

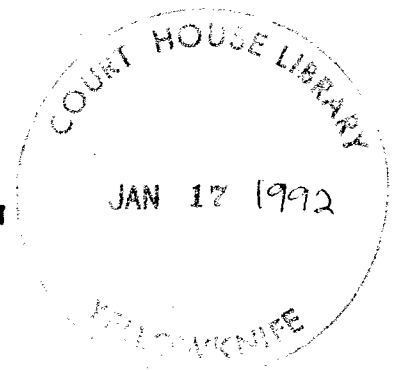
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

- and -

BOBBY ANAVILOK



Transcript of the Reasons for Sentence Delivered by His Honour Judge R. M. Bourassa, sitting at Coppermine in the Northwest Territories, on Friday, November 15th, A.D., 1991.

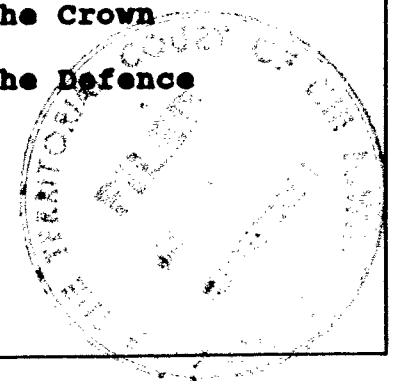
APPEARANCES:

MR. H. PRUDEN:

Counsel for the Crown

MR. A. REGEL:

Counsel for the Defence



1 THE COURT: I thank counsel, particularly Mr.
2 Regel, for their efforts with respect to the law and
3 the submissions with respect to an appropriate
4 sentence.

5 Sentencing an individual is never an easy
6 process. The court is acutely aware that we are
7 dealing with a human being, and in the N.W.T. I
8 suppose we have to be aware that we are dealing with
9 communities. I can't help but notice there must be at
10 least 100, 150 people in this courtroom. I also can't
11 help but notice that in the ten years I have been
12 coming to Coppermine, the terrible, terrible acts of
13 violence that occur when people are drunk. One has to
14 ask how long can this community withstand it. How
15 long can it go on.

16 Last year I had the unfortunate duty of presiding
17 over a case where an old man set two other people on
18 fire. How many men have to go to jail for beating
19 their wives? How many kids have to go without food
20 watching their fathers beating their mothers, watching
21 their parents get drunk, no food in the house? How
22 many people have to go to cemeteries? How many people
23 have to go to the hospital because of the shootings,
24 the stabbings, the beatings, all alcohol related.

25 I don't question what Mr. Regel has said for one
26 moment that when Mr. Anavilok is sober he is an
27 ordinary fellow. But drunk, he is dangerous. Some

1 people might even call him a killer. He is a
2 frightening man. How many other people fit that
3 description from this community?

4 When the Territorial Court comes to Coppermine, I
5 have seen it as high as 50 percent of the docket
6 involving 10 percent of the population, involved in
7 criminal acts of violence, all alcohol related.

8 Mr. Anavilok has been in and out of the courts
9 for 10 years. Every one of his offences I have no
10 doubt are alcohol related. He has been convicted of
11 minor offences and major offences. But the drinking
12 continues. It is so difficult to understand how a
13 community can survive or prosper in this atmosphere.
14 And it is a tragedy, both for Mr. Anavilok and it is a
15 tragedy for the people who are injured, and for the
16 community to once again have to face the consequences
17 of alcohol abuse.

18 Mr. Anavilok is going to jail. We all know that.
19 Two people were hospitalized. Other people were
20 endangered. The community receives another black eye,
21 as it were, in terms of its reputation. Kids are
22 aware that somebody else has gone to jail for shooting
23 up the town. It is a real tragedy. I don't know how
24 it can continue.

25 I take into account perhaps as the greatest
26 mitigating factor that Mr. Anavilok has pleaded guilty
27 to two of the three offences. The other offence I

1 make no adverse finding obviously because he chose to
2 have the Crown prove its case. He is entitled to
3 that.

