

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

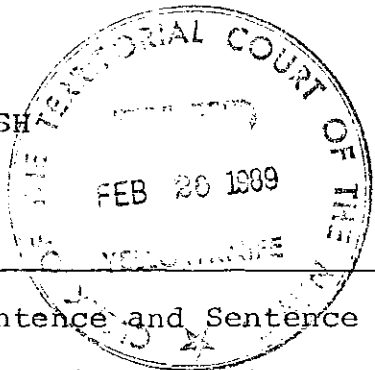
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

CLAUDIA KATHLEEN PARISH



Transcript of the Reasons for Sentence and Sentence delivered by Her Honour Judge J. Auxier, sitting at Inuvik, in the Northwest Territories, on Tuesday, January 10th, A. D. 1989.

APPEARANCES:

MS. S. R. CREAGH                      On behalf of the Crown  
MS. V. A. SCHULER                      On behalf of the Defence

(CHARGE UNDER S.294(b) + 326(i) c.c.)

1 THE COURT: After a lengthy trial in September 1988,  
2 Claudia Parish was convicted of stealing narcotics and  
3 controlled drugs from her employer, the Inuvik General  
4 Hospital. The thefts occurred between early September, 1987  
5 and late December 1987, during which period the accused was  
6 employed as a nursing supervisor at the hospital. The thefts  
7 were certainly not impulsive acts. They involved a degree of  
8 sophistication and planning. Hospital documents were  
9 falsified, and some of the drugs taken were replaced with  
10 other "harmless" drugs to conceal the loss. In terms of  
11 cash value, the items taken were insignificant - a total of  
12 \$17.70.

13 Today, the accused pleaded guilty to a charge  
14 of using a forged prescription. She admitted altering a  
15 prescription for Tylenol 3 so that it called for 120 tablets  
16 to be dispensed, rather than the 20 actually prescribed.  
17 This offence occurred on December 2nd, 1987, and is really so  
18 intertwined with the other offence that Crown and defence  
19 agreed I should impose concurrent sentences for the two  
20 offences.

21 The real issue in this sentencing hearing is  
22 whether or not I should send Mrs. Parish to jail, at least  
23 for a short, sharp shock, to use the words of the Crown  
24 counsel.

25 Mrs. Parish, as an employee of the victim, the  
26 Inuvik General Hospital, clearly committed a breach of trust.  
27 Crown and defence agree that the general principle of

1 sentencing in such cases involves a period of incarceration.  
2 But that principle is not set in stone. As Judge Stuart said  
3 in R. v Pearson YTC April 28, 1980, "There are no immutable  
4 principles of sentencing except one: The Court must determine  
5 an appropriate sentence on the particular and unique facts of  
6 each case."

7 Ms. Schuler referred me to a number of breach  
8 of trust cases where a jail sentence was not imposed. Although  
9 the facts of each case varied substantially from each other  
10 and from the case now before me, I found some of the general  
11 principles put forth to be helpful here.

12 Let me turn to R. v Schell and Moran, a  
13 decision of the British Columbia Court of Appeal from  
14 December of 1981, despite its age still widely cited,  
15 certainly in the British Columbia courts. On Page 341 of the  
16 decision handed in Justice Anderson states: "Imprisonment is  
17 not the only means of general deterrence ... much will depend  
18 on the circumstances of each case, including the gravity of  
19 the offence, the amount involved and whether, because of the  
20 prevalence of the offence or otherwise, it is necessary to  
21 impose a term of imprisonment". In that case, the Court  
22 obviously looked at the group who might contemplate the same  
23 offence as the two accused - obtaining loans by means of  
24 false statements - and queried whether that group would be  
25 deterred by what had happened to these accused: they were  
26 convicted and lost their jobs; and secondly they lost any  
27 chance of obtaining positions of trust in the future; and

1 thirdly the fact of conviction in a small community brings  
2 disgrace to the accused and their families; and fourthly in  
3 that case substantial fines were imposed.

4 Here I note that the first three of those  
5 consequences have already fallen on Mrs. Parish, and I put a  
6 lot of weight on that fact.

7 I have also found similarities between Mrs.  
8 Parish and Cynthia Young, a woman sentenced by Judge Bourassa  
9 of the Territorial Court in R. v Young. I conclude, as Judge  
10 Bourassa did at the bottom of Page 3 of the decision defence  
11 counsel gave me, that the Court is not dealing with a  
12 problematic individual, nor one that will be a threat to  
13 society in the future. I accept that specific deterrence is  
14 not an issue here. In other words I need not concern myself  
15 with imposing a sentence that will frighten the accused into  
16 never committing this kind of offence again.

17 I agree, too, with Judge Bourassa's words on  
18 Page 6 of that decision. To paraphrase his words, the accused  
19 is not the usual offender, she is Claudia Parish, her own  
20 person, unique and with her own needs, abilities and  
21 disabilities. She committed a criminal mistake, a stupid  
22 mistake. However I am not persuaded that society will crumble,  
23 that the public will be devastated and morality compromised  
24 if this young woman does not go to jail... Surely the  
25 apprehension, the arrest, the appearances in Court... the  
26 common knowledge of the circumstances of her crime, the  
27 humiliation of being publicly branded a thief of the worst

1 kind, the obvious unlikelihood of obtaining employment again  
2 as a nurse in the near future, surely all of those elements  
3 carry with them "deterrence" writ large for those who might  
4 be in a similar position or inclined to steal in similar  
5 circumstances.

6 In addition to all of the above, I do feel that  
7 this offence, if I put it on the scale of seriousness in  
8 comparison with other breach of trust cases, it is low on  
9 that scale. I do not mean to downplay it at all, certainly  
10 it was a very serious offence, and I accept everything that  
11 Crown outlined in regard to the seriousness. But I am not  
12 dealing with an employee who bilked his employer of thousands  
13 of dollars so that he could live in grand style. I am  
14 dealing with a nurse who found her job so stressful that she  
15 started taking drugs and, for a time, got hooked on them.  
16 She is now taking steps to get help for the emotional problems  
17 that led to that state of affairs. So I intend to make an  
18 order to ensure that she follows through with those steps.

19 Accordingly, Mrs. Parish, if you would stand  
20 please, on each of the two informations I am going to suspend  
21 the passing of sentence and place you on probation for a  
22 period of two years. I am choosing that two-year period  
23 because of Dr. Murray's opinion that help for you may well  
24 take that long. The only term of the probation order, other  
25 than the standard keep the peace and be of good behaviour,  
26 will be that you report forthwith and thereafter as directed  
27 to the probation officer, and that you attend for counselling

1 under the direction of the probation officer.

2 I think I made my concerns clear this morning  
3 that what I foresee in terms of counselling is that you  
4 attend a residential treatment centre, as suggested by Dr.  
5 Murray. Something more than just a few hours of counselling  
6 each month is clearly warranted. Again, I have the concerns  
7 about making an order that would force a particular treatment  
8 centre to accept you, or force the Territories to send you  
9 to a centre that is out of this jurisdiction. But I want to  
10 put it clearly on the record that my intent in imposing that  
11 term of probation is that you do get residential treatment.  
12 Not necessarily at the centre that Dr. Murray suggests; I  
13 am sure there are good resources in Alberta, but some type of  
14 residential treatment. I will not try to tie it down any  
15 more specifically than that.

16 (AT WHICH TIME THIS MATTER WAS CONCLUDED)

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Certified a correct transcript,



Loretta Mott, Court Reporter