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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

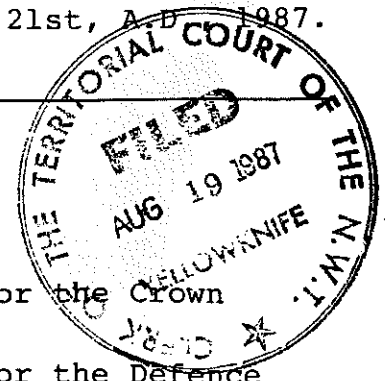
JOHN PUDNAK

Transcript of the Oral Sentencing Delivered by His Honour
Judge R. M. Bourassa, sitting at Baker Lake in the
Northwest Territories, on Thursday, May 21st, A.D. 1987.

APPEARANCES:

MS. S. AITKEN: Counsel for the Crown

MR. A. WRIGHT: Counsel for the Defence



(Section 325(1) X 4 and Section 294(a) C.C.)

Edited by Presiding Judge

1 THE COURT: I will deal with this matter now. Perhaps
2 before dealing with the particular arguments raised by
3 counsel, there are some broader issues that should be
4 addressed. There are many equalities in Canadian life,
5 but there is one true equality, and that is equality before
6 the law. We are all equal before the law. The "big" guy,
7 the "little" guy, the popular fellow, and the individual
8 who lives at the edge of town that no one cares for.
9 Everyone is the same in the eyes of the law.

10 We do not have justice by popular opinion. It is
11 obviously unjust and unfair and not right that because
12 someone is "popular" that he should be able to avoid the
13 consequences of his crimes. Equally unjust is the proposition
14 that because someone has no friends that he should be punished
15 more severely.

16 John Pudnak has a lot of friends in this, his home
17 community, and that's fine. But it can't assist him when
18 he has to face and pay the consequences for a crime.
19 The forgiveness, the generosity, the openheartedness of
20 the people in the north is perhaps one of the most unique
21 factors that one experiences here. It is certainly not
22 seen in the south, and it is a quality that I would hope
23 never disappears from northern life.

24 It will be of great assistance to John Pudnak when
25 he is released from jail. It will help him fit back in
26 this community. It will give him reason to look forward
27 to his release knowing that he can come back to his home

1 community and be reaccepted. It will assist in his
2 rehabilitation and his reintegration into this, his, community.

3 I admire, as well, the attitude expressed by some of
4 the elders in the presentence report that we should let
5 bygones be bygones and look to the future. I hasten to
6 point out that this court and the law too look to the
7 future. Not only the future conduct of John Pudnak, but
8 the future conduct of other people in the same position
9 as he was in with the same ideas that he had.

10 For a moment it might be useful to stand back and
11 look at the consequences of this kind of conduct to this
12 community. Baker Lake has provided some of the most important
13 leaders in the Eastern Arctic, and indeed, the whole Northwest
14 Territories, over the past few years. Leaders respected
15 and listened to. Are those leaders to be replaced by a
16 thief? Is John Pudnak to stand shoulder to shoulder with
17 the kind of leaders that this community has produced in the
18 past? Are other communities and Government agencies going
19 to say that Baker Lake is run by a thief or is controlled
20 by people who steal? Is that what this community wants?
21 What kind of credibility is this community and its voice
22 going to have on the council tables across the country
23 in the land claims process when negotiators are dealing
24 across the table with a known convicted thief. What
25 confidence can the elders and indeed the youth have when
26 the land claims monies, which will no doubt come, are
27 placed in the hands of people like John Pudnak?

1 Forgiveness is a wonderful thing, and forgiveness
2 is important, but it must not cloud our perception and
3 our understanding of the consequences of a crime, and the
4 reality of the situation.

5 Baker Lake will be known, as it has in the past, by
6 those that represent it. It is an old cliché, but accurate:
7 the graveyard is full of indispensable people. No one is
8 indispensable, especially John Pudnak. There are honest
9 people in this community that can replace him and carry
10 out the instructions and wishes of the people in this
11 community, and represent this community in a very positive
12 fashion - an honest fashion.

13 Mr. Wright, on behalf of Mr. Pudnak, has argued very
14 persuasively and has gone through the principles that are
15 involved in assessing a sentence to be imposed in this
16 kind of case. There has been reference made to the case
17 of Peter Aglak in Pond Inlet. He misused approximately
18 \$49,000 and was sentenced to a year in jail. But there
19 are a number of important differences between that case
20 and this case. Peter Aglak was unilingual in Inuktitut;
21 He had no criminal record; He was, compared to John
22 Pudnak, unsophisticated. He wasn't clever about his thefts
23 which were really the spending of windfall money. This
24 money all landed in the bank account at one time, and
25 he started spending it. In this case, John Pudnak, shortly
26 out of jail, goes to the elders of the community, and says
27 to them, let me help you. He really was saying let me

1 use you or let me steal from you.

