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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

ROBERT ABEL

Transcript of the Oral Judgment Delivered by His Honour
Judge T. B. Davis, sitting at Yellowknife in the
Northwest Territories, on Thursday, March 19th, A.D.,
1987.

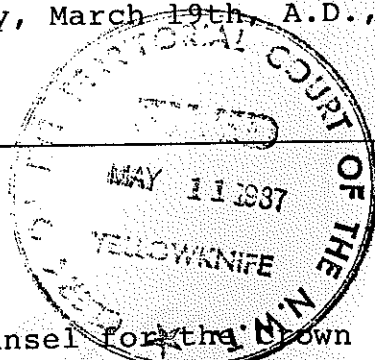
APPEARANCES:

MS. L. WALL:

Counsel for the Crown

MS. C. ROBERTS:

Counsel for the Defence



Northwest Territories Court

INFORMATION (ON BEHALF OF HER MAJESTY THE QUEEN)

ADJUDICATION & DISPOSITION

CHARGE READ:

6 Jan 87 DATE

JUDGE OR JUSTICE

COURT NUMBER

124239

CROWN ELECTION:

Summary Conviction: [] Indictment: []

J.P. or Judge's Number

1876/10 1419/6/9/7/B

ACCUSED ELECTION:

Magistrate: [X] Judge & Jury: [] Judge: [X]

THIS IS THE INFORMATION OF KENDELL ROBERT MURRAY (Insert full name, residence and occupation of informant)

A MEMBER OF THE ROYAL CANADIAN MOUNTED POLICE

OF YELLOWKNIFE, NORTHWEST TERRITORIES

HEREINAFTER CALLED THE INFORMANT

PLEA:

Guilty: [X] Not Guilty: [X]

THE INFORMANT SAYS THAT

ON THE 25th OF NOVEMBER 1986 A.D. AT THE CITY OF YELLOWKNIFE, NORTHWEST TERRITORIES DID STEAL FROM JONAS LAFFERTY AND AT THE TIME THEREOF DID USE THREATS OF VIOLENCE TO JONAS LAFFERTY CONTRARY TO SECTION 303 OF THE CRIMINAL CODE.

FAILURE TO APPEAR:

Bench Warrant Issued: []

Robert ABEL:

ON THE 25th OF NOVEMBER 1986 A.D. AT THE CITY OF YELLOWKNIFE, NORTHWEST TERRITORIES DID STEAL FROM JONAS LAFFERTY AND AT THE TIME THEREOF DID USE THREATS OF VIOLENCE TO JONAS LAFFERTY CONTRARY TO SECTION 303 OF THE CRIMINAL CODE.

EVERY TIME THIS INFORMATION IS DEALT WITH APPROPRIATE ENTRIES SHALL BE MADE ON THE REVERSE

DISPOSITION

Convicted: [X] Dismissed: [] Withdrawn: []

FINE:

J.P. COSTS:

POLICE COSTS:

RESTITUTION:

TOTAL:

DEFAULT:

TIME TO PAY:

SUSPENDED SENTENCE: []

CONDITIONAL DISCH: [] ABSOLUTE DISCH: []

PROBATION FOR:

IMPRISONMENT FOR: one day

DATE: 17 Jan 1987 JUDGE OR JUSTICE: J. B. ...

STATISTICS

DATE OF BIRTH: M []

DRIVER'S LICENCE:

MARITAL STATUS:

Sworn before me this 17 day of DECEMBER

A.D. 19 86

at YELLOWKNIFE, NORTHWEST TERRITORIES

A Judge or Justice of the Peace in and for the Northwest Territories

K. R. MURRAY, Cpl. Signature of Informant

Appearance Notice [] Promise to Appear [] Recognizance []

confirmed

19

Justice of the Peace

DISTRIBUTION: 1. Clerk of the Judge's Court 2. Registrar of Motor Vehicles 3. Police Copy 4. Crown Attorney 5. Defence

1 THE COURT: The evidence before the court indicates
2 that the accused was with other persons when the informant
3 left the cafe after previously having spoken to the accused
4 in what is known as the Gold Range Bar and the Gold Range
5 Cafe.