4 The offence in and of itself is terrible. On the
5 facts that are before me, two people were injured as a
6 result of this drunken individual shooting, one person
7 behind a door, which is bad enough, but the other
8 person was shot in the abdomen where there can be no
9 mistake and no misunderstanding. Mr. Anavilok took
10 the gun, pointed it at this man and shot him. One
11 cannot argue or talk this away as being an accident.
12 He shot him. He could have killed him. He came very
13 close, as I understand it, to killing him. Nobody
14 walks away with a five inch abdominal wound from a
15 high powered firearm without their lives being
16 endangered.

17 Mr. Anavilok apologizes, and I don't question his
18 apology. But I don't think it helps the people who
19 are laying in the graveyards and those that have been
20 shot, beaten and stabbed that the person who did it is
21 sorry after the fact. It represents perhaps an
22 indication that Mr. Anavilok might do something about
23 his drinking, but I don't know that. We don't know
24 that. No one knows that. That is something that will
25 come out in the future.

26 I hope he does, because regardless of how long he
27 is imprisoned, Bobby Anavilok will be coming back to

1 his home community. The community will have to deal
2 with him. He'll have to deal with himself. It may
3 very well be that he'll go back to drinking. It may
4 be that he won't. We can only hope that he won't.
5 That decision is his and his alone, and the strength
6 that's required to deal with that must come from him
7 and him alone. Nobody knows if he has that strength
8 or if he'll make that decision.

9 There are people in the community who are willing
10 to help. There are people within the corrections
11 services, be it Federal or Territorial who are willing
12 to help. But they can only help. They can't direct
13 or choose for Mr. Anavilok.

14 I take into account, as I indicated, that he
15 pleaded guilty and pleaded guilty pretty quickly. He
16 understands that he did wrong, and in that context, I
17 accept the submission of Defence that there may be
18 some reason to hope for Mr. Anavilok's ultimate
19 rehabilitation.

20 I also take into account that Mr. Anavilok has an
21 education. He has intelligence. He has potential to
22 do good. He has skills on the land. He has potential
23 to find reasons not to drink. He has the potential to
24 rehabilitate himself. In other words, there is some
25 reason to be optimistic to a degree that Mr. Anavilok
26 will change his life in the future. At least he has
27 the ability. We can't say that he is frozen in a path

1 of criminal conduct, nor can we say that he is a total
2 scoundrel or an evil man.

3 In dealing with the offence, all of the cases
4 that have been referred to me by Mr. Pruden speaking
5 on behalf of the community, and Mr. Regel speaking on
6 behalf of Mr. Anavilok, condemn acts of violence, and
7 state that the basic principle is that a sentence must
8 deter, that is to say, scare and discourage people
9 from acts of violence, although I think we all
10 recognize that it is pretty hard to scare or
11 discourage people when they are drunk. They don't
12 listen. They don't care.

13 I also take into account that there were a great
14 number of people who were endangered on this
15 particular night. There was the young girl, and I
16 don't know if she was drunk or sober, who taunted Mr.
17 Anavilok. He shot at her. There were the young girls
18 who approached him. He shot at them in the ground a
19 few feet from them. The constable was there. There
20 is no evidence that Mr. Anavilok shot at the
21 constable, but in dealing with the matter, the
22 constable tried to talk Mr. Anavilok down. I think
23 those of us that have some familiarity with other
24 police forces recognize that some other police forces
25 might simply have shot Mr. Anavilok dead and that
26 would have been the end of the problem.

27 There was Miss Halla who was endangered and

1 actually injured. There were other people behind that
2 door who could have been injured. Mr. Anavilok was
3 totally out of control. Many people's lives and
4 health were in danger.

5 I accept in mitigation that there was no planning
6 or forethought which would make this much worse. But
7 on the other hand, as I stated at the outset, this
8 occurred in a community that is being subjected to
9 outrageous acts of violence almost on a monthly basis.
10 And I think that any sentence that is imposed must
11 send a clear message not only to Mr. Anavilok, but to
12 the other individuals in this community that this
13 violence has to stop. It has to be slowed up. It has
14 to be curtailed. And the courts will deal firmly. The
15 law will deal firmly with outrages such as this.

16 I understand and accept that Mr. Anavilok has
17 spent two and a half months approximately in custody
18 awaiting these matters which I am entitled to take
19 into account and I do. Anavilok's record is an
20 aggravating factor. On the evidence before me,
21 together with his record, he knows what happens to him
22 when he gets drunk. He knows he is capable of
23 violence. He knows he is subject to "blackouts". He
24 knows he drinks until he blacks out. Knowing all of
25 that, he just repeated his conduct. It is not
26 surprising what happened.

