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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

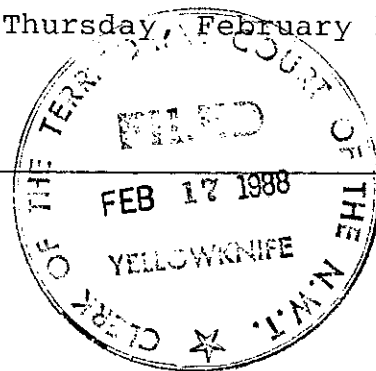
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EKAKSAK AMAGOALIK

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Transcript of the oral sentencing delivered by His Honour Judge R.M. Bourassa, sitting at Resolute Bay, in the Northwest Territories, Thursday, February 12th, A.D. 1987.

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APPEARANCES:

MR. R. FLAHERTY                      Counsel for the Crown  
MR. J. VERTES, Q.C.                Counsel for the Defence

(Charge under Section 245.2 of the Criminal Code)

1 THE COURT: Well, once again the distillery brings another  
2 individual before the Court. There are a number of factors  
3 I want to deal with. There were a number of submissions.  
4 But first of all is the question of consumption of alcohol.  
5 I don't think I have ever seen it put quite in the terms as  
6 it has been put in the pre-sentence report. "The subject and  
7 many others do not regard alcohol as a problem in their  
8 lives but as a common item of consumption." The subject  
9 regards alcohol as not being a problem. He drinks, gets  
10 drunk and passes out. You brush your teeth, your mouth feels  
11 nice, you get drunk, and you pass out. It's a consumable.  
12 I am astounded, frankly, that after just about killing someone  
13 that this man doesn't see alcohol as a problem in his life.  
14 I point out to Mr. Amagoalik that out of some five thousand  
15 cases a year that the Territorial Court deals with, ninety-five  
16 per cent of them involve drunks or people drunk at the time  
17 they committed their offences. It's present in almost every  
18 single act of violence. I would also point out to Mr.  
19 Amagoalik that you are more liable to die in the Northwest  
20 Territories of being shot, stabbed, beaten or otherwise, as  
21 the government calls it, through acts of 'misadventure', than  
22 any other thing that causes death -- old age, heart disease,  
23 cancer or whatever --- and it's precisely incidents like this,  
24 drunken parties where someone's sensitivities are offended  
25 because of some innocuous remark and a man like Amagoalik  
26 grabs a rifle, and the firearm is thrown into the situation  
27 of alcoholic excess. It's hardly surprising that someone

1 ends up bleeding or dying on the floor. In that regard, this  
2 Court can have very little sympathy or very little compassion  
3 for this accused. It's not as though it's something new.  
4 This Court has come to this community on at least a dozen  
5 occasions. Everytime the Court comes to this community there  
6 are acts of violence on the docket. Everytime the Court has  
7 to deal with those acts of violence alcohol is involved.

8 I am asked to impose a sentence close to two  
9 years in the name of general deterrence. I am not optimistic,  
10 nor do I really in my heart believe that such a sentence would  
11 deter anyone. It would seem that the Court's so-called  
12 deterrent sentences are powerless when it comes to the effects  
13 and the rampages of alcoholic abuse, and this man is a living  
14 example, victim and the problem when it comes to alcohol  
15 abuse. It is unbelievable that alcohol should be such an  
16 item in his life to reach something as a mundane consumable, and it  
17 is discouraging and disheartening, and it does not give the  
18 Court any optimism that a two-year term of imprisonment or a  
19 five-year term of imprisonment will make any changes in this  
20 man's life when it comes to consuming alcohol. The only  
21 positive change, Mr. Amagoalik, is that you don't drink a  
22 drop ever again. I don't know if you will learn that lesson.  
23 I tend to think not. It's going to be extremely difficult  
24 when you're released from jail and you come back to this  
25 community, because you won't be particularly welcome. Nobody  
26 likes to have a teetotaler in a room where everybody is  
27 getting drunk. But I can tell you as sure as we are all

1 sitting here today that the next drunken party, next week,  
2 next month, next year, someone else is going to be shot and  
3 stabbed and wounded, beaten, and as long as there are people  
4 like you who can't control themselves when they're drinking,  
5 it's going to continue.

