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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:



HER MAJESTY THE QUEEN

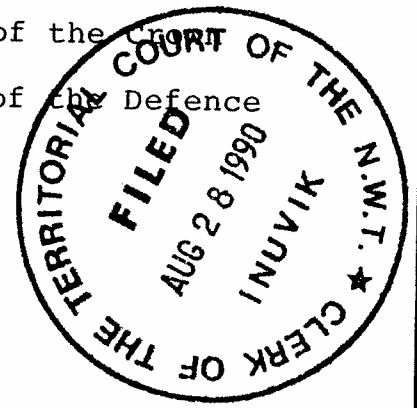
- and -

ARCHIE DOUGLAS WILSON

Transcript of the Oral Judgment of His Honour
Judge B. A. Bruser, sitting at Fort McPherson,
in the Northwest Territories, on July 4, A.D.1990.

APPEARANCES:

MS. B. KOTHE On behalf of the Crown
MS. J. LILLEGRAN On behalf of the Defence
(Charge under Section 266 C.C.)



1 THE COURT:

2 The accused, Archie Douglas Gordon Wilson,
3 is charged in Count 1 with having committed an assault on
4 Ellen Wilson, on or about the 13th day of April, 1990, in
5 this community. The issue raised by Defence counsel has to
6 do with the credibility of the complainant, Ellen Wilson.
7 Defence counsel says that there is a direct contradiction of
8 the evidence of Ellen Wilson as to what happened in the
9 livingroom area. I agree with the Defence counsel that there
10 is such a contradiction. According to Shirley Wilson,
11 nothing happened in the livingroom area between the accused
12 and Ellen Wilson. Shirley Wilson was there at all of the
13 material time, and at no point does she recall having seen
14 any argument between the two which led to the physical
15 confrontation in that room.

16 I am mindful as well of what was said by
17 Defence counsel regarding the assessment of the credibility
18 of witnesses. This Court is entitled to accept all of the
19 evidence of a witness, to reject all of the evidence of a
20 witness, or to accept part but not all of the evidence of
21 the witnesses.

22 I found Ellen Wilson to have been a most
23 credible witness. I was impressed by her demeanor. I found
24 that she testified in a straightforward manner, and did not
25 attempt to exaggerate anything, nor did she apparently make
26 any effort to minimize her involvement as to what occurred.
27 By way of example, she readily admitted at an earlier date
having taken an axe and gone after Mr. Wilson in some fashion.

1 She admitted to wrestling with him, on the date that the Court
2 is most concerned with, in the porch area. She said that she
3 fought back when Mr. Wilson did what he did do in the
4 livingroom, and that she pushed him onto the couch. She also
5 quite readily admitted that she became angry after the group
6 had been sitting around the livingroom/kitchen area for
7 awhile. Because she got angry, she said she took a jacket to
8 go out, and the accused grabbed her and gave her a push.

9 Shirley Wilson corroborated much of what
10 Ellen Wilson had to say. For example, she recalls the
11 accused annoying Ellen Wilson, which is what apparently
12 led Ellen Wilson to become angry and to leave. She recalled
13 that Ellen Wilson got up and went to the porch area, and
14 that the accused followed her there. She supported Ellen
15 Wilson's assertion that Ellen Wilson was not intoxicated
16 while the events were going on.

17 Now I come to the direct contradiction I
18 referred to earlier. Shirley Wilson said nothing happened
19 in the livingroom area between the two parties. Ms. Lillegran
20 argues that Shirley Wilson and Ellen Wilson might be found
21 to be equally credible with respect to what happened in the
22 livingroom. If they are found to be equally credible, then
23 any doubt has to be resolved in favour of the accused; with
24 that proposition I agree.

25 With respect to Shirley Wilson's testimony
26 that nothing happened in the livingroom between Ellen Wilson
27 and the accused, I took particular note that Shirley Wilson

1 was evasive in her demeanor when she gave that answer.
2 Shortly after that answer, during the cross-examination, she
3 said that she did not want to have anything to do with what
4 was going on in the porch; she is a sister of the accused,
5 and she is a friend of Ellen Wilson. It is apparent that she
6 wants to remain on good terms with her brother and with
7 Ellen Wilson. Her remark during her evidence that she did
8 not want anything to do with what was going on in the porch
9 area supports my finding that she was not telling accurately
10 what went on in the livingroom between Ellen Wilson and the
11 accused at the early point in time. She may have deliberately
12 turned a blind eye to what was going on; I don't know. I
13 accept completely the testimony of Ellen Wilson where there is
14 a conflict between her evidence and that of Shirley Wilson.

15 I find that all of the other elements of
16 the offence have been proven beyond a reasonable doubt by the
17 Crown, including lack of consent on the part of Ellen Wilson.
18 I find as a fact that in the livingroom the accused grabbed
19 Ellen Wilson by her clothes and neck area and pinned her
20 against the wall, and in the porch he grabbed her neck area
21 again, this time by her jacket, that is when the wrestling
22 began in the porch area.

23 Could you stand, sir? For the reasons given
24 I find that the prosecution has proven its case on Count 1
25 beyond a reasonable doubt, and I find you guilty. You may be
26 seated.

(AT WHICH TIME THIS MATTER WAS ADJOURNED)

Certified a correct transcript,

Loretta Mott

Loretta Mott, Court Reporter

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