27 I take in aggravation that after shooting at the

1 Halla house and being disarmed, that Mr. Anavilok
2 somehow got more guns, rearmed himself, went to his
3 house from where he shot Matus, held the police at
4 bay, and shot four or five more times.

5 First of all, all three charges, of course, while
6 they relate to different aspects and different
7 elements of the drunken conduct of Anavilok that
8 night, they were all part and parcel of the same
9 dangerous shooting incident. In law I must ensure
10 that the sentences for each of the three offences when
11 added together are not out of proportion to the total
12 conduct.

13 In my view, it would be appropriate to sentence
14 the accused on the offence of pointing a firearm, and
15 the offence of possession of a weapon dangerous to the
16 public peace in a concurrent fashion, but consecutive
17 to the charge of aggravated assault on Tom Matus.

18 I hope when this is all over with that it is
19 clearly understood, the connection between alcohol
20 abuse and violence, and that it is clearly understood
21 that regardless of the reason, regardless how nice
22 someone is when they are sober, the law and the courts
23 will not tolerate or accept acts of violence, and even
24 if the court must stand alone, acts of violence will
25 be dealt with very firmly.

26 As I indicated at the very outset, the guilty
27 pleas are an important factor in mitigation of

1 sentence. And I would simply end by urging Mr.
2 Anavilok to reassess his life while he is in custody,
3 and to realize, accept and understand why he is in
4 jail, why he has been in jail, and that's as simple as
5 opening up the next bottle. It is alcohol abuse, Mr.
6 Anavilok. Do something about it before it kills you
7 or before you kill someone else.

8 I am urged strongly and persuasively by Defence
9 not to impose a total sentence which would involve a
10 penitentiary term, and I think I should address that
11 particular submission. I have no doubt, having
12 practiced law in a jurisdiction where there were five
13 penitentiaries and having visited each of them on many
14 occasions, that penitentiaries in the south are not
15 very nice places. They are a lot different than the
16 Yellowknife Correctional Centre. And I don't envy
17 anyone either in a penitentiary or the Yellowknife
18 Correction Centre.

19 Each level of institution, be it the Yellowknife
20 Correction Centre or a federal penitentiary, has
21 programs and classification officers that can deal on
22 an individual basis with accused individuals. I am
23 also aware that the Government of the Northwest
24 Territories has implemented a plan with the federal
25 authorities to have selected northern inmates remain
26 in the correction system in the N.W.T. That
27 assessment is made by the corrections authorities in

1 Yellowknife on criteria that I am not totally familiar
2 with, but I don't think I need to refer to them beyond
3 what I have.

4 I think I have to look at the law and see what
5 the law states in terms of penalty for these offences.
6 And I am of the view that a lengthy term of
7 imprisonment, well in excess of two years, would be
8 appropriate.

9 I am persuaded by the submissions of Defence and
10 the case authorities that Defence has referred me to
11 that I ought to moderate what my initial assessment
12 commenced at. However, I am left with the conclusion
13 that more than two years is required for the reasons
14 that I have given on the offences before me. The
15 question of whether Mr. Anavilok will actually go
16 south or not will, of course, be ultimately decided by
17 the correction authorities in Yellowknife on a
18 different assessment, and perhaps a broader assessment
19 than I make mine.

20 My assessment is dealing with the offender and
21 the offences and what penalty, after balancing the
22 factors before me, should they attract. The
23 assessment whether he should go south or not I think
24 is more properly made by the correction authorities on
25 different criteria.

26 However, I am persuaded that a sentence somewhat
27 less than I first contemplated would be appropriate

1 after hearing counsel.

2 Stand up, Mr. Anavilok. On the charge of
3 aggravated assault, there will be a term of
4 imprisonment of two years years. On the charge of
5 possession of a firearm for a purpose dangerous, one
6 year consecutive. On the charge of pointing a
7 firearm, one year concurrent. I don't propose to
8 impose a term of probation.