6 I accept what has been submitted by Defence  
7 counsel that this is out of character. Were there any  
8 indication before me that this was in character by way of  
9 previous criminal record with previous charges of assault,  
10 for example, then I would not hesitate to consider imposing  
11 a term of imprisonment in excess of two years. I want to  
12 point that out to Mr. Amagoalik so he understands one thing.  
13 He has committed a terrible offence, he has made a terrible  
14 mistake, and he is going to pay a substantial price. He is  
15 old enough to learn from all of this. One thing you have to  
16 learn, Mr. Amagoalik, in my humble opinion, is to stay away  
17 from booze forever, for the rest of your life. If you don't  
18 and you get into trouble again, something like this, then I  
19 fear, and I don't say this by way of threat, simply by way  
20 of reality, you will be going away for many years. Learn  
21 your lesson, pay the price, and don't ever take another drop,  
22 Mr. Amagoalik, because you might just as well slit your  
23 own throat. If you don't learn your lesson, as I have said,  
24 then the arguments that protected you today, that this act is  
25 out of character, won't be available for you the next time.  
26 People will conclude that you're a violent man.

27 I believe it is extremely important that in

1 communities such as we have in the north, Resolute Bay with  
2 just around a hundred people, that it is of critical impor-  
3 tance there be reconciliation between the victim and the  
4 offender and that there be a restoration of the community  
5 peace. There is no room for bad feelings. There is no room  
6 for what this Court is already aware of with respect to this  
7 incident where this accused has been attacked by a relative  
8 of the victim. It was a terrible incident, indeed.  
9 Everyone is going to be paying a price. The only good that  
10 can come out of it is that people stop drinking. When this  
11 man is released from prison, life has to go on, and the victim  
12 will have to be satisfied with the price that this accused  
13 is going to have to pay.


14 The accused has pleaded guilty. While not at the  
15 first opportunity, I don't fault or view cynically in any  
16 way or to the prejudice in any way of the accused that he  
17 elected Judge and jury and re-elected and pleaded. I accept  
18 that he has pleaded guilty with good advice at the first  
19 reasonable opportunity, and that is to be taken in substantial  
20 mitigation. It is suggested in some cases that as much as  
21 one-third of an otherwise appropriate sentence should be  
22 deducted to reflect a guilty plea. The other thing, of course,  
23 that is disturbing about this case, disturbing for the  
24 accused, is that by operation of law it would appear that  
25 he is going to lose his right to carry a firearm, possess a  
26 firearm for five years. That could be increased to ten years.  
27 I would point out to this accused, and I would hope that he

1 would point out to his friends, that having a firearm is not  
2 a right. It's not something that we're born with. It's not  
3 something that can't be taken away from us. It is a privilege,  
4 and it is a privilege that is lost when people abuse it.  
5 If people are going to use firearms to kill each  
6 other or shoot each other and scare each other, then they  
7 won't be able to have firearms. What is troublesome in  
8 this particular case is that, as best as I can determine  
9 from the pre-sentence report, which is a comprehensive one,  
10 the accused's whole livelihood is explicitly to do with  
11 firearms. He's a guide and a hunter, although he does  
12 some labour work from time to time. He does some local  
13 repairs from time to time. But obviously he has land skills,  
14 and that's how he lives. I accept that he doesn't provide  
15 for a family that way, but he is providing for himself. And  
16 the provision that that gives him, he doesn't appear to  
17 hesitate to spread it amongst friends and relatives in the  
18 community. Taking away his privileges with respect to firearms  
19 is going to be, indeed, a very, very severe and harsh  
20 penalty. Not only will it be a great prejudice, in my view,  
21 to his own self-image, his own independence, but it may very  
22 well exacerbate the situation when it comes to drinking. It  
23 may very well give the accused further cause to drink for  
24 depression. This Court remains extremely uncomfortable with  
25 a law signed in Ottawa, which on the one hand I would whole-  
26 heartedly endorse when it's used, as I'm sure the drafters  
27 intended it to be used, when someone robs a bank or uses a

1 firearm in the middle of downtown Kingston or Toronto. No  
2 one ever thought of the Inuit or the Dene when they dreamed  
3 up that one.

4 Stand up, please, Mr. Amagoalik. Is there any-  
5 thing you want to say on your own behalf before I sentence  
6 you? With respect to the offence, I am going to sentence  
7 you to a term of imprisonment of one year. I am going to  
8 endorse on the warrant a strong recommendation that you serve  
9 your time at the Baffin Correctional Centre and that counsell-  
10 ing with respect to alcohol abuse be made available to you on  
11 a regular and continuing basis throughout your term of  
12 imprisonment. With respect to the Section 98 order, I believe  
13 I should consider this matter in some detail. Therefore, I  
14 am going to reserve making that order until I have considered  
15 it.

16 (AT WHICH TIME THIS MATTER WAS CONCLUDED).  
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20 Jill MacDonald  
21 Court Reporter  
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