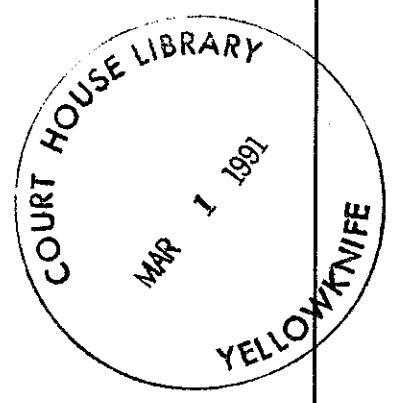


IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:



HER MAJESTY THE QUEEN

- VS -

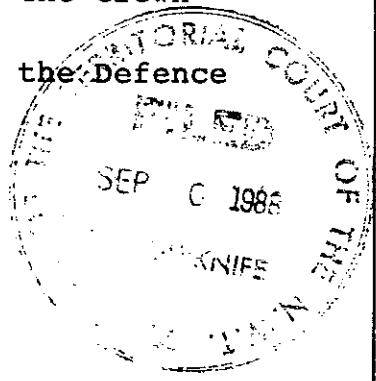
JOHN KALINEK and DAVID JOHN ANDERSON

Transcript of the Oral Sentencing Delivered by His Honour
Judge R. M. Bourassa, sitting at Yellowknife in the
Northwest Territories, on Friday, August 5th, A.D., 1988.

APPEARANCES:

MS. S. AITKEN: Counsel for the Crown

MR. C. REHN: Counsel for the Defence



1 THE COURT: Both men are convicted on their own plea of
2 being unlawfully at large prior to the expiration of a term of
3 imprisonment. Both were residents at the Salvation Army
4 building which operates, as I understand it, on a contractual
5 basis with the Department of Social Services, as a "halfway"
6 house. I also understand that they take up to two or three
7 Federal inmates. They also act in the same building as an
8 alcohol and rehabilitation centre, and they also act in the
9 same building, as I understand it, as a Young Offender's open
10 custody facility. What I am saying is that this one building
11 deals with a great variety of offenders under a variety of
12 regimes from the very young to grown men such as these two.

13 We constantly hear that the jails are overcrowded. We
14 constantly hear of innovative measures to try and reduce over-
15 crowding in jail to make life a little easier for inmates such
16 as these two who apparently enjoyed a 25 day temporary absence
17 pass living at the Salvation Army hostel, employment being found
18 for them. If the public is to have any confidence in that kind
19 of regime, and if the inmates everywhere from the young offenders
20 to other inmates these men's ages are to be bound by the rules,
21 then in my view breaches of those rules must be met with
22 significant sentences by the court. "Walk-aways" are too easy,
23 too common to deal with them otherwise.

24 I am particularly concerned with general deterrence.
25 Whatever happens to these two men will be known by the inmate
26 community at the Salvation Army building which I have already
27 indicated goes from 14 year olds up. Their situation there

1 will be, in my view, totally unmanageable unless there is a
2 deterrent element to the sentence with respect to these two.

3 With respect to John Kalinek, he is a grown man approaching
4 30 years of age. He has what can only be described as a
5 despicable record going back to 1977, convictions for a wide
6 variety of offences including violence, drinking, and breaches
7 of court orders. He clearly hasn't the least respect for court
8 orders. I think as an aggravating factor here I find that
9 there was an element of trickery or fraud in that somehow the
10 guard was importuned into this little deal to let them out.
11 That didn't happen in a vacuum. I don't have any information
12 before me from which I could conclude that Kalinek or Anderson
13 bribed or otherwise persuaded him, but clearly their being at
14 large is part of a premeditated plan and arrangement with the
15 guard. I can't go any further than that, but I think that
16 distinguishes this "walk-away" from the simple walk-away where
17 someone is mowing the grass on a temporary absence pass, and
18 just disappears into the bar.

19 Kalinek has been before the courts, as mentioned by the
20 Crown, 11 previous times on breach of court orders, and they
21 don't seem to have any impact on him at all.

22 Anderson has a significant record in terms of the
23 seriousness of the offences for which he has been convicted,
24 two very serious acts of violence, and one of driving with over
25 80 milligrams of alcohol in his blood. He too was part of this
26 arrangement with Kalinek, but his record doesn't contain
27 previous breaches of court orders, and it is not as lengthy.

1 Perhaps one could hope that Mr. Anderson will change his ways
2 a little quicker than Mr. Kalinek has. Perhaps Mr. Anderson
3 may think twice before he attempts something like this again,
4 or gets embroiled in something like this again. If he doesn't,
5 then I think he will be able to sit back and see what is going
6 to happen to Mr. Kalinek and compare it to his situation,
7 and to coin a cliché, Mr. Anderson, remember that 'there for the grace
8 of God go I', and if you choose to follow a criminal path and continue
9 to commit offences, then you can expect the same kind of
10 disposition ultimately that others who are on Mr. Kalinek's
11 path receive.

12 There is no magic to the way the court system works.
13 If people don't learn the first time around, usually the
14 sentences become a little more severe in the attempt to persuade
15 them to change their ways.

16 I have to take into account that they both pleaded guilty
17 in mitigation, and I do, although that has to be tempered
18 with the fact that they were clearly caught red handed. I
19 have to take into account the Crown has proceeded by way of
20 indictment on Kalinek. I am concerned as well with disparity.
21 Both these men are involved in the same offence, and I think
22 that the difference in personal situations can only sustain
23 a certain amount of disparity in sentence, although in my view,
24 the personal situations here do justify a different sentence.

25 Stand up, please, Mr. Kalinek. On this charge there will
26 be a term of imprisonment of six months. That will be
27 consecutive to any other time you are now serving.

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Stand up, please, Mr. Anderson. On this charge there will be a term of imprisonment of two months consecutive to any other time you are now serving.

(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)

Certified a correct transcript,

Laurie Ann Young
Laurie Ann Young
Court Reporter