2 The crimes that the court is dealing with today are
3 not crimes of passion, things that happen perhaps once
4 in a lifetime. The crimes here are not based on a misunder-
5 standing or a misconception on behalf of John Pudnak.
6 This isn't the case of ignorance or neglect or of an
7 individual perhaps confused in cross cultural conflict.
8 John Pudnak is educated, sophisticated, well travelled,
9 intelligent, and these crimes were crimes of greed,
10 exploitation and selfishness. They demonstrate disrespect
11 for his family, for his friends and his community. They
12 were thefts that were calculated, premeditated, thought out,
13 and continuing over a long period of time. The very skills
14 or the very measure of his fraud and his ability in this
15 area can be measured by the number of people that he fooled,
16 and the fact that he can be in the court today and still
17 have people fooled.

18 He was before the courts in 1981 for doing almost
19 exactly the same kind of thing. At that time it was
20 \$18,000. This time it is \$25,000. For those that say,
21 well, it is not real money because it doesn't come from
22 anyone, think for a moment what could have been done with
23 that money. How many children could have been sent out on
24 the land to learn skills and perhaps kept away from sniffing
25 gas, glue, and ending up in court and jail. How many old
26 people could have been helped with home care or with some
27 excursions or other things that were planned. How many

1 students could have been encouraged to assume the role
2 of leadership in this community and in the north by going
3 on exchanges or other things like that.

4 The Hudson Bay Company's loss is around \$7,000, but
5 that is a mistake to say that really. It is the community
6 that is going to have to pay that money. Like any business
7 the Hudson Bay Company has to make money to survive. If
8 their place is broken into or it is stolen from as John
9 Pudnak did, they will raise the prices to pay for those
10 losses, and everyone in this community, every time they
11 buy a chocolate bar or a skidoo, are paying a little bit
12 more because of John Pudnak's theft.

13 This court has only one true interest, and that is
14 that John Pudnak not reoffend. The law generally is concerned
15 with that, and expresses it by saying that we want to protect
16 society from future offences of this nature. And in addition,
17 that others who are in Pudnak's position, be they secretary
18 managers or land claims negotiators, anyone who is in charge
19 or has anything to do with the people's money, that they
20 recognize that they have a very great responsibility.

21 Now, John Pudnak was punished in 1981 for stealing
22 \$18,000. The law does not contemplate punishing him today
23 more severely because he did this kind of thing in the
24 past. He has paid the price back then, and it is over
25 with. However, it is clear that whatever lesson Judge
26 Ayotte tried to teach John Pudnak, he did not learn it
27 because within months of serving his sentence, he was stealing

1 again.

2 I am taking into account, and it is probably the most
3 significant factor that works to his benefit, that he has
4 pleaded guilty, and he has saved the whole community an
5 awful lot of time and money by pleading guilty. Some cases
6 have suggested that the court should reduce what would
7 otherwise be an appropriate sentence by as much as a third
8 when an individual pleads guilty, and I recognize that
9 principle. Apart from that, I can find very few mitigating
10 or positive factors that operate in favour of John Pudnak.

11 In listening to Mr. Wright speak on his behalf, and
12 Miss Aitken speak on behalf of all of the people, in trying
13 to balance the various factors that were argued as best
14 I can, and for the reasons I have given, I feel the following
15 sentence I am about to impose is appropriate.

16 I have considered restitution, but really, for this
17 court to order restitution at this time would be a shot
18 in the dark because I have nothing before me which would
19 indicate that he will be employed, what his level of employment
20 will be, what financial resources he has.

21 Stand up, please, Mr. Pudnak. Is there anything you
22 would like to say before the court imposes sentence?

23 THE ACCUSED: Hey?

24 THE COURT: Is there anything you would like to say
25 before the court imposes sentence?

26 THE ACCUSED: No, Your Honour.

27 THE COURT: On the charge between the 16th of November,

1 1984, and the 9th of January, 1985, which I understand
2 represents a major theft from the Elderly People's Committee,
3 I am going to impose a term of imprisonment of three years
4 in a federal penitentiary. On the charge of the forgery
5 between the 16th of November and the 9th of January from
6 the Hudson Bay Company store, six months imprisonment
7 concurrent. On the charge of the forgery involving Calm Air,
8 six months concurrent. On the charge of forgery with the
9 Hudson Bay Company as the victim, 18 months concurrent.
10 Finally, on the charge of theft from the Elderly People's
11 Committee between the 16th of November and the 10th of
12 December, two years concurrent. That's all.

13 MS, AITKEN: Your Honour, there are remaining informations
14 before the court. The Crown is asking that those informations
15 be withdrawn.

16 THE COURT: There are pleas to most of them, I believe,
17 are there not?

18 MS. AITKEN: It is my understanding that none had
19 ever had elections or pleas.

20 THE COURT: You are right. Is that satisfactory,
21 Mr. Wright?

22 MR. WRIGHT: Yes, Your Honour.

23 THE COURT: I will mark them withdrawn at the request
24 of the Crown. Thank you, counsel.

25 MS. AITKEN: Thank you, Your Honour.

26 MR. WRIGHT: Thank you, sir.

27 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)

Certified a correct transcript,

Laurie Ann Young

Laurie Ann Young

Court Reporter

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