

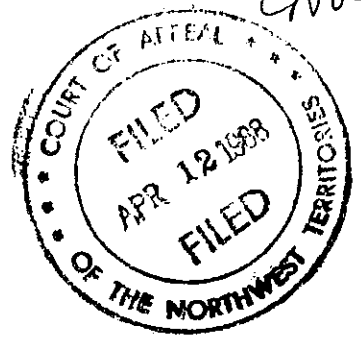
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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

CA 00097

IN THE MATTER OF:



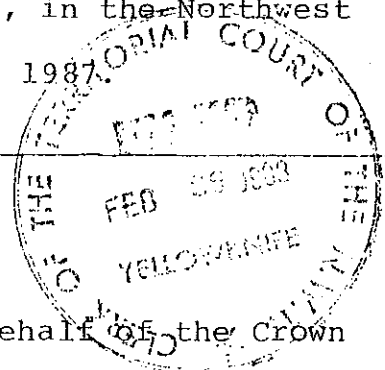
HER MAJESTY THE QUEEN

- and -

CA 97

JAMES EKPAKOHAK

Transcript of the Reasons for Sentence delivered by His Honour Judge R.M. Bourassa, sitting at Yellowknife, in the Northwest Territories, on Thursday, December 3, A. D. 1987.



APPEARANCES:

MR. B. BRUSER On behalf of the Crown
MR. A. MARSHALL On behalf of the Defence

(Charge under Section 133(3) of the Criminal Code)

1 THE COURT:

2 It is the duty of the Court today to impose
3 a sentence with respect to an offence of breach of
4 undertaking: to some extent I agree with defence counsel;
5 really what is involved here is an accused individual being
6 drunk, in violation of an undertaking, and how severe
7 should the consequences for that intoxication be. However,
8 even having said that, we have to look at it in the context
9 of this particular offender and his current situation.

10 He gave his promise to the Court on the 31st
11 of October not to drink as a result of an appearance before
12 a Justice of the Peace on a charge of sexual assault that
13 allegedly occurred on the 30th of October. Now, it is not
14 before me whether or not the circumstances of that alleged
15 sexual assault involved alcohol. My inclination would be
16 to suspect, given that it is well known in this
17 jurisdiction that 95 percent of the cases, or more, that
18 come to the court in the first instance, or even Supreme
19 Court, alcohol is involved with the offenders and the
20 offence, that it was.

21 In addition, the accused has an unenviable
22 record of 20 criminal convictions, dating since 1978, in
23 fact he has been before the courts every single year except
24 for one, since 1978. Shot through his record of criminal
25 convictions are offences directly related to the consumption
26 of alcohol. And I daresay that they are all no doubt
27 related to the consumption of alcohol.

The accused quite simply, notwithstanding

1 his age of 30 years, which one would think would slow him
2 down a little bit or give him some common sense, has a love
3 of alcohol that he can not control.

4 He was before a Justice of the Peace: His
5 neck is in the noose when it comes to a charge of sexual
6 assault, and by that I mean it is a very serious offence.
7 Surely anyone charged with that offence, whether it is
8 founded or not, would have some feelings of anxiety about
9 the future and have some motivation to stay out of trouble.
10 But this accused is subsequently found drunk. The degree
11 of drunkenness matters not; he was found drunk within weeks
12 of signing that undertaking.

13 He is also obliged not to communicate with
14 the alleged victim. He has a criminal record which, as I
15 have mentioned, includes six breaches of court orders. I
16 think the Court has a responsibility to the community and
17 to the victim: If people are not going to be bound, or
18 consider themselves bound by the promises they make to the
19 Court, there is only one alternative, and that is that they
20 be kept incarcerated.

21 Mr. Ekpakohak has had numerous opportunities
22 to recognize his responsibilities. It is unfortunate that
23 he chooses not to.

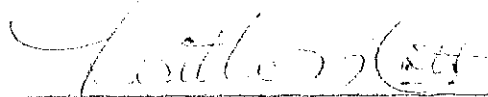
24 I am concerned as well that on the charge of
25 sexual assault, although there is no election, it is quite
26 conceivable that he will be subject to undertakings or
27 other provisions ordered by the Court for up to a year and

1 a half. I want him to understand, without any shadow of a
2 doubt, when he puts his name down on an undertaking or
3 recognizance and promises to do or not to do certain things,
4 that he is going to be held to it. If he is not prepared
5 to live up to his promises, he can expect to be treated
6 harshly.

7 Stand up please, Mr. Ekpakohak. On this
8 charge I am going to sentence you to a term of imprisonment
9 of two months and 15 days.

10 (AT WHICH TIME THIS MATTER WAS ADJOURNED)

11
12 Certified a correct transcript,

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16 Loretta Mott, Court Reporter
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