9 As is well known, Mr. Anavilok will not serve in
10 custody three years imprisonment. He'll be eligible
11 for a variety of early releases. And supervision at
12 that time for reintegration into the community, and a
13 continuation of any alcohol program, rehabilitation
14 program that Mr. Anavilok may embark upon while in
15 custody can be arranged under the post release
16 supervision.

17 As I am required I think by law, and I will take
18 a moment, so you can sit down, Mr. Anavilok, the use
19 and possession of a firearm is a privilege. It is not
20 a right. The courts have had great difficulty in
21 applying the law in this jurisdiction when it comes to
22 cases where there is an assault involving I have seen
23 everything from cookie tins to rubber ducks, which
24 require a firearm prohibition. The courts in a number
25 of authorities in the Northwest Territories have made
26 an exception to the constitution and to the particular
27 law with respect to firearms that allows under certain

1 circumstances individuals who try to sustain
2 themselves on the land an exception from a firearm
3 prohibition. But I want to make it very clear, at
4 least so far as this court is concerned and until
5 directed otherwise by a superior court, that where a
6 weapon, a gun, is used in the commission of an
7 offence, that a person may need that gun for hunting
8 can be of very little assistance. Everyone in this
9 room probably has a gun in their house. The last
10 thing to reach for in anger is a gun.

11 Mr. Anavilok reached for a gun. Two people were
12 shot. If anyone deserves to be prohibited from having
13 a weapon, it is Mr. Anavilok. And I make the order
14 conscious of the option of not making it deliberately.
15 Mr. Anavilok will be prohibited from owning or
16 possessing any firearm, ammunition or explosive
17 substances for a period of five years. The order is
18 effective today. That's five years from his release
19 from custody. I will allow the accused two weeks to
20 dispose of or otherwise surrender any such items he
21 has to the R.C.M. Police. Is that everything you
22 have, Mr. Pruden?

23 MR. PRUDEN: Yes, sir. If you can just clarify that
24 the Section 87 as well as the Section 268 requires
25 that mandatory Section 100 prohibition.

26 THE COURT: That's fine. All three will be
27 referred to in the order.

1 MR. PRUDEN: Very well, sir.

2 THE COURT: Finally that leaves the matter of
3 attempted murder on Ida Halla. The accused has
4 pleaded not guilty. Is the Crown calling any
5 evidence?

6 MR. PRUDEN: No, sir.

7 THE COURT: I will mark that dismissed, Mr. Regel.

8 MR. REGEL: Thank you, Your Honour. I have one
9 submission with respect to the sentence, or one
10 request with respect to the sentence. Although Your
11 Honour indicated, and I suggest quite properly so,
12 that the decision as to whether or not Mr. Anavilok
13 will remain in the Northwest Territories is a decision
14 made by the Corrections Authorities, I wonder whether
15 Your Honour would be prepared to make a recommendation
16 that based on information Your Honour has before you
17 that he should stay in the Northwest Territories if
18 possible.

19 THE COURT: In the hope that he'll be able to get
20 some support from his family or friends in terms of
21 dealing with his alcohol abuse, yes, I will make that
22 recommendation.

23 MR. REGEL: Thank you, Your Honour.

24 THE COURT: I will see that the warrant is so
25 endorsed.

26 MR. PRUDEN: Your Honour, there were not any
27 firearms exhibits entered. However, there were

1 firearm items seized by the police as well as
2 ammunition. I am just wondering if Your Honour feels
3 that Your Honour is is able to make any direction
4 concerning those, or if it should just be left to the
5 normal course in the handling of these things.

6 THE COURT: He has been ordered to dispose of them
7 or otherwise surrender them.

8 MR. PRUDEN: I am just thinking if there is any
9 that belong to a different rightful owner, I suppose
10 in due course--

11 THE COURT: The order speaks for itself. Anything
12 that he owns he can't--I can't order him to dispose of
13 weapons he doesn't own. He is not to own or possess.

14 MR. PRUDEN: Yes.

15 THE COURT: Surely that speaks for itself.

16 MR. PRUDEN: Very well.

17 THE COURT: Is that everything?

18 MR. REGEL: It is, Your Honour.

19 MR. PRUDEN: It is.

20 THE COURT: Thank you, counsel.

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Certified a correct transcript,

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Laurie Ann Young

Laurie Ann Young
Court Reporter

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