *Criminal Code*. The collection of his  
23 DNA for inclusion in the DNA databank is mandatory,  
24 so there will be a DNA order.

25 Pursuant to Section 109 of the *Criminal*  
26 *Code* a firearms prohibition order is mandatory for a  
27 minimum of 10 years, the maximum possible duration

1 being for life. The Crown is suggesting that the  
2 firearms prohibition order be imposed for life. The  
3 defence is suggesting that the minimum 10 years  
4 prohibition order is appropriate.

5 Having considered the circumstances of  
6 the offence and of the offender and looking at his prior  
7 criminal history and the circumstances of this offence  
8 which involved an offence of violence involving a knife,  
9 I am going to impose a firearms prohibition order in  
10 excess of the minimum, but I am not going to make it  
11 for life. It is going to be for a period of 15 years.

12 The defence is seeking an exception to  
13 the firearms prohibition order for sustenance purposes  
14 pursuant to Section 113 of the Criminal Code. The  
15 Crown made no submissions on that issue. It is  
16 apparent that Michael has engaged in the past in  
17 traditional activities like hunting and fishing, and those  
18 have been positive activities in his life, therefore I will  
19 grant the Section 113 exemption for sustenance  
20 purposes.

21 The defence is also seeking the victim of  
22 crime surcharge be waived and the Crown also made  
23 no submissions on that. In the circumstances, given  
24 the period of time that Mr. Drescher has been in  
25 custody, that he has not been employed and that the  
26 sentence that I will be imposing today to impose the  
27 victim of crime surcharge would be a hardship, so I am

1 going to waive that surcharge.

2 All right. Please stand, Mr. Drescher. So  
3 taking into account the circumstances of the offence,  
4 taking into account your circumstances, including your  
5 Aboriginal status and the applicable sentencing  
6 principles for the offence of manslaughter I sentence  
7 you to a period of imprisonment of six years. You will  
8 receive credit of 30 months of remand time, leaving a  
9 sentence of three and a half years left to serve. You  
10 may have a seat.

11 All right. Is there anything else that I  
12 need to address, Counsel?

13 T. JOHNSON: Just one minor issue, Your Honour.  
14 There were a number of items seized by the RCMP. I  
15 have a draft forfeiture order for disposition of those  
16 items for Your Honour's consideration.

17 THE COURT: Okay. And have you reviewed that, Ms.  
18 Arial?

19 K. ARIAL: Yes, it's by consent. I signed it this  
20 morning.

21 THE COURT: Okay. All right. So I will grant that order  
22 as drafted, so that is fine. All right. Thank you,  
23 Counsel, and we will adjourn.

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

26

27 **(PROCEEDINGS CONCLUDED)**

1           **CERTIFICATE OF TRANSCRIPT**

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

7

8

9           Dated at the City of Toronto, in the Province of Ontario, this  
10          28th day of July, 2022.

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13          *Veritext Canada*

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