

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER BETWEEN:

HER MAJESTY THE QUEEN

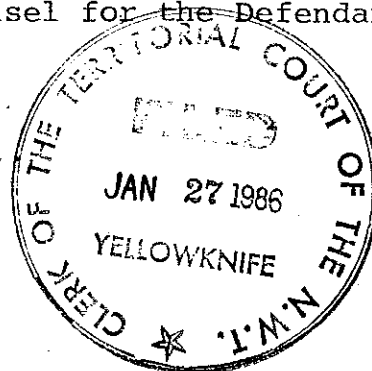
- and -

GEORGE JOSEPH CHOCOLATE

Transcript of the Oral Judgment delivered by His Honour
Judge T. B. Davis, sitting at Yellowknife, in the
Northwest Territories, on Tuesday, November 26th, A.D.,
1985.

APPEARANCES:

T. HUMPHRIES, Esq.: Counsel for the Crown.
B. SPAULDING, Esq.: Counsel for the Defendant.



1 THE COURT: George Joseph Chocolate, a 22-year-old resident of
2 Rae, in the Northwest Territories, admits that on May the 13th,
3 1985, he invited some friends to his residence, and after they
4 were drinking for a while, asked them to leave, but because one
5 was slow in leaving the residence, the accused, who then was
6 intoxicated, took a rifle, a .22 rifle, and in so doing,
7 violated a prohibition order under which he was restricted from
8 having access or possession of a firearm, and, therefore,
9 violated section 98 of the Criminal Code.

10 In addition thereto, he struck one of his guests and
11 caused her bodily harm, contrary to section 245.1(1)(a) of the
12 Code, when he hit her in the side of the face and the head with
13 the butt of the .22 rifle, and shortly thereafter also committed
14 another offence, by pointing the firearm at his common-law
15 wife, when he put the gun towards her stomach and told her that
16 he was going to kill her. Fortunately, the common-law wife was
17 not too substantially upset by this offence, but he still
18 violated section 84(1) of the Code.

19 The police were called to the accused's residence, and
20 after being unable to enter the premises, they found that the accused
21 had run out through the back window, and they caught him shortly
22 thereafter in his father's residence, or at or near his father's
23 residence. "

24 Mr. Chocolate comes before the Court with having being
25 convicted of breaking the window in the police vehicle on the
26 same date, because when he was arrested he was in an intoxi-
27 cated state, and he had been sentenced to two months in jail when

1 he appeared before the Court on October the 30th -- which really
2 is an offence that occurred in this same group of offences,
3 resulting from the basically one activity of being impaired
4 with other people on that night.

5 As pointed out by counsel, the major concern for the Court
6 in sentencing persons, especially when there is violence
7 involved and when there is a use of firearms, is the protection
8 of the public, the public, including common-law wives and
9 friends of the accused.

10 Therefore, the Court must consider some sentence that will
11 deter both the accused and the public from involving themselves
12 in these activities.

13 The accused is rather unfortunate, in that most of his
14 offences, on quite a long record, resulted from the consumption
15 of alcohol. And we must try and impress upon the accused that
16 he has to make more of an effort to avoid possession and
17 consumption of alcohol, because the pre-sentence report and
18 the submissions by counsel indicate that alcohol is a
19 major problem-causer for him.

20 The accused has spent a couple of weeks in remand, as a
21 result of the charges that are outstanding before the Court
22 today, and he has been convicted and sentenced to two months in
23 jail on the other offence that occurred on the same evening.

24 I think it's appropriate for me to consider a jail term,
25 something in the range that has been suggested by defence
26 counsel; and I am satisfied to continue that relatively short
27 period of time, considering the seriousness of the offences,

1 because the accused has made some indication recently to his
2 friends and others that he does wish to overcome his alcohol
3 problem; and in addition thereto, he has, in the past, been a good
4 father to his children and a good person in the community, when
5 he is not consuming alcohol and suffering from the results of
6 consumption.

7 The report indicates that his personality changes
8 substantially when he does consume alcohol, and I therefore am
9 considering seriously a form of probation following his release
10 from jail, which would restrict him from possession or
11 consumption of alcohol. And I think it might be helpful to
12 the accused for me to consider that, at this time, because he
13 himself has been making efforts by attending A.A. meetings,
14 at least since September, when he has been in jail.

15 When in the jail as a result of this sentencing today, I
16 am going to recommend that he be given an opportunity to
17 participate in the treatment programs that are often available,
18 and in any counselling services, also, that might be available
19 to the accused, since he now recognizes that he does have a
20 problem, and wants some help.

21 Under the circumstances, I think it would be appropriate
22 for me to impose a term in jail of six months, the sentence for
23 each of the offences to run concurrently. In addition thereto,
24 upon having a firearm when prohibited from doing so, I am going
25 to make an order that the accused be prohibited from having the
26 possession of a firearm, for a period of three years, under
27 section 98 (12) of the Code. That means that he would be

1 restricted from having possession of firearms, ammunition or
2 any explosive substance for that period of time.

3 (DISCUSSION OFF THE RECORD)

4 THE COURT: I think we'll just have it carry on for a three-
5 year period from now. That would be sufficient to start.

6 The accused is going to be in jail at the present time, so
7 I will give him, under section 98(13), I will give him two
8 months in which to either dispose of his firearms or turn them
9 in or have them turned in to the RCMP for destruction or for
10 forfeiture, if he doesn't arrange to transfer or dispose of them
11 on his own prior to that date.

12 (DISCUSSION OFF THE RECORD)

13 THE COURT: They will be disposed of within three months from
14 this date, or else forfeited to the RCMP for destruction
15 purposes.

16 Perhaps, instead of placing the accused on a further probation
17 order beyond that, Madam Clerk, we'll just make a recommendation
18 in our warrant for jail that he be given an opportunity to
19 participate in alcohol counselling and treatment programs.
20 In addition thereto, I recommend that he also be given an
21 opportunity to participate in counselling, in marital
22 counselling, as well. It was suggested that that might be of
23 some benefit to him.

24 (ORAL JUDGMENT CONCLUDED)

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26 Certified a correct transcript,

27 Debra Chipchfield