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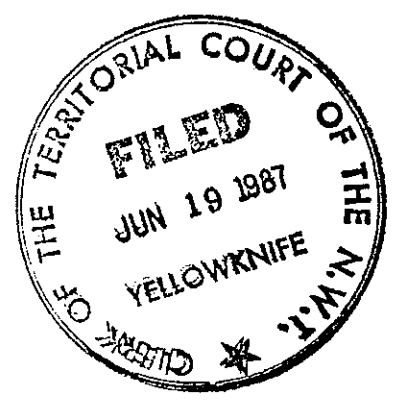
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

REX JAMES AVIK



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Transcript of Reasons for Sentencing and Sentencing delivered by His Honour, Chief Judge J. R. Slaven sitting at Tuktoyatuk in the Northwest Territories on Wednesday, May 27th, A.D., 1987.

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APPEARANCES:

MS. S. AITKEN: Counsel for the Crown  
MS. J. LILLEGRAN: Counsel for the Defence

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1 THE COURT:

2 Some nine years ago there seemed to  
3 have been a rash of arson offences particularly in the Inuit  
4 communities. Various sentences were handed down. I remember  
5 circumstances, I don't remember names and I don't have, of  
6 course, a library available to me.

7 I remember an Inuit in Rankin Inlet who had attempted to  
8 set fire to a number of buildings over a period of weeks and  
9 finally burnt down the school causing 10 million dollars damage.  
10 He was a teenager, 18, 19 years, of lesser intelligence than  
11 Mr. Avik. He had no record. He was identified at age seven  
12 as requiring special education. Nothing was done. At age 12  
13 again his needs were identified and nothing was done. Finally  
14 the fires happened.

15 He was placed on probation with a promise of very strong  
16 support in the community and by an older brother; a support  
17 that had been lacking in the community before and in his case,  
18 it was taken into consideration. As I say, he had no record.

19 Also, between a 30-day remand in Alberta and a later 60-  
20 day remand in Toronto he had been in custody for five months  
21 or so. He had been picking at his arms so there was a mass  
22 of raw flesh and I had to adjourn the sentencing for awhile  
23 because he kept picking at that and had to go to the Nursing  
24 Station to get it redressed.

25 Some other cases are unique. In Spence Bay a respectable  
26 lady had a dispute with her husband and burned down her home  
27 Christmas morning. 90-days intermittent was the sentence  
given by Justice Tallis.

1           There was a case I had three years ago in Spence Bay where  
2 a woman in her 20's after having been sexually assaulted by  
3 her father tried to set fire to a home while her father and  
4 mother were asleep. She poured gasoline in the hallway and the  
5 smoke alarm went off before anything happened. She was fined  
6 and placed on probation.

7           Then you mention the Lennie case in Sachs Harbour, and  
8 we were talking about some indictable offences of setting  
9 fires to cover up something. The number of cases of arson and  
10 attempted arson, the circumstances were so different and in-  
11 dividuals so different. It's hard to find what led to this  
12 one.

13           This again is a very unique situation particularly as to  
14 the person of Mr. Avik with a lower range of intelligence,  
15 sexually prone to homosexuality so that Dr. Pascoe in his letter  
16 dated April 8th, 1987, and I quote, Page 2, third paragraph,  
17 "It appears that he's known as the town eccentric. He is a  
18 rather isolated individual",etcetera, etcetera. Dr. Pascoe  
19 finds none of the usual reasons for doing arson and comes to  
20 the only possible conclusion that the man did it for attention.

21           Apparently there was no attention seeking at the poker  
22 game with the others but in talking to the police, he very  
23 readily gave answers about it when they questioned him. Maybe  
24 he didn't have enough time to go around conveying hints as  
25 someone who was seeking attention might.

26           Mrs. Aitken, the principles of sentencing that I followed  
27 earlier today looked at the principles of general deterrence.

1 I don't agree with general deterrence for things like this.  
2 We have a lot of spousal assaults, child abuse, bootlegging  
3 where we have got to look at general deterrence along with  
4 other things. In this case though, I feel I must look at the  
5 specific deterrence of this young man.

6 Dr. Pascoe says it's unlikely that psychiatric treatment  
7 will help. Quoting from page 3, "He will simply have to be  
8 looked upon as a rather unfortunate, incapacitated individual  
9 with whom the community will have to cope with as best it can  
10 in the future".

11 The most disturbing thing about this is the two lives  
12 that were almost lost. Mr. Avik, I'm sure would have been well  
13 aware that he could have expected two or three or four or even  
14 more people sleeping in the lodge at the time he set fire to  
15 it. He set a fire, walked away and set another fire. I don't  
16 know where these attempted phone calls went. Then he walked  
17 away. There was a complete lack of consideration for the lives  
18 he endangered.

19 That's the most serious aspect. I feel Mr. Avik must be  
20 deterred from ever doing anything like this again. Specific  
21 deterrence I must look at as the essential principle. But I  
22 have a concern that his stay at the correctional center may  
23 prove a lot tougher for him than for other prisoners. Neverthe-  
24 less, it must be brought home to him that he can't endanger  
25 members of the community.

26 He has no record but mention has been made of bizarre  
27 types of behaviour. I suppose he could have been brought up

1 for that earlier. In cases like that, it's really difficult;  
2 there is not much possibility of helping someone with the type  
3 of personality that persuades him to indecently expose himself.

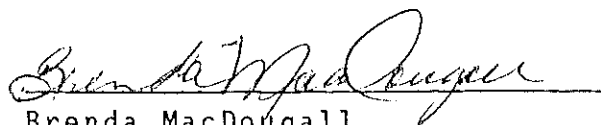
4 I feel I must impose a sentence to bring home to him that  
5 he can't do things like this, also I will follow Dr. Pascoe's  
6 recommendation that his imprisonment should be followed by a  
7 period of probation.

8 Stand up please, Mr. Avik. I convict you as charged  
9 under Section 387 (2), setting fire to the lodge and endanger-  
10 ing the lives of two people and I direct you be imprisoned for  
11 a period of one year.

12 I convict you as charged under Section 390 (a), setting  
13 fire to the stationery cabinet and direct you be imprisoned  
14 for a period of four months to be served concurrent. Upon  
15 expiration you will be placed on probation for a period of 18  
16 months to keep the peace and be of good behaviour and be under  
17 the supervision of the Probation Services and report to them  
18 and to the Court as they direct. You are also to cooperate  
19 in such psychological testing and treatment programs as Social  
20 Services may direct.

21 (AT WHICH TIME THIS PROCEEDING WAS CONCLUDED)

22 Certified a correct transcript,

23   
24 Brenda MacDougall

25 Court Reporter  
26  
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