6 I am satisfied that when the informant, who is a Jonas
7 Lafferty, on the 25th of November, 1986, did leave the
8 cafe, he was beckoned by and went to a group of other people.
9 This was confirmed at least in the direction that he moved
10 on leaving the cafe by a witness, an independant witness,
11 who happened to be looking out the window at the time.
12 Mr. Lafferty walked in the direction of Roy's Confectionary.

13 I am also satisfied on the evidence that has been
14 given before the court that the accused was with three
15 other persons when, as a group, they pressured the victim
16 into an alleyway and at that time pushed him against the
17 wall and demanded of him that they would like to have his
18 money. One of the persons also grabbed a bag of food that
19 the victim was carrying, and those actions in total
20 satisfy me that the four persons including the accused
21 committed an offence under Section 302 of the Criminal
22 Code, because there was an assault that occurred, and there
23 was obviously an intent to steal from the accused by the
24 group.

25 I was substantially concerned prior to submissions
26 by Crown that the Crown was indicating that there had been
27 threats of violence, which I could not see from the evidence

1 before the court, and therefore I am prepared today to
2 amend the charge or make a finding of guilt on the charge
3 under different terminology referred to in Section 302,
4 and that is that the robbery was committed by an assault
5 on a person with intent to steal from him. Although there
6 was some discrepancy as to who in fact assaulted the victim,
7 and which of the three persons that the informant had referred
8 to had committed the assault, I am making a finding that
9 the accused participated in the action to such an extent
10 that if he himself did not physically push the accused,
11 that he was part of the assault that did take place, and
12 in that way qualifies under the law as a person who can
13 be technically found to have assaulted the victim.

14 There was also some question as to whether or not
15 the accused was the person who received the cash from the
16 victim's pocket, because it became somewhat doubtful as
17 to whether or not he received it, and on that basis, I
18 also find that if he did not himself receive the cash and
19 put it in his pocket, that he participated in the receipt
20 by the group of the cash from the victim, and that the
21 overall intention of the four persons was to steal from
22 the victim.

23 On that basis, a conviction will be entered against
24 the accused on the charge.

25 MS. WALL: Your Honour, perhaps Your Honour could
26 specify the wording of the information as amended because
27 we will need to quote it for the future.

1 THE COURT: Thank you. Then the amended section on
2 which I am finding the guilt of the accused is that there
3 was a robbery committed by the accused assaulting Jonas
4 Lafferty with intent to steal from him in violation of
5 Section 303 of the Criminal Code, and specifically based
6 on the facts of subsection (c) of the definition section,
7 that being Section 302 (c) of the Code. Do either counsel
8 wish more than that for the purposes of explanation by
9 the court in the case of appeal or for the purposes of
10 appeal? In other words, I would have no hesitation if
11 you wish to have anything further explained in doing so
12 in case it is of some relevance at a later time.

13 MS. WALL: Your Honour, perhaps I can just say what
14 I think the wording would be. I am thinking of taking
15 out--if the court made for example a firearms prohibition
16 order, the way in which it would be drafted I think would
17 be that on the 25th of November, 1986, at the City of
18 Yellowknife in the Northwest Territories, did assault Jonas
19 Lafferty with intent to steal from him, contrary to Section
20 303 of the Criminal Code. Would that reflect what the
21 court has just done?

22 THE COURT: Either did steal from or did commit robbery
23 on him. I would think that it could be just that he committed
24 robbery in violation of Section 303 of the Code.

25 MS. WALL: Together with Your Honour's explanation.

26 THE COURT: It is perfectly suitable if you wish to
27 put that committed robbery as defined by Section 302(c)

1 of the Code.

2 MS. WALL: Thank you, Your Honour.

3 THE COURT: Maybe for your purposes then instead of
4 referring to Section 302(c), it would be perfectly suitable
5 in the finding of this court that the accused committed
6 robbery by assaulting Jonas Lafferty with intent to steal
7 from him.

8 MS. WALL: Thank you, Your Honour.

9 THE COURT: Thank you.

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14 Certified a correct transcript,

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16 *Laurie Ann Young*
17 Laurie Ann Young
18 Court Reporter
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