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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

HER MAJESTY THE QUEEN

VS

JERRY DOYLE ROGERS

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---Before HIS HONOUR CHIEF JUDGE J.R. SLAVEN at Inuvik,  
Northwest Territories, on January 26th, 1987.

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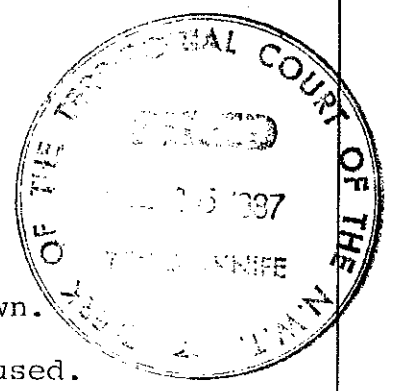
APPEARANCES:

BRIAN BRUSER Counsel for the Crown.

JOYCE LILLEGRAN Counsel for the Accused.

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Decision of His Honour re application  
under Section 98(1)



ADJUDICATION & DISPOSITION

CHARGE READ:

DATE: Jan 16 1987 JUDGE OR JUSTICE: J. Slaven, C.J. Judge

CROWN ELECTION: Summary Conviction:  Indictment:

ACCUSED ELECTION: Magistrate:  Judge & Jury:  Judge:   
Count 1, 2, 3.

PLEA: Guilty:  Not Guilty:   
Count 1, 2, 3

DATE: JAN 16 1987 JUDGE OR JUSTICE: J. Slaven

FAILURE TO APPEAR: Bench Warrant Issued:

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

DISPOSITION: Count 3+4  
Convicted:  Dismissed:  Withdrawn:   
JAN 16 1987

FINE: \_\_\_\_\_  
DEFAULT: \_\_\_\_\_  
TIME TO PAY: \_\_\_\_\_  
SUSPENDED SENTENCE:   
CONDITIONAL DISCHARGE:   
PROBATION: \_\_\_\_\_  
RESTITUTION: \_\_\_\_\_  
ABSOLUTE DISCHARGE:

GOAL: ct 1: 4M ct 2: 2M Conc.  
ORDER DRIVING: \_\_\_\_\_  
FIREARMS:

DATE: Jan 27 1987 JUDGE OR JUSTICE: J. Allen

COMMITTED FOR TRIAL:  STAY OF PROCEEDINGS:

STATISTICS: DATE OF BIRTH: 60-02-03 M  F   
DRIVER'S LICENCE: \_\_\_\_\_  
MARITAL STATUS: single married

Sworn before me this: 21 day of December A.D. 19 86

at Inuvik, Northwest Territories

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

Appearance Notice:  Promise to Appear:  Recognizance:

COURT NUMBER: 123697

J.P. or Judge's Number: 6595 10/45

THIS IS THE INFORMATION OF Anthony Robert RANDALL a (Insert full name, residence and occupation of informant)

member of the Royal Canadian Mounted Police of Inuvik, Northwest Territories

a Peace Officer HEREINAFTER CALLED THE INFORMANT

THE INFORMANT SAYS THAT he has reasonable and probable grounds to believe and does believe and state the offence

grounds to believe and does believe that: Jerry ROGERS:

on or about the twenty-first day of December 1986 A.D. at or near the town of Inuvik in the Northwest Territories did in committing an assault on Terry ROGERS use a weapon to wit: a bottle contrary to section 245.1(1)(a) of the Criminal Code

and further that:

on or about the twenty-first day of December 1986 A.D. at or near the town of Inuvik in the Northwest Territories did in committing an assault on Liz POPE use a weapon to wit: a bottle contrary to section 245.1(1)(a) of The Criminal Code.

and further that:

on or about the twenty-first day of December 1986 A.D. at or near the town of Inuvik in the Northwest Territories did by person knowingly utter a threat to Terry ROGERS to cause death to Terry ROGERS contrary to section 243.4 of the Criminal Code.

and further that:

on or about the twenty-first day of December 1986 A.D. at or near the town of Inuvik in the Northwest Territories did in committing an assault on John KALINEK cause bodily harm to him contrary to section 245.1(1)(b) of the Criminal Code.

CARD: Anthony Robert RANDALL  
C/S: Signature of Informant

Signature of Informant: [Signature]  
M.V.B.  19 \_\_\_\_\_  
Justice of the Peace

1 I have considered the cases to which counsel have referred  
2 me: R. v. Weyallon, the NWT Court of Appeal; 60 A.R. 79; also  
3 R. v. Weyallon, a decision of Mr. Justice Marshall, 47 A.R.  
4 360, August 15th, 1983; also R. v. Tobac, 60 A.R. 253 the  
5 NWT Court of Appeal; the cases of R. v. Ratt, 16 C.R.R. 12  
6 (Sask. Prov. Ct.) and R. v. Herman, [1986] 1 C.N.L.R. 72  
7 (Sask. Prov. Ct), both being decisions of Provincial Court  
8 judges, referred to me by Counsel for the Defence.

9 I have heard the evidence of the accused and Mr. Lennie,  
10 a long-time Director of the Hunters and Trappers Association  
11 and a respected figure in the Mackenzie Delta, and I am  
12 satisfied that the accused is a serious trapper and hunter.  
13 He has trapped right from the time he was old enough to learn  
14 how to trap. Mr. Lennie explained how he started at a very  
15 early age, and Mr. Rogers' uncle stated how both he and the  
16 accused would have become adequate trappers about the age of  
17 14.

18 Mr. Rogers, the accused, will be 27 next week, and since  
19 he was a young fellow, through his teens, has been mostly  
20 involved in trapping, some incidental hunting or even more  
21 than that, I suppose, since muskrats are shot and not trapped,  
22 and also hunting whales. I was referred to R. v. Ratt, and I  
23 think Judge Farfard puts it very well on page 14. He states that  
24 the accused's traditional occupations are all interrelated;  
25 take the hunting component out of it and the whole thing comes  
26 apart. I find that this applies to Mr. Rogers' case.  
27 His trapping career has been interrupted at times by jail

1 terms, and he has also had a certain amount of wage employ-  
2 ment, particularly in the oil play in the Beaufort Sea,  
3 and even then, during the period he worked for Esso in the  
4 Beaufort Sea, he supplemented his livelihood and his home  
5 life by the proceeds of his trapping and the bringing home  
6 of wild meat which he prefers to meat bought in the stores.

7 I find that having his firearm with him when he is trap-  
8 ping is an integral part of his lifestyle, and the carrying  
9 of a firearm is interrelated with his trapping, and to-  
10 gether they form his way of life, and I accept what Mr.  
11 Lennie says, that this accused would never work at a year-  
12 round job in the wage economy. I find that if I take away,  
13 pursuant to Sub-section 1 of Section 98, his right to bear  
14 firearms, his way of life would fall apart, and he, his  
15 wife, and family would very likely end up on welfare for  
16 all or a greater part of their time. The opportunities for  
17 employment in the Mackenzie Delta area have been steadily  
18 reduced during the last year or more because of the downturn  
19 in employment in the oil patch. There is some ray of light,  
20 according to the newspapers last week, that Gulf will continue  
21 with one well, but that will not result in enough employment  
22 to bring it back to near where it has been in the last 5 years.  
23 So to take away his right would relegate him to being on  
24 welfare most of the time.

25 I make that finding of fact in his individual case, and  
26 following the reasoning of Judge Farfard in R. v. Ratt, and  
27 also for the reasons applied by Provincial Court Judge Moxley

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in R. v. Herman, and in this case I find that Sub-section 1 of Section 98 of the Code is inoperative against the accused.

I think I would like to let it go at that for the moment and sentence him in the morning. I might hear further submissions regarding firearms and a probation order, and so on. Is that all right?

MS. LILLEGRAN: Yes.

THE COURT: I would like to put this over until 9.30 tomorrow morning.

MR. BRUSER: That is satisfactory.

MS. LILLEGRAN: Yes.

---Whereupon the further proceedings were adjourned at 6.10 p.m. on January 26th, 1987, until 9.30 a.m. on January 27th, 1987.

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Certified correct



(G. Mitchell - CSR RPR - Court Reporter)