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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

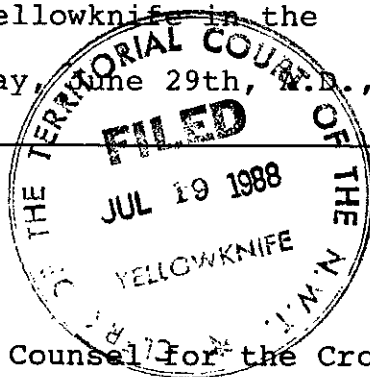
IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

BERNARD LITTLE

Transcript of the Oral Sentencing Delivered by His Honour
Judge T. B. Davis, sitting at Yellowknife in the
Northwest Territories, on Tuesday, June 29th, 1988.



APPEARANCES:

MS. S. AITKEN:

Counsel for the Crown

MR. V. FOLDATS:

Counsel for the Defence

(Section 245.1(1)(a) C.C.)

(Unedited by Presiding Judge)

1 THE COURT: Bernard Little was convicted of a charge that
2 on the 17th of April, at Yellowknife in the Northwest
3 Territories, in 1988, he did, in committing an assault upon
4 an employee of a local hotel, threaten to use a weapon, namely
5 a knife, contrary to Section 245.1(1)(a) of the Criminal Code.

6 The court found on that occasion, after hearing evidence
7 submitted on a preliminary inquiry that was converted to a
8 trial, that the accused was intoxicated, and when the employee
9 of the hotel came upon him as a result of some complaints that
10 there was noise, the accused turned around, and in his hand was
11 holding a knife in front of him that was taken by the employee
12 to be of some concern, so the employee immediately and without
13 hesitation disarmed the accused, and put him to sleep by
14 knocking him out while he was in an intoxicated condition.

15 The accused himself did nothing with regard to activities
16 or movement, but the court made the decision that just the
17 presence of the knife and turning around and holding it in
18 front of him when he turned was such that he could be convicted
19 under Section 245.1(1)(a) of the Code.

20 I therefore have to determine today whether or not holding
21 the knife in that way was a violent act or the commission of
22 an indictable offence in which violence against a person is used,
23 threatened or attempted, and for which the offender may be
24 sentenced to imprisonment etc. according to Section 98(1).

25 I don't feel in any way there was any use or attempted
26 use of the knife, and at the time the circumstances were such
27 that it may not have been that the accused was himself

1 threatening to commit violence, although he did have the
2 weapon in his hand, and therefore was a threat with regard
3 to using the weaopn, that being a small knife, and the fact
4 that he turned and did resist to some extent, and therefore
5 caused the employee to be concerned and felt that he was
6 assaulted by the actions of the accused in turning about when
7 the employee approached.

8 I am not satisfied that it is necessary under Section
9 98(1) to find that he has in fact attempted to commit any
10 violence or that there was any violence involved other
11 than the presence of the weapon in this instance, and
12 therefore, I do not intend to impose the Section 98(1) order
13 which would be mandatory if I found that the offence was
14 committed in which violence did occur by any of these methods.

15 The accused has been an active person in the community
16 and on the occasion was intoxicated. The Crown counsel and
17 Defence have both indicated that generally the circumstances
18 were of a minor nature concerning the seriousness of the type
19 of offence itself, and therefore, recommend that a suspended
20 sentence and probation would be in order, even though the
21 accused has some previous convictions in 1980 and '83 related
22 to narcotics, and then in 1986 related to driving while over
23 the alcohol limit. They are unrelated to the type of offence
24 before the court today.

25 The recommendations that have been sent in by employers
26 and organizations, or representatives of various organizations
27 that have benefited from his involvement, as well as a copy of a

1 letter that he sent apologizing to the hotel management
2 indicates that he has had remorse, and is a person who was
3 acting out of character. I am going to give the benefit of
4 his background then and his involvement to him, and accept
5 the recommendations being made by counsel, and at this time
6 suspend the passing of sentence.

7 I will place the accused on probation. It would seem to
8 me that he has shown sufficient remorse that nothing more than
9 the probation order requiring him to keep the peace and be of
10 good behavior would be required, and therefore, the probation
11 period will be for six months, and the statutory terms only
12 involved.

13 The knife was of an ordinary type of pocket knife, and it
14 seems that there is no reason to require anybody to purchase
15 another one to replace it, especially since he uses it at times
16 for his work which is involved with technical equipment for
17 entertainment productions, and therefore, I am directing
18 that at the expiry of the appeal period the knife can be
19 returned to the proper owner.

20 MR. FOLDATS: Thank you, Your Honour. I will have Mr. Little
21 wait until the probation order is typed so he can sign it.

22 THE COURT: Yes, thank you. Mr. Little, the clerk will be
23 preparing that, and you will sign it when it is ready. Since
24 the sentence has been suspended, you will have to be fully
25 aware of the fact that if you were to in any way commit any
26 offence or disobey the probation order during this period of
27 time that it is in effect, for six months, you then can be

1 called back to the court and sentenced on the matter that is
2 before the court today, so it is doubly important that you make
3 sure you stay out of trouble during the next six months at
4 least.

5 MR. FOLDATS: Thank you, Your Honour.

6 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)
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Certified a correct transcript,

Laurie Ann Young
Laurie Ann Young
Court